February 14, 2012

ENGROSSED
SENATE BILL No. 275

DIGEST OF SB 275 (Updated February 14, 2012 9:48 am - DI 96)

Citations Affected: IC 5-20; IC 23-1.5; IC 23-2; IC 25-20.2; IC 25-34.1; IC 27-7; IC 32-21; IC 32-28.

Synopsis: Real estate brokers. Eliminates, after June 30, 2014, the license for real estate salespersons and the designation of principal real estate brokers. Prohibits, after June 30, 2014, an individual who holds a salesperson's license from performing certain acts as a salesperson without obtaining a broker's license. Establishes, for individuals who hold a salesperson's license on or after June 30, 2012, certain requirements to obtain a broker's license. Requires, after June 30, 2014, a person to meet certain requirements before the person may become a managing broker. Changes the appointment of members to the real estate education advisory council. Amends the definition of "commercial real estate". Provides that broker's licences are issued for three years. (Currently licenses are issued for two years.) Revises education and continuing education requirements. Makes conforming changes.

Effective: July 1, 2012; July 1, 2014.

Merritt, Broden
(HOUSE SPONSORS — DAVIS, CLERE)

January 4, 2012, read first time and referred to Committee on Public Policy.
January 26, 2012, amended, reported favorably — Do Pass.
January 30, 2012, read second time, amended, ordered engrossed.
January 31, 2012, engrossed. Read third time, passed. Yeas 48, nays 2.

HOUSE ACTION

February 9, 2012, read first time and referred to Committee on Employment, Labor and Pensions.
February 14, 2012, reported — Do Pass.

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February 14, 2012

Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

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ENGROSSED
SENATE BILL No. 275

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:

SECTION 1. IC 5-20-5-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 18. (a) An eligible entity shall establish an affordable housing fund advisory committee consisting of the following eleven (11) members:

(1) One (1) member appointed by the executive of the eligible entity to represent the interests of low income families.

(2) One (1) member appointed by the executive of the eligible entity to represent the interests of owners of subsidized, multifamily housing communities.

(3) One (1) member appointed by the executive of the eligible entity to represent the interests of banks and other financial institutions.

(4) One (1) member appointed by the executive of the eligible entity to represent the interests of the eligible entity.

(5) One (1) member appointed by the executive of the eligible entity to represent real estate brokers. ~~or salespersons.~~ The member appointed under this subdivision must be nominated to

the executive by the local realtors' association.

(6) One (1) member appointed by the executive of the eligible entity to represent construction trades. The member appointed under this subdivision must be nominated to the executive by the local building trades council.

(7) Five (5) members appointed by the legislative body of the eligible entity to represent the community at large. Members appointed under this subdivision must be nominated to the legislative body after a general call for nominations from township trustees, community development corporations, neighborhood associations, community based organizations, and other social services agencies.

(b) Members of the affordable housing fund advisory committee serve for a term of four (4) years, and are eligible for reappointment. If a vacancy exists on the committee, the appointing authority that appointed the former member whose position has become vacant shall appoint an individual to fill the vacancy. A committee member may be removed at any time by the appointing authority that appointed the committee member.

(c) The affordable housing fund advisory committee shall make recommendations to the eligible entity regarding:

(1) the development of policies and procedures for the uses of the affordable housing fund; and

(2) long term sources of capital for the affordable housing fund, including:

(A) revenue from:

(i) development ordinances;

(ii) fees; or

(iii) taxes;

(B) financial market based income;

(C) revenue derived from private sources; and

(D) revenue generated from grants, gifts, donations, or income in any other form from a:

(i) government program;

(ii) foundation; or

(iii) corporation.

SECTION 2. IC 23-1.5-1-13.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 13.5. "Real estate professional" means an individual who is licensed as

~~(1) a real estate salesperson under IC 25-34.1-3-3.1; or~~

~~(2)~~ a real estate broker licensed under IC 25-34.1-3-4.1.

SECTION 3. IC 23-2-5-3, AS AMENDED BY P.L.35-2010,

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SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 3. (a) As used in this chapter, "loan broker license" means a license issued by the commissioner authorizing a person to engage in the loan brokerage business.

(b) As used in this chapter, "licensee" means a person that is issued a license under this chapter.

(c) As used in this chapter, "loan broker" means any person who, in return for any consideration from any source procures, attempts to procure, or assists in procuring, a residential mortgage loan from a third party or any other person, whether or not the person seeking the loan actually obtains the loan. "Loan broker" does not include:

(1) any supervised financial organization (as defined in IC 26-1-4-102.5), including a bank, savings bank, trust company, savings association, or credit union;

(2) any other financial institution that is:

(A) regulated by any agency of the United States or any state; and

(B) regularly actively engaged in the business of making consumer loans that are not secured by real estate or taking assignment of consumer sales contracts that are not secured by real estate;

(3) any insurance company;

(4) any person arranging financing for the sale of the person's product; or

(5) a creditor that is licensed under IC 24-4.4-2-402.

(d) As used in this chapter, "loan brokerage business" means a person acting as a loan broker.

(e) As used in this chapter, "mortgage loan origination activities" means performing any of the following activities for compensation or gain in connection with a residential mortgage loan:

(1) Receiving or recording a borrower's or potential borrower's residential mortgage loan application information in any form for use in a credit decision by a creditor.

(2) Offering to negotiate or negotiating terms of a residential mortgage loan.

(f) As used in this chapter, "borrower's residential mortgage loan application information" means the address of the proposed residential real property to be mortgaged and borrower's essential personal and financial information necessary for an informed credit decision to be made on the borrower's mortgage loan application.

(g) As used in this chapter, "mortgage loan originator" means an individual engaged in mortgage loan origination activities. The term

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does not include a person who:

(1) performs purely administrative or clerical tasks on behalf of a mortgage loan originator or acts as a loan processor or underwriter;

(2) performs only real estate brokerage activities and is licensed in accordance with IC 25-34.1 or the applicable laws of another state, unless the person is compensated by a creditor, a loan broker, a mortgage loan originator, or any agent of a creditor, a loan broker, or a mortgage loan originator; or

(3) is involved only in extensions of credit relating to time share plans (as defined in 11 U.S.C. 101(53D)).

(h) As used in this chapter, "mortgage loan originator license" means a license issued by the commissioner authorizing an individual to act as a mortgage loan originator on behalf of a loan broker licensee.

(i) As used in this chapter, "person" means an individual, a partnership, a trust, a corporation, a limited liability company, a limited liability partnership, a sole proprietorship, a joint venture, a joint stock company, or another group or entity, however organized.

(j) As used in this chapter, "ultimate equitable owner" means a person who, directly or indirectly, owns or controls ten percent (10%) or more of the equity interest in a loan broker licensed or required to be licensed under this chapter, regardless of whether the person owns or controls the equity interest through one (1) or more other persons or one (1) or more proxies, powers of attorney, or variances.

(k) As used in this chapter, "principal manager" means an individual who:

(1) has at least three (3) years of experience:

(A) as a mortgage loan originator; or

(B) in financial services;

that is acceptable to the commissioner; and

(2) is principally responsible for the supervision and management of the employees and business affairs of a loan broker licensee.

(l) As used in this chapter, "principal manager license" means a license issued by the commissioner authorizing an individual to act as:

(1) a principal manager; and

(2) a mortgage loan originator;

on behalf of a loan broker licensee.

(m) As used in this chapter, "bona fide third party fee", with respect to a residential mortgage loan, includes any of the following:

(1) Fees for real estate appraisals. However, if the residential mortgage loan is governed by Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act (12 U.S.C. 3331 through

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3352), the fee for an appraisal performed in connection with the loan is not a bona fide third party fee unless the appraisal is performed by a person that is licensed or certified under IC 25-34.1-3-8.

(2) Fees for title examination, abstract of title, title insurance, property surveys, or similar purposes.

(3) Notary and credit report fees.

(4) Fees for the services provided by a loan broker in procuring possible business for a creditor if the fees are paid by the creditor.

(n) As used in this chapter, "branch office" means any fixed physical location from which a loan broker licensee holds itself out as engaging in the loan brokerage business.

(o) As used in this chapter, "loan processor or underwriter" means an individual who:

(1) is employed by a loan broker licensee and acts at the direction of, and subject to the supervision of, the loan broker licensee or a licensed principal manager employed by the loan broker licensee; and

(2) performs solely clerical or support duties on behalf of the loan broker licensee, including any of the following activities with respect to a residential mortgage loan application received by the loan broker licensee:

(A) The receipt, collection, distribution, and analysis of information commonly used in the processing or underwriting of a residential mortgage loan.

(B) Communicating with a borrower or potential borrower to obtain the information necessary for the processing or underwriting of a residential mortgage loan, to the extent that the communication does not include:

(i) offering or negotiating loan rates or terms; or

(ii) counseling borrowers or potential borrowers about residential mortgage loan rates or terms.

(p) As used in this chapter, "real estate brokerage activity" means any activity that involves offering or providing real estate brokerage services to the public, including any of the following:

(1) Acting as a real estate broker ~~or salesperson~~ for a buyer, seller, lessor, or lessee of real property.

(2) Bringing together parties interested in the sale, lease, or exchange of real property.

(3) Negotiating, on behalf of any party, any part of a contract concerning the sale, lease, or exchange of real property, other than in connection with obtaining or providing financing for the

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transaction.

(4) Engaging in any activity for which the person performing the activity is required to be licensed under IC 25-34.1 or the applicable laws of another state.

(5) Offering to engage in any activity, or to act in any capacity with respect to any activity, described in subdivisions (1) through (4).

(q) As used in this chapter, "registered mortgage loan originator" means a mortgage loan originator who:

(1) is an employee of:

(A) a depository institution;

(B) a subsidiary that is:

(i) owned and controlled by a depository institution; and

(ii) regulated by a federal financial institution regulatory agency (as defined in 12 U.S.C. 3350(6)); or

(C) an institution regulated by the Farm Credit Administration; and

(2) is registered with and maintains a unique identifier with the Nationwide Mortgage Licensing System and Registry.

(r) As used in this chapter, "residential mortgage loan" means a loan that is secured by a mortgage, deed of trust, or other consensual security interest on real estate in Indiana on which there is located or intended to be constructed a dwelling (as defined in the federal Truth in Lending Act (15 U.S.C. 1602(v)) that is or will be used primarily for personal, family, or household purposes.

(s) As used in this chapter, "personal information" includes any of the following:

(1) An individual's first and last names or first initial and last name.

(2) Any of the following data elements:

(A) A Social Security number.

(B) A driver's license number.

(C) A state identification card number.

(D) A credit card number.

(E) A financial account number or debit card number in combination with a security code, password, or access code that would permit access to the person's account.

(3) With respect to an individual, any of the following:

(A) Address.

(B) Telephone number.

(C) Information concerning the individual's:

(i) income or other compensation;

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(ii) credit history;
(iii) credit score;
(iv) assets;
(v) liabilities; or
(vi) employment history.

(t) As used in this chapter, personal information is "encrypted" if the personal information:

(1) has been transformed through the use of an algorithmic process into a form in which there is a low probability of assigning meaning without use of a confidential process or key; or

(2) is secured by another method that renders the personal information unreadable or unusable.

(u) As used in this chapter, personal information is "redacted" if the personal information has been altered or truncated so that not more than the last four (4) digits of:

(1) a Social Security number;
(2) a driver's license number;
(3) a state identification number; or
(4) an account number;

are accessible as part of the personal information.

(v) As used in this chapter, "depository institution" has the meaning set forth in the Federal Deposit Insurance Act (12 U.S.C. 1813(c)) and includes any credit union.

(w) As used in this chapter, "state licensed mortgage loan originator" means any individual who:

(1) is a mortgage loan originator;

(2) is not an employee of:

(A) a depository institution;

(B) a subsidiary that is:

(i) owned and controlled by a depository institution; and

(ii) regulated by a federal financial institution regulatory agency (as defined in 12 U.S.C. 3350(6)); or

(C) an institution regulated by the Farm Credit Administration;

(3) is licensed by a state or by the Secretary of the United States Department of Housing and Urban Development under Section 1508 of the S.A.F.E. Mortgage Licensing Act of 2008 (Title V of P.L.110-289); and

(4) is registered as a mortgage loan originator with, and maintains a unique identifier through, the Nationwide Mortgage Licensing System and Registry.

(x) As used in this chapter, "unique identifier" means a number or

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other identifier that:

(1) permanently identifies a mortgage loan originator; and

(2) is assigned by protocols established by the Nationwide Mortgage Licensing System and Registry and the federal financial institution regulatory agencies to facilitate:

(A) the electronic tracking of mortgage loan originators; and

(B) the uniform identification of, and public access to, the employment history of and the publicly adjudicated disciplinary and enforcement actions against mortgage loan originators.

SECTION 4. IC 25-20.2-1-1, AS AMENDED BY P.L.2-2008, SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. (a) This article applies to an individual who conducts home inspections for compensation.

(b) This article does not apply to the following:

(1) An individual who is acting within the scope of the individual's employment as:

(A) a code enforcement official for the state or a political subdivision of the state; or

(B) a representative of a state or local housing agency or authority acting under the authority of the United States Department of Housing and Urban Development.

(2) An individual who is:

(A) either:

(i) registered as an architect under IC 25-4;

(ii) registered as a professional engineer under IC 25-31; or

(iii) licensed as a plumbing contractor or journeyman plumber under IC 25-28.5; and

(B) acting within the scope of the individual's registration or license.

(3) An individual who is licensed under IC 25-34.1 as a real estate broker ~~broker-salesperson, or salesperson~~ and is acting within the scope of the individual's license.

(4) An individual who is licensed or certified under IC 25-34.1 as a real estate appraiser and is acting within the scope of the individual's license or certificate.

(5) An individual who holds a certificate of authority under IC 27-1-27-2 as a public adjuster and is acting within the scope of the individual's certificate.

(6) An individual who holds a permit, certificate, or license to:

(A) use and apply pesticides; or

(B) make diagnostic inspections and reports for wood

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destroying pests;

under IC 15-16-5 and is acting within the scope of the individual's certificate or license.

(7) An individual who holds a license from a political subdivision as a tradesperson or home builder and is acting within the scope of the individual's license.

SECTION 5. IC 25-20.2-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. (a) The board is composed of seven (7) members appointed by the governor as follows:

(1) Four (4) members, each of whom:

(A) is licensed in Indiana as a home inspector; and

(B) has been actively engaged in performing home inspections in Indiana for at least five (5) years immediately before the member's appointment to the board.

(2) One (1) member who:

(A) is a home builder; and

(B) has been actively engaged in home building in Indiana for at least five (5) years immediately before the member's appointment to the board.

(3) One (1) member who:

(A) is a ~~licensed real estate salesperson under IC 25-34.1-3-3.1 or a~~ licensed real estate broker under IC 25-34.1-3-4.1; and

(B) has been actively engaged in selling, trading, exchanging, optioning, leasing, renting, managing, listing, or appraising residential real estate in Indiana for at least five (5) years immediately before the member's appointment to the board.

(4) One (1) member who represents the public at large and is not associated with the home inspection, home building, or real estate business other than as a consumer.

(b) The members of the board must be residents of Indiana.

SECTION 6. IC 25-34.1-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. This article shall be known as the "Real Estate Broker ~~and Salesperson~~ Licensing Act."

SECTION 7. IC 25-34.1-1-2, AS AMENDED BY P.L.1-2006, SECTION 479, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: 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,

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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.

~~(5) "Salesperson" means an individual, other than a broker, who, for consideration and in association with and under the auspices of a broker, sells, buys, trades, exchanges, options, leases, rents, manages, or lists real estate or negotiates or offers to perform any of those acts.~~

~~(6) "Broker-salesperson" means an individual broker who is acting in association with and under the auspices of another broker.~~

~~(7) "Principal broker" means a broker who is not acting as a broker-salesperson.~~

~~(8)~~ **(5)** "License" means a broker ~~or salesperson~~ license issued under this article and which is not expired, suspended, or revoked.

~~(9)~~ **(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.

~~(10)~~ **(7)** "Course approval" means approval of a broker ~~or salesperson~~ course granted under this article which is not expired, suspended, or revoked.

~~(11)~~ **(8)** "Licensing agency" means the Indiana professional licensing agency established by IC 25-1-5-3.

~~(12)~~ **(9)** "Board" refers to the real estate appraiser licensure and certification board established under IC 25-34.1-8-1.

~~(13)~~ **(10)** "Commercial real estate" means a parcel of real estate other than real estate containing one (1) to four (4) residential units **or lots and land.** 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.

~~(14)~~ **(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

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business as a broker in a jurisdiction other than Indiana.

~~(15)~~ **(12)** "Out-of-state commercial salesperson" includes a person affiliated with an out-of-state commercial broker who is not licensed as a ~~salesperson~~ **broker** under this article.

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

SECTION 8. IC 25-34.1-1-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 4. Beginning July 1, 2014, licenses issued under this article are for a term of three (3) years.**

SECTION 9. IC 25-34.1-2-5, AS AMENDED BY P.L.177-2009, SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: 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, ~~principal broker certifications,~~ 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 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;

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(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) annually 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); ~~and~~

(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.

SECTION 10. IC 25-34.1-2-7, AS ADDED BY P.L.57-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: 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 ~~and salespersons~~ 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.

SECTION 11. IC 25-34.1-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. (a) Except as provided in:

(1) subsection (b);

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(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 ~~salesperson,~~ or referral company which is licensed under the laws of another state, to or from brokers ~~and salespersons~~ 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 him;
(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 him;
(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; and
(12) acts of a broker, ~~or salesperson,~~ 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.

SECTION 12. IC 25-34.1-3-3.1 IS REPEALED [EFFECTIVE JULY

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1, 2014]. ~~Sec. 3.1. (a) To obtain a salesperson 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 successfully completed courses in the principles, practices, and law of real estate, totaling eight (8) semester credit hours, or their equivalent, as a student at an accredited college or university or have successfully completed an approved salesperson course as provided in IC 25-34.1-5-5(a);~~

~~(3) apply for a license by submitting the fee prescribed by the commission and an application containing the name, address, and age of the applicant, the name under which the applicant intends to conduct business, the principal broker's address where the business is to be conducted, proof of compliance with subdivision (2), and any other information the commission requires;~~

~~(4) pass a written examination prepared and administered by the commission or its duly appointed agent; and~~

~~(5) submit not more than one (1) year after passing the written examination under subdivision (4) a sworn certification of a principal broker that the principal broker intends to associate with the applicant and maintain that association until notice of termination of the association is given to the commission.~~

~~(b) Upon the applicant's compliance with the requirements of subsection (a), the commission shall:~~

~~(1) issue a wall certificate in the name of the salesperson to the principal broker who certified the applicant's association with the principal broker; and~~

~~(2) issue to the salesperson a pocket identification card which certifies that the salesperson is licensed and indicates the expiration date of the license and the name of the principal broker.~~

~~(c) A salesperson shall:~~

~~(1) act under the auspices of the principal broker responsible for that salesperson's conduct under this article;~~

~~(2) be associated with only one (1) principal broker;~~

~~(3) maintain evidence of licensure in the office, branch office, or~~

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~~sales outlet of the principal broker;~~

~~(4) advertise only in the name of the principal broker, with the principal broker's name in letters of advertising larger than that of the salesperson's name; and~~

~~(5) not maintain any real estate office apart from that office provided by the principal broker.~~

~~(d) Upon termination of a salesperson's association with a principal broker, the salesperson's license shall be returned to the commission within five (5) business days. The commission shall reissue the license to any principal broker whose certification, as prescribed in subsection (a)(5), is filed with the commission, and the commission shall issue a new identification card to the salesperson reflecting that change.~~

~~(e) Unless a license is renewed, a salesperson license expires on a date specified by the licensing agency under IC 25-1-6-4 and expires biennially after the initial expiration date. An applicant for renewal shall submit an application in the manner prescribed by the board and pay the renewal fee established by the board 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 board taking any action.~~

~~(f) 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).~~

~~(g) 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).~~

~~(h) A salesperson license may be issued to an individual who is not yet associated with a principal broker but who otherwise meets the requirements of subsection (a). A license issued under this subsection shall be held by the commission in an unassigned status until the date the individual submits the certification of a principal broker required by subsection (a)(5). If the individual does not submit the application for licensure within one (1) year after passing the commission examination, the commission shall void the application and may not issue a license to that applicant unless the applicant again complies with the requirements of subsection (a)(4) through (a)(5).~~

~~(i) If an individual holding a salesperson license is not associated with a principal broker for two (2) successive renewal periods, the commission shall notify the individual in writing that the individual's~~

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~~license will become void if the individual does not associate with a principal broker within thirty (30) days from the date the notification is mailed. A void license may not be renewed.~~

SECTION 13. IC 25-34.1-3-4.1, AS AMENDED BY P.L.105-2008, SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: 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 satisfied section 3.1(a)(2) of this chapter and have had continuous active experience for one (1) year immediately preceding the application as a licensed salesperson in Indiana. However, this one (1) year experience requirement may be waived by the commission upon a finding of equivalent experience;~~

(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(b);~~ **IC 25-34.1-5-5;**

(4) apply for a license by submitting the application fee prescribed by the commission and an application specifying the name, address, and age of the applicant, the name under which the applicant intends to conduct business, the address where the business is to be conducted, proof of compliance with subdivisions (2) and (3), and 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.

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(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:
(A) is a resident of Indiana; or
(B) is a ~~principal~~ **managing** broker under IC 25-34.1-4-3(b);
(3) cause each employee of the partnership who acts as a broker ~~or salesperson~~ 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:
(A) residing in Indiana who is either an officer of the corporation or, if no officer resides in Indiana, the highest ranking corporate employee in Indiana with authority to bind the corporation in real estate transactions; or
(B) who is a ~~principal~~ **managing** broker under IC 25-34.1-4-3(b);
(2) cause each employee of the corporation who acts as a broker ~~or salesperson~~ 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 is:
(i) a resident of Indiana; or
(ii) a ~~principal~~ **managing** broker under IC 25-34.1-4-3(b);
(2) if a manager-managed limited liability company, have a licensed broker:
(A) residing in Indiana who is either a manager of the company or, if no manager resides in Indiana, the highest ranking company officer or employee in Indiana with authority to bind the company in real estate transactions; or
(B) who is a ~~principal~~ **managing** broker under IC 25-34.1-4-3(b);

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(3) cause each employee of the limited liability company who acts as a broker ~~or salesperson~~ 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 license must be assigned to 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) 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 ~~biennially~~ **three (3) years** after the initial expiration date. An applicant for renewal shall submit an application in the manner prescribed by the ~~board~~ **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

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agency, the license expires and becomes invalid without the ~~board~~ **commission** taking any action.

(h) 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 not be a ~~broker-salesperson~~ **broker** except as authorized in IC 23-1.5. An individual broker who associates ~~as a broker-salesperson~~ with a ~~principal~~ **managing** broker shall immediately notify the commission of the name and business address of the ~~principal~~ **managing** broker and of any changes of ~~principal~~ **managing** broker that may occur. The commission shall then change the address of the ~~broker-salesperson~~ **broker** on its records to that of the ~~principal~~ **managing** broker.

SECTION 14. IC 25-34.1-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5. (a) A resident of another state, meeting the requirements of this chapter, may be licensed.

(b) A nonresident ~~salesperson or~~ 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 this section may be waived for individuals of or 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.

SECTION 15. IC 25-34.1-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 6. Each licensee and

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each licensee's ~~principal~~ **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.

SECTION 16. IC 25-34.1-3-10, AS AMENDED BY P.L.157-2006, SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 10. (a) A ~~salesperson licensed under section 3.1 of this chapter or 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 ~~salesperson or~~ 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) 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.

(f) 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.

SECTION 17. IC 25-34.1-3-10.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS

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[EFFECTIVE JULY 1, 2014]: **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.

SECTION 18. IC 25-34.1-3-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 11. (a) An out-of-state

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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 ~~salesperson~~ **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:

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(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) A person licensed in a jurisdiction where there is not a legal distinction between a real estate broker license and a real estate salesperson license must meet the requirements of subsection (a) before engaging in an act that requires a license under this article.~~

~~(c)~~ **(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.

SECTION 19. IC 25-34.1-4-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 0.5. Except as provided in IC 25-34.1-4-6, to become a managing broker, an individual must:**
(1) hold a 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.

SECTION 20. IC 25-34.1-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. A ~~principal~~ **managing** broker is responsible under this article for the actions of any ~~associated salesperson and broker-salesperson.~~ **broker who is associated with the managing broker.** Any ~~principal~~ **managing** broker who 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.

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SECTION 21. IC 25-34.1-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. Except as provided in IC 23-1.5, a partnership broker, corporate broker, or limited liability company broker may act only as a ~~principal~~ **managing** broker and shall designate to the commission a licensed individual broker, who is a partner or a corporate representative satisfying IC 25-34.1-3-4.1(c)(1) or a member-managed limited liability company member or a manager-managed limited liability company representative satisfying IC 25-34.1-3-4.1(d)(2), to be primarily responsible to the commission for its actions.

SECTION 22. IC 25-34.1-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 3. (a) Except as provided in subsection (b), each individual who is a ~~principal~~ **managing** broker or is designated by a partnership, corporation, or a limited liability company pursuant to section 2 of this chapter shall be a resident of Indiana.

(b) A nonresident:

(1) individual broker; or

(2) individual designated by a partnership, corporation, or limited liability company under section 2 of this chapter;

may be a ~~principal~~ **managing** broker if all the licensees affiliated with the broker, partnership, corporation, or limited liability company are not residents of Indiana.

SECTION 23. IC 25-34.1-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4. Notwithstanding IC 23-1.5, the association of a ~~salesperson or~~ broker with a ~~principal~~ **managing** broker, as provided by this article, creates an independent contractor relationship unless otherwise specified by a written contract entered into by the ~~principal~~ **managing** broker and the ~~associated salesperson or~~ broker.

SECTION 24. IC 25-34.1-4-5, AS AMENDED BY P.L.114-2010, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5. (a) Each ~~principal~~ **managing** broker:

(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 ~~principal~~ **managing** broker or of any ~~associated salesperson or broker-salesperson~~ **whose license the managing broker 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.

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(b) The ~~principal~~ **managing** broker 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 the death or termination of a ~~principal~~ **managing** broker or the expiration, revocation, or suspension of the ~~principal~~ **managing** broker's license, the commission shall take custody of each trust account and may appoint a successor trustee to protect and distribute the proceeds of that account.

SECTION 25. IC 25-34.1-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 6. (a) In the event of the death of an individual ~~principal~~ **managing** broker or the termination of a partnership ~~principal~~ **managing** broker by the death of a partner, a ~~salesperson~~ **broker** formerly associated with ~~that principal~~ **the managing** broker may continue to carry out business contracted for before the death or termination of the ~~principal~~ **managing** broker, for a maximum period of ninety (90) days after the death or termination. During that period, the ~~salesperson~~ **broker** shall maintain a trust account as provided in section 5 of this chapter. However, until associating with another ~~principal~~ **managing** broker, the ~~salesperson~~ **broker** may not undertake any new business.

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

(c) Each ~~broker-salesperson~~ **broker** formerly associated with the deceased or terminated ~~principal~~ **managing** broker becomes, upon the death or termination of the ~~principal~~ **managing** broker, a ~~principal~~ **managing** broker until the broker elects to act as a ~~broker-salesperson~~ **broker** for another ~~principal~~ **managing** broker.

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

SECTION 26. IC 25-34.1-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]:

Chapter 4.5. License Transition

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Sec. 1. Beginning July 1, 2014, the commission may not issue a new salesperson license under this article.

Sec. 2. An individual who holds a salesperson's license under this article may not, after June 30, 2014, 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 for consideration without a broker's license under this article.

Sec. 3. To obtain a broker's license, an individual holding a license as a salesperson on or after June 30, 2012, must:

(1) complete at least twenty-four (24) hours of education described in IC 25-34.1-5-5 to be licensed as a broker; and

(2) except for the requirement under IC 25-34.1-3-4.1(a)(2), meet the requirements to be licensed as a broker under IC 25-34.1-3-4.1.

Sec. 4. Notwithstanding any other law concerning education or continuing education for salespersons, a salesperson may obtain the twenty-four (24) hours of commission approved education required under section 3 of this chapter at any time after June 30, 2012, and before July 1, 2014. The licensee must attest to the commission that the licensee has completed the additional twenty-four (24) hours of education.

Sec. 5. The commission shall issue a broker's license to a licensed salesperson who meets the requirements under sections 3 and 4 of this chapter.

Sec. 6. For the period beginning July 1, 2012, and ending June 30, 2014, notwithstanding any other law concerning continuing education, the twenty-four (24) hours of additional education required under section 3 of this chapter may be used to meet the continuing education requirement for a salesperson under IC 25-34.1-9-11.

Sec. 7. An individual who is a principal broker on June 30, 2014, becomes a managing broker on July 1, 2014.

Sec. 8. This chapter expires December 31, 2014.

SECTION 27. IC 25-34.1-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. No person shall conduct, solicit or accept student enrollment for a broker ~~or salesperson~~ course as prescribed in this chapter without approval of the course by the commission.

SECTION 28. IC 25-34.1-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4. (a) To obtain approval of a broker ~~or salesperson~~ course, a school shall:

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(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 two (2) written examinations during the broker course ~~and three (3) written examinations during the salesperson course~~ which are approved, and passing scores established, by the commission;
(6) within ~~fourteen (14)~~ **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 ~~or salesperson~~ office does not apply to the minimum hour requirements of section 5 of this chapter.

SECTION 29. IC 25-34.1-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5. ~~(a) The required curriculum for salespersons shall consist of a total of at least forty (40) hours of instruction and shall include the following subjects: Indiana license law and professional standards, law of agency, contracts, interests in real property, evidence of title, deeds, legal property descriptions, mathematics, taxes, valuation of real property, financing, listing contracts and purchase agreements, settlement procedures, property management, government regulations, and planning and zoning.~~

~~(b)~~ The required curriculum for brokers shall consist of a total of at least ~~twenty-four (24)~~ **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.

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SECTION 30. IC 25-34.1-5-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **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.

SECTION 31. IC 25-34.1-6-2, AS AMENDED BY P.L.84-2010, SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. (a) A person who:

~~(1) performs the acts of a salesperson without a salesperson license;~~

~~(2)~~ **(1)** performs the acts of a broker without a broker license; or

~~(3)~~ **(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.

SECTION 32. IC 25-34.1-7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 6. Any broker ~~or salesperson~~ 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

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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.

SECTION 33. IC 25-34.1-7-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 10. 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 a judgment under this chapter, the commission shall suspend the judgment debtor's license and, if the judgment debtor is licensed under ~~IC 25-34.1-3-3.1,~~ **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 ~~either~~ a broker ~~or a salesperson~~ until the licensee has repaid in full the amount paid from the real estate recovery fund with interest of twelve percent (12%) per annum.

SECTION 34. IC 25-34.1-8-7.5, AS AMENDED BY P.L.77-2010, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: 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 ~~and salespersons~~ 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

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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.

SECTION 35. IC 25-34.1-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 3. ~~(a)~~ The council consists of **five (5) members, three (3) of whom must be recommended by the Indiana association of realtors and** ~~the following members~~ appointed by the commission.

~~(1) Three (3) members who represent residential real estate sales practitioners.~~

~~(2) Three (3) members who represent other segments and specialties of the real estate industry besides residential real estate sales practitioners.~~

~~(3) One (1) member who represents real estate education.~~

~~(b) The commission shall appoint members from different geographic areas of Indiana. Six (6) members of the council must be members of Indiana real estate trade organizations.~~

SECTION 36. IC 25-34.1-9-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: 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 ~~in providing~~ **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.

SECTION 37. IC 25-34.1-9-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: 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 ~~or a salesperson under IC 25-34.1-3-3.1~~ must complete the approved education requirement ~~before the end of each~~

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~~renewal period.~~ **each year.**

SECTION 38. IC 25-34.1-9-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 11. (a) The approved education requirement is as follows:

(1) At least ~~six (6) hours~~ **twelve (12) hours per year** 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) Other courses approved by the commission.~~

~~(2) At least ten (10) hours of course work in any of the following subjects as determined by the commission:~~

~~(A)~~ **(H)** Appraising.
~~(B)~~ **(I)** Property management.
~~(C)~~ **(J)** Farm property management.
~~(D)~~ **(K)** Commercial brokerage and leasing.
~~(E)~~ **(L)** Financing.
~~(F)~~ **(M)** Residential brokerage.
~~(G)~~ **(N)** Land development.
~~(H)~~ **(O)** Legislative issues affecting the real estate practice.
~~(I)~~ **(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. At least four (4) hours of the continuing education 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.

SECTION 39. IC 25-34.1-9-11.1 IS ADDED TO THE INDIANA

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CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 11.1. (a) Notwithstanding section 11 of this chapter, from July 1, 2013, until June 30, 2014, a real estate broker licensed under IC 25-34.1-3-4.1, must complete eight (8) hours of continuing education**.

(b) This section expires July 1, 2014.

SECTION 40. IC 25-34.1-9-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 14. (a) The approval for a sponsor for

~~(1) a salesperson's course expires December 31 each odd-numbered year; and~~

~~(2)~~ 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.

SECTION 41. IC 25-34.1-9-19, AS AMENDED BY P.L.42-2011, SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: 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 ~~salesperson or~~ broker's license.

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

An individual granted a waiver under this subdivision may not perform an act that requires a ~~salesperson or~~ 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.**

SECTION 42. IC 25-34.1-10-6.8 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 6.8. As used in this chapter, "licensee" means an individual or entity issued a ~~salesperson's or~~ broker's real estate license by the Indiana real estate commission.

SECTION 43. IC 25-34.1-10-7.5 IS REPEALED [EFFECTIVE JULY 1, 2014]. ~~Sec. 7.5. As used in this chapter, "managing broker" means a broker who manages a branch office or who acts on behalf of a principal broker.~~

SECTION 44. IC 25-34.1-10-7.8 IS REPEALED [EFFECTIVE JULY 1, 2014]. ~~Sec. 7.8. As used in this chapter, "principal broker" means the individual broker (including the broker designated or representative of a partnership, corporation, or limited liability company) whom the Indiana real estate commission shall hold responsible for the actions of licensees who are affiliated with the individual broker.~~

SECTION 45. IC 25-34.1-10-12.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 12.5. (a) An individual licensee affiliated with a ~~principal~~ **managing** 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~~ **managing** 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.

(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 ~~principal or~~ managing broker for the purpose of seeking advice or assistance for the client's benefit.

(d) A ~~principal broker,~~ 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 ~~principal broker,~~ 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 principal~~

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~~broker,~~ the managing broker, and licensees.

SECTION 46. IC 25-34.1-10-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 13. (a) A ~~principal~~ **managing** broker shall develop and enforce a 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 ~~principal~~ **managing** broker'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 ~~principal~~ **managing** brokers who 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.

SECTION 47. IC 27-7-3-15.5, AS AMENDED BY P.L.226-2011, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 15.5. (a) This section applies to the following transactions:

(1) A mortgage transaction (as defined in IC 24-9-3-7(a)) that:
  (A) is:
    (i) a first lien purchase money mortgage transaction; or
    (ii) a refinancing transaction; and
  (B) is closed by a closing agent after December 31, 2009.

(2) A real estate transaction (as defined in IC 24-9-3-7(b)) that:
  (A) does not involve a mortgage transaction described in subdivision (1); and
  (B) is closed by a closing agent (as defined in IC 6-1.1-12-43(a)(2)) after December 31, 2011.

(b) For purposes of this subsection, a person described in this subsection is involved in a transaction to which this section applies if the person participates in or assists with, or will participate in or assist with, a transaction to which this section applies. The department shall establish and maintain an electronic system for the collection and storage of the following information, to the extent applicable, concerning a transaction to which this section applies:

(1) In the case of a transaction described in subsection (a)(1), the name and license number (under IC 23-2-5) of each loan brokerage business involved in the transaction.

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(2) In the case of a transaction described in subsection (a)(1), the name and license or registration number of any mortgage loan originator who is:

(A) either licensed or registered under state or federal law as a mortgage loan originator consistent with the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (H.R. 3221 Title V); and

(B) involved in the transaction.

(3) The name and license number (under IC 25-34.1) of each:

(A) ~~principal~~ **managing** broker; and

(B) ~~salesperson or broker-salesperson,~~ **broker** if any;

involved in the transaction.

(4) The following information:

(A) The:

(i) name of; and

(ii) code assigned by the National Association of Insurance Commissioners (NAIC) to;

each title insurance underwriter involved in the transaction.

(B) The type of title insurance policy issued in connection with the transaction.

(5) The name and license number (under IC 27-1-15.6) of each title insurance agency and agent involved in the transaction as a closing agent (as defined in IC 6-1.1-12-43(a)(2)).

(6) The following information:

(A) The name and:

(i) license or certificate number (under IC 25-34.1-3-8) of each licensed or certified real estate appraiser; or

(ii) license number (under IC 25-34.1) of each broker;

who appraises the property that is the subject of the transaction.

(B) The name and registration number (under IC 25-34.1-11-10) of any appraisal management company that performs appraisal management services (as defined in IC 25-34.1-11-3) in connection with the transaction.

(7) In the case of a transaction described in subsection (a)(1), the name of the creditor and, if the creditor is required to be licensed under IC 24-4.4, the license number of the creditor.

(8) In the case of a transaction described in subsection (a)(1)(A)(i) or (a)(2), the name of the seller of the property that is the subject of the transaction.

(9) In the case of a transaction described in subsection (a)(1)(A)(i), the following information:

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(A) The name of the buyer of the property that is the subject of the transaction.
(B) The purchase price of the property that is the subject of the transaction.
(C) The loan amount of the mortgage transaction.
(10) In the case of a transaction described in subsection (a)(2), the following information:
(A) The name of the buyer of the property that is the subject of the transaction.
(B) The purchase price of the property that is the subject of the transaction.
(11) In the case of a transaction described in subsection (a)(1)(A)(ii), the following information:
(A) The name of the borrower in the mortgage transaction.
(B) The loan amount of the refinancing.
(12) The:
(A) name; and
(B) license number, certificate number, registration number, or other code, as appropriate;
of any other person that is involved in a transaction to which this section applies, as the department may prescribe.

(c) The system established by the department under this section must include a form that:
(1) is uniformly accessible in an electronic format to the closing agent (as defined in IC 6-1.1-12-43(a)(2)) in the transaction; and
(2) allows the closing agent to do the following:
(A) Input information identifying the property that is the subject of the transaction by lot or parcel number, street address, or some other means of identification that the department determines:
(i) is sufficient to identify the property; and
(ii) is determinable by the closing agent.
(B) Subject to subsection (d) and to the extent determinable, input the applicable information described in subsection (b).
(C) Respond to the following questions, if applicable:
(i) "On what date did you receive the closing instructions from the creditor in the transaction?".
(ii) "On what date did the transaction close?".
(D) Submit the form electronically to a data base maintained by the department.

(d) Not later than the time of the closing, each person described in subsection (b), other than a person described in subsection (b)(8),

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(b)(9), (b)(10), or (b)(11), shall provide to the closing agent in the transaction the person's:

(1) legal name; and

(2) license number, certificate number, registration number, or NAIC code, as appropriate;

to allow the closing agent to comply with subsection (c)(2)(B). In the case of a transaction described in subsection (a)(1), the person described in subsection (b)(7) shall, with the cooperation of any person involved in the transaction and described in subsection (b)(6)(A) or (b)(6)(B), provide the information described in subsection (b)(6). In the case of a transaction described in subsection (a)(1)(A)(ii), the person described in subsection (b)(7) shall also provide the information described in subsection (b)(11). A person described in subsection (b)(3)(B) who is involved in the transaction may provide the information required by this subsection for a person described in subsection (b)(3)(A) that serves as the ~~principal~~ **managing** broker for the person described in subsection (b)(3)(B). The closing agent shall determine the information described in subsection (b)(8), (b)(9), and (b)(10) from the HUD-1 settlement statement, or in the case of a transaction described in subsection (a)(2), from the contract or any other document executed by the parties in connection with the transaction.

(e) Except for a person described in subsection (b)(8), (b)(9), (b)(10), or (b)(11), a person described in subsection (b) who fails to comply with subsection (d) is subject to a civil penalty of one hundred dollars ($100) for each closing with respect to which the person fails to comply with subsection (d). The penalty:

(1) may be enforced by the state agency that has administrative jurisdiction over the person in the same manner that the agency enforces the payment of fees or other penalties payable to the agency; and

(2) shall be paid into the home ownership education account established by IC 5-20-1-27.

(f) Subject to subsection (g), the department shall make the information stored in the data base described in subsection (c)(2)(D) accessible to:

(1) each entity described in IC 4-6-12-4; and

(2) the homeowner protection unit established under IC 4-6-12-2.

(g) The department, a closing agent who submits a form under subsection (c), each entity described in IC 4-6-12-4, and the homeowner protection unit established under IC 4-6-12-2 shall exercise all necessary caution to avoid disclosure of any information:

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(1) concerning a person described in subsection (b), including the person's license, registration, or certificate number; and

(2) contained in the data base described in subsection (c)(2)(D);

except to the extent required or authorized by state or federal law.

(h) The department may adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, to implement this section. Rules adopted by the department under this subsection may establish procedures for the department to:

(1) establish;

(2) collect; and

(3) change as necessary;

an administrative fee to cover the department's expenses in establishing and maintaining the electronic system required by this section.

(i) If the department adopts a rule under IC 4-22-2 to establish an administrative fee to cover the department's expenses in establishing and maintaining the electronic system required by this section, as allowed under subsection (h), the department may:

(1) require the fee to be paid:

(A) to the closing agent responsible for inputting the information and submitting the form described in subsection (c)(2); and

(B) by the borrower, the seller, or the buyer in the transaction;

(2) allow the closing agent described in subdivision (1)(A) to retain a part of the fee collected to cover the closing agent's costs in inputting the information and submitting the form described in subsection (c)(2); and

(3) require the closing agent to pay the remainder of the fee collected to the department for deposit in the title insurance enforcement fund established by IC 27-7-3.6-1, for the department's use in establishing and maintaining the electronic system required by this section.

SECTION 48. IC 32-21-14-2, AS ADDED BY P.L.136-2011, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. (a) As used in this ~~section,~~ **chapter,** "transfer fee" means a fee or charge that:

(1) is required under a transfer fee covenant; and

(2) is payable:

(A) upon the transfer of an interest in real property; or

(B) for the right to make or accept a transfer of an interest in real property;

regardless of whether the fee or charge is in a fixed amount or is determined as a percentage of the value of the property, of the purchase

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price of the property, or of any consideration given for the transfer of the property.

(b) The term does not include any of the following:

(1) Any consideration payable by the transferee to the transferor for the interest in the real property being transferred, including any consideration payable for a separate mineral estate and its appurtenant surface access rights.

(2) Any commission to a real estate broker ~~or salesperson~~ licensed under IC 25-34.1 payable:

(A) in connection with the transfer of an interest in real property; and

(B) under an agreement between the real estate broker ~~or salesperson~~ and the transferor or transferee.

(3) Any interest, charges, fees, or other amounts payable by a borrower to a lender under a loan secured by a mortgage against an interest in real property, including the following:

(A) Any fee payable to the lender for consenting to an assumption of the loan or to a transfer of the property interest subject to the mortgage.

(B) Any fees or charges payable to the lender for estoppel letters or certificates.

(C) Any other consideration allowed by law and payable to the lender in connection with the loan.

(4) Any rent, reimbursement, charge, fee, or other amount payable by a lessee to a lessor under a lease, including any fee payable to the lessor for consenting to an assignment, subletting, encumbrance, or transfer of the lease.

(5) Any consideration payable to the holder of:

(A) an option to purchase an interest in real property; or

(B) a right of first refusal or first offer to purchase an interest in real property;

for waiving, releasing, or not exercising the option or right upon the transfer of the property interest to another person.

(6) Any tax, fee, charge, assessment, fine, or other amount payable to or imposed by a governmental entity.

(7) Any fee, charge, assessment, fine, or other amount payable to:

(A) a homeowners association;

(B) a condominium association;

(C) a cooperative association;

(D) a mobile home association;

(E) another property owners association; or

(F) an agent representing an association described in clauses

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(A) through (E);

under a covenant, law, or contract applicable to the association.

SECTION 49. IC 32-28-12.5-2, AS ADDED BY P.L.78-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. As used in this chapter, "fees or commissions" means compensation owed to a ~~principal~~ **managing** broker for performing services requiring a license under IC 25-34.1-3-2.

SECTION 50. IC 32-28-12.5-3, AS ADDED BY P.L.78-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 3. As used in this chapter, ~~"principal broker"~~ **"managing broker"** has the meaning set forth in IC 25-34.1-1-2.

SECTION 51. IC 32-28-12.5-5, AS ADDED BY P.L.78-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5. A ~~principal~~ **managing** broker may have a lien upon commercial real estate, or any interest in commercial real estate, that is the subject of a purchase, a lease, or other conveyance to a buyer or tenant, in the amount that the ~~principal~~ **managing** broker is due for licensed services, including brokerage fees, consulting fees, and management fees due the ~~principal~~ **managing** broker under a written agreement, a contract, or another written instrument:

(1) signed by:

(A) the owner of an interest in the commercial real estate or by the owner's authorized agent; or

(B) a prospective buyer or prospective tenant, or by the buyer's or tenant's authorized agent; and

(2) entered into after June 30, 2006.

A lien under this chapter is available to the ~~principal~~ **managing** broker named in the written agreement, contract, or other written instrument signed by the owner, buyer, or tenant, or their respective agents, and not to an employee or independent contractor of the ~~principal~~ **managing** broker.

SECTION 52. IC 32-28-12.5-6, AS ADDED BY P.L.78-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 6. (a) A lien under this chapter attaches to commercial real estate or an interest in commercial real estate upon:

(1) the ~~principal~~ **managing** broker being entitled to fees or commissions under a written agreement, a contract, or another instrument signed by the owner, buyer, or tenant of the commercial real estate, or by an authorized agent of the owner, buyer, or tenant; and

(2) except as provided in sections 8 and 9 of this chapter, the ~~principal~~ **managing** broker recording a notice of lien in the office

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of the recorder of the county in which the commercial real estate or an interest in the commercial real estate is located:

(A) before the recording of the deed for the actual conveyance or transfer of the commercial real estate against which the broker is claiming a lien, if the ~~principal~~ **managing** broker claims fees or commissions from the party conveying or transferring an interest in the commercial real estate; or

(B) not later than ninety (90) days after the recording of the deed or other instrument for the purchase or other conveyance or transfer of the commercial real estate, if the ~~principal~~ **managing** broker claims fees or commissions from the party receiving a conveyance or transfer of an interest in the commercial real estate.

(b) A lien under this chapter attaches on the date of the recording of the notice of the lien under subsection (a)(2) and does not relate back to the date of the written agreement, contract, or other written instrument described in subsection (a)(1).

SECTION 53. IC 32-28-12.5-7, AS ADDED BY P.L.78-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 7. (a) This section does not apply:

(1) to fees or commissions that arise from a lease, including fees or commissions for a sale of the property, lease expansions, or lease renewals;

(2) if a ~~principal~~ **managing** broker's fees or commissions have been paid in full; or

(3) if a ~~principal~~ **managing** broker waives the notice requirements of this section in writing.

(b) Not later than ten (10) days before the planned closing of a transaction involving the sale of commercial real estate, the owner shall notify the following persons of the date of the closing, the time of the closing, the address of the closing, and of the name of the closing agent, title company, or title insurance agent:

(1) One (1) or more ~~principal~~ **managing** brokers to whom the owner owes fees or commissions.

(2) The closing agent, title company, or title insurance agent involved in the transaction.

Notice under this subsection shall be sent by registered or certified mail, return receipt requested, or by another means of service authorized by the Indiana trial rules that provides proof that the addressee has received the notice.

(c) To exercise its rights under this chapter to file a lien after receipt of the notice under subsection (b), the ~~principal~~ **managing** broker must

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notify the closing agent, title company, or title insurance agent at the address in the notice of the amount of the fees or commissions owed before the time of the closing stated in the notice.

(d) If the ~~principal~~ **managing** broker does not attend the closing of a transaction involving the sale of commercial real estate, the owner shall certify in writing at the closing, under the penalties of perjury:

(1) that:

(A) the owner has notified the ~~principal~~ **managing** broker in accordance with subsection (b); and

(B) the ~~principal~~ **managing** broker received the notice; or

(2) that the ~~principal~~ **managing** broker has been paid in full.

SECTION 54. IC 32-28-12.5-8, AS ADDED BY P.L.78-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 8. (a) This section applies to a transaction involving the conveyance or transfer of commercial real estate in which:

(1) payment to a ~~principal~~ **managing** broker is due in installments; and

(2) a part of the installment payments is due only after the conveyance or transfer of the commercial real estate involved in the transaction.

(b) Subject to subsection (c), the ~~principal~~ **managing** broker may record a notice of lien for those payments described in subsection (a)(2) at any time after the transfer or conveyance, but not later than ninety (90) days after the date on which the payment is due. A notice of lien under this section is effective as a lien against the transferor's interest in the commercial real estate only to the extent consideration is still owed to the transferor by the transferee. However, the lien is effective against the transferee's interest in the commercial real estate without the limitation described in this subsection.

(c) A single claim for a lien recorded:

(1) before the transfer or conveyance of the commercial real estate; and

(2) with respect to all payments due in installments;

is valid and enforceable with respect to payments due after the transfer or conveyance. However, as payments or partial payments of fees or commissions are received by the ~~principal~~ **managing** broker, the ~~principal~~ **managing** broker shall, by providing partial releases with respect to those payments, reduce the amount due the ~~principal~~ **managing** broker under the notice of lien described in this subsection.

SECTION 55. IC 32-28-12.5-9, AS AMENDED BY P.L.1-2007, SECTION 212, IS AMENDED TO READ AS FOLLOWS

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[EFFECTIVE JULY 1, 2014]: Sec. 9. (a) Subject to subsection (b), in the case of a lease of commercial real estate, including a sublease or an assignment of a lease, the notice of a lien under this chapter must be recorded not later than ninety (90) days after the tenant takes possession of the leased premises. However, if:

(1) the transferor personally serves, on the ~~principal~~ **managing** broker entitled to claim a lien, written notice of the intended execution of the lease; and

(2) the notice described in subdivision (1) is served not later than ten (10) days before the date of the intended execution of the lease;

the ~~principal~~ **managing** broker's notice of lien must be recorded before the date indicated in the notice described in subdivision (1) for the execution of the lease. The lien attaches on the recording of the notice of lien and does not relate back to the date of the written agreement, contract, or written instrument under which the ~~principal~~ **managing** broker is entitled to fees or commissions.

(b) As used in this subsection, "future fees or commissions" refers to fees or commissions:

(1) other than those fees or commissions due to a ~~principal~~ **managing** broker upon the execution of a lease under subsection (a); or

(2) due to the ~~principal~~ **managing** broker upon the exercise of an option to:

(A) expand the leased premises;

(B) renew or extend a lease; or

(C) purchase the commercial real estate;

under a written agreement, a contract, or another written instrument signed by the owner or tenant of the commercial real estate. The ~~principal~~ **managing** broker may record a memorandum of lien at any time after execution of the lease or other written agreement, contract, or written instrument that contains rights to future fees or commissions. The ~~principal~~ **managing** broker shall record a notice of lien no later than ninety (90) days after the occurrence of a condition for which future fees or commissions are claimed, but may not file a notice of lien against an owner's property if the tenant is the sole party liable for payment of the future fees or commissions. Except as provided in section 11(a) or 13(b) of this chapter, an action to foreclose a lien to collect future fees or commissions must be commenced not later than one (1) year after the recording of the notice of the lien. A memorandum of lien recorded under this chapter must meet the requirements of section 12(1)(A), 12(1)(B), 12(1)(C), 12(1)(E), 12(2),

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12(3), and 12(4) of this chapter. A memorandum of lien shall not constitute a lien against the real estate but shall provide notice of the right to future fees or commissions.

(c) If:

(1) commercial real estate is sold or otherwise conveyed before the date on which future fees or commissions are due; and

(2) the ~~principal~~ **managing** broker has recorded a valid memorandum of lien or notice of lien before the sale or other conveyance of the commercial real estate;

the purchaser or transferee is considered to have notice of and takes title to the commercial real estate subject to the right to future fees or commissions and, if applicable, notice of lien. However, if a ~~principal~~ **managing** broker claiming future fees or commissions fails to record a memorandum of lien or notice of lien for the future fees or commissions before the recording of a deed conveying legal title to the commercial real estate to the purchaser or transferee, the ~~principal~~ **managing** broker may not claim a lien on the commercial real estate. This subsection does not limit or otherwise affect claims or defenses a ~~principal~~ **managing** broker or owner or any other party may have in law or equity.

SECTION 56. IC 32-28-12.5-10, AS ADDED BY P.L.78-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 10. A ~~principal~~ **managing** broker shall, not later than ten (10) days after recording a notice of lien under this chapter, personally serve or mail, by registered or certified mail, a copy of the notice of lien to the owner of record of the commercial real estate, or to the agent of the owner of record, at the address of the owner stated in the written agreement, contract, or other written instrument on which the claim for the lien is based. If the address of the owner or the owner's agent is not stated, the ~~principal~~ **managing** broker shall personally serve or mail, by registered or certified mail, a copy of the notice of the lien to the address where real estate taxes are sent for the commercial real estate on which the claim of lien is based. Mailing of the copy of the notice of lien is effective when deposited in the United States mail with postage prepaid. Personal service of the notice of the lien is effective upon receipt by the owner or the agent of the owner of record. A ~~principal~~ **managing** broker's lien is unenforceable if mailing or service of the copy of notice of lien does not occur at the time and in the manner required by this section.

SECTION 57. IC 32-28-12.5-11, AS ADDED BY P.L.78-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 11. (a) The ~~principal~~ **managing** broker claiming

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the lien shall, not later than one (1) year after recording the notice of the lien, commence proceedings to foreclose the lien. However, for future fees or commissions payable over a period in excess of one (1) year from the occurrence of a condition for which such future fees or commissions are claimed, the commencement of the suit must be within one (1) year of the latest date for which future fees or commissions are due. A ~~principal~~ **managing** broker's failure to commence proceedings within the time prescribed by this subsection extinguishes the lien and a subsequent notice of lien may not be given for the same claim, nor may that claim be asserted in any other proceedings under this chapter.

(b) A ~~principal~~ **managing** broker claiming a lien based upon an option or other right to purchase or lease commercial real estate shall, not later than one (1) year after recording the notice of the lien, commence proceedings to foreclose the lien. A ~~principal~~ **managing** broker's failure to commence proceedings within the time prescribed by this subsection extinguishes the lien and a subsequent notice of lien may not be given for the same claim, nor may that claim be asserted in any other proceedings under this chapter.

(c) The foreclosure of a lien recorded under this chapter shall be conducted under the same rules and same procedures applicable to the foreclosure of mortgages upon real estate. A complaint under this section must contain:

(1) a brief statement of the written agreement, contract, or other written instrument that is the basis for the lien;

(2) the date when the written agreement, contract, or other written instrument was made;

(3) a description of the services performed by the ~~principal~~ **managing** broker;

(4) the amount due and unpaid for the services described in subdivision (3);

(5) a description of the commercial real estate subject to the notice of lien; and

(6) other facts reasonably necessary to describe the rights of the parties.

SECTION 58. IC 32-28-12.5-12, AS ADDED BY P.L.78-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 12. A notice of lien recorded under this chapter must:

(1) state:

(A) the name of the claimant;

(B) the name of the owner of the commercial real estate upon

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which the lien is claimed;

(C) a legal description of the commercial real estate upon which the lien is claimed;

(D) the amount for which the lien is claimed; and

(E) the license number of the ~~principal~~ **managing** broker's license under IC 25-34.1;

(2) contain a statement that the information contained in the notice is true and accurate to the knowledge of the signatory;

(3) be signed by the ~~principal~~ **managing** broker or by a person authorized to sign on behalf of the ~~principal~~ **managing** broker; and

(4) be verified.

SECTION 59. IC 32-28-12.5-13, AS ADDED BY P.L.78-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 13. (a) If:

(1) a memorandum of lien or notice of lien has been recorded with the office of the recorder of the appropriate county; and

(2) a condition occurs that would preclude the ~~principal~~ **managing** broker from receiving fees or commissions under the terms of the written agreement, contract, or other written instrument upon which the lien is based;

the ~~principal~~ **managing** broker shall provide to the owner of record of the commercial real estate, not later than ten (10) days after written demand by the owner of record, a written release or satisfaction of the memorandum of lien or notice of lien.

(b) Upon written demand:

(1) served by the owner, buyer, or tenant described in section 5 of this chapter, or the authorized agent of the owner, buyer, or tenant described in section 5 of this chapter, on the ~~principal~~ **managing** broker claiming a lien under this chapter; and

(2) requiring the ~~principal~~ **managing** broker to:

(A) bring a suit to enforce the lien; or

(B) file an answer in a pending suit;

the ~~principal~~ **managing** broker shall bring a suit or file an answer not later than thirty (30) days after service of the demand. If the ~~principal~~ **managing** broker does not bring a suit or file an answer within the time prescribed by this subsection, the lien is extinguished. The service of a written demand under this subsection may be made by registered or certified mail, return receipt requested, or by personal service.

(c) If:

(1) a memorandum of lien or notice of lien under this chapter has been filed with the office of the recorder and the fees or

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commissions upon which the lien is based have been paid to the ~~principal~~ **managing** broker claiming the lien; or

(2) the ~~principal~~ **managing** broker fails to institute a suit to enforce the lien within the time prescribed by this chapter;

the ~~principal~~ **managing** broker shall, not later than five (5) days after receipt of a written demand from the owner, buyer, or tenant described in section 5 of this chapter for a release or an acknowledgment of satisfaction of the memorandum or lien, acknowledge satisfaction or release of the memorandum or lien in writing.

SECTION 60. IC 32-28-12.5-14, AS ADDED BY P.L.78-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 14. If the ~~principal~~ **managing** broker and the party from whom fees or commissions are claimed under this chapter agree to alternative dispute resolution, any claim under this chapter must be heard and resolved in the forum agreed to by the parties. The court before which a lien foreclosure proceeding is brought under this chapter retains jurisdiction to enter judgment on the award or other result made or reached under alternative dispute resolution proceedings with respect to all parties to the foreclosure. The ~~principal~~ **managing** broker's notice of lien remains of record and the foreclosure proceeding shall be stayed during the pendency of the alternative dispute resolution proceedings.

SECTION 61. IC 32-28-12.5-16, AS ADDED BY P.L.78-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 16. Except for a waiver or release of a memorandum or lien provided in consideration of payment of the fees or commissions claimed by a ~~principal~~ **managing** broker under this chapter, or except as otherwise provided in section 13 of this chapter, any waiver of a ~~principal~~ **managing** broker's right to a lien on commercial property under this chapter is void.

SECTION 62. IC 32-28-12.5-18, AS ADDED BY P.L.78-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 18. If:

(1) a claim for a lien under this chapter has been filed with the office of the recorder of the county in which commercial real estate or any interest in commercial real estate is located; and

(2) an escrow account is established among:

(A) the one (1) or more parties allegedly responsible for payment of the fees or commissions on which the lien is based;

(B) the ~~principal~~ **managing** broker that filed the lien; and

(C) an independent third party as escrowee;

from the proceeds of the conveyance, or from any other source of

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funds, in an amount that is at least one hundred ten percent (110%) of the amount of the lien claimed under this chapter;

the lien against the real estate is extinguished and becomes a lien on the funds contained in the escrow account. The establishment of an escrow account described in this section does not constitute cause for any party to refuse to close the transaction.

SECTION 63. IC 32-28-12.5-19, AS ADDED BY P.L.78-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 19. (a) If any party, including a ~~principal~~ **managing** broker, buyer, or buyer's mortgagee suffers a pecuniary loss as the result of an owner's violation of the notice or certification provisions described in section 7 of this chapter, the party may bring a civil action against the owner for the following:

(1) Actual damages.

(2) The costs of the action.

(3) Reasonable attorney's fees.

However, if the party establishes that the owner's violation of the notice or certification provisions was fraudulent, a court may award the party damages that do not exceed three (3) times actual damages.

(b) It is a defense to an action brought under this section that the most recent address provided by the ~~principal~~ **managing** broker to the owner in the agreement, contract, or other written instrument, including a written instrument described in section 5 of this chapter, was incorrect, and as a result of the incorrect address, the principal broker did not receive the owner's notice described in section 7(b) of this chapter, and as a result the ~~principal~~ **managing** broker failed to provide the notice as required in section 7(c) of this chapter.

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COMMITTEE REPORT

Madam President: The Senate Committee on Public Policy, to which was referred Senate Bill No. 275, 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:

Replace the effective dates in SECTIONS 1 through 56 with "[EFFECTIVE JULY 1, 2014]".

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 5-20-5-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 18. (a) An eligible entity shall establish an affordable housing fund advisory committee consisting of the following eleven (11) members:

(1) One (1) member appointed by the executive of the eligible entity to represent the interests of low income families.

(2) One (1) member appointed by the executive of the eligible entity to represent the interests of owners of subsidized, multifamily housing communities.

(3) One (1) member appointed by the executive of the eligible entity to represent the interests of banks and other financial institutions.

(4) One (1) member appointed by the executive of the eligible entity to represent the interests of the eligible entity.

(5) One (1) member appointed by the executive of the eligible entity to represent real estate brokers. ~~or salespersons.~~ The member appointed under this subdivision must be nominated to the executive by the local realtors' association.

(6) One (1) member appointed by the executive of the eligible entity to represent construction trades. The member appointed under this subdivision must be nominated to the executive by the local building trades council.

(7) Five (5) members appointed by the legislative body of the eligible entity to represent the community at large. Members appointed under this subdivision must be nominated to the legislative body after a general call for nominations from township trustees, community development corporations, neighborhood associations, community based organizations, and other social services agencies.

(b) Members of the affordable housing fund advisory committee serve for a term of four (4) years, and are eligible for reappointment. If a vacancy exists on the committee, the appointing authority that

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appointed the former member whose position has become vacant shall appoint an individual to fill the vacancy. A committee member may be removed at any time by the appointing authority that appointed the committee member.

(c) The affordable housing fund advisory committee shall make recommendations to the eligible entity regarding:

(1) the development of policies and procedures for the uses of the affordable housing fund; and

(2) long term sources of capital for the affordable housing fund, including:

(A) revenue from:

(i) development ordinances;

(ii) fees; or

(iii) taxes;

(B) financial market based income;

(C) revenue derived from private sources; and

(D) revenue generated from grants, gifts, donations, or income in any other form from a:

(i) government program;

(ii) foundation; or

(iii) corporation.".

Page 8, line 30, delete "who," and insert "**who:**

(A)".

Page 8, line 33, delete "acts." and insert "acts; **and**

(B) is acting in association with and under the auspices of a managing broker.".

Page 9, line 2, strike "or salesperson".

Page 9, line 9, strike "or".

Page 9, line 10, strike "salesperson".

Page 9, line 17, after "than" insert "**lots and land or**".

Page 9, line 33, strike "salesperson" and insert "**broker**".

Page 9, line 34, delete "licensed under" and insert "**whom the Indiana real estate commission holds responsible for the actions of licensees who are affiliated with the managing broker.**".

Page 9, delete line 35.

Page 11, line 5, strike "and".

Page 11, line 7, delete "." and insert "; **and**

(17) adopt rules under IC 4-22-2 governing education, including prelicensing, postlicensing, and continuing education.".

Page 12, line 9, strike "and salespersons".

Page 14, delete lines 29 through 35.

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Page 15, line 37, strike "principal" and insert "**managing**".
Page 15, line 39, strike "or salesperson".
Page 16, line 8, strike "principal" and insert "**managing**".
Page 16, line 10, strike "or salesperson".
Page 16, line 23, strike "principal" and insert "**managing**".
Page 16, line 30, strike "principal" and insert "**managing**".
Page 16, line 32, strike "or salesperson".
Page 17, line 17, delete "During the first two (2) years after" and insert "**An individual who applies for a broker's license after July 1, 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.**".
Page 17, delete lines 18 through 21.
Page 17, line 41, strike "broker-salesperson" and insert "**broker**".
Page 17, line 42, strike "as a broker-salesperson".
Page 18, line 1, strike "principal" and insert "**managing**".
Page 18, line 2, strike "principal" and insert "**managing**".
Page 18, line 3, strike "principal" and insert "**managing**".
Page 18, line 4, strike "broker-salesperson" and insert "**broker**".
Page 18, line 4, strike "principal" and insert "**managing**".
Page 18, delete lines 6 through 9.
Page 19, between lines 16 and 17, begin a new paragraph and insert:
"**(e) 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.**

(f) Beginning July 1, 2014, a broker licensed on or after July 1, 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.

SECTION 18. IC 25-34.1-3-10.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **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).**

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(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 IC 25-34.1-3-3.1 (before its repeal).

(d) An individual whose salesperson's license is in referral status on June 30, 2014, may continue to make referrals to a licensed broker on and after July 1, 2014. However, an individual whose salesperson's license is in referral status on June 30, 2014, may not perform acts beyond making referrals to a licensed broker unless the individual has been issued a broker's license under subsection (e).

(e) An individual whose salesperson's license is in referral status on June 30, 2014, must:

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

(2) meet the requirements to be licensed as a broker under IC 25-34.1-3-4.1; and

(3) attest to the commission that the salesperson has completed the twenty-four (24) hours of education required under subdivision (1);

before the commission may issue the individual a broker's license.

(f) If:

(1) a broker is licensed under this article on or after July 1, 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 beyond making referrals to licensed brokers.".

Page 20, strike lines 39 through 42.

Page 21, line 1, strike "(e)" and insert "**(d)**".

Page 21, line 1, after "or" insert "**out-of-state commercial**".

Page 21, between lines 3 and 4, begin a new paragraph and insert:

"SECTION 18. IC 25-34.1-4-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 0.5. To become a managing broker, a person must:**

(1) hold a broker's license for at least two (2) years; and

(2) take and pass at least twenty-four (24) hours of broker

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management courses approved by the commission.".

Page 21, line 7, strike "associated".

Page 21, line 39, strike "associated".

Page 22, line 5, strike "associated".

Page 22, line 23, strike "principal" and insert "**managing**".

Page 22, line 34, after "principal" insert "**managing**".

Page 22, line 36, strike "salesperson" and insert "**broker**".

Page 23, between lines 4 and 5, begin a new paragraph and insert:

"SECTION 24. IC 25-34.1-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]:

Chapter 4.5. License Transition

Sec. 1. After June 30, 2014, the board may not issue a new salesperson license under this article.

Sec. 2. An individual who holds a salesperson's license under this article may not, after June 30, 2014, 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 for consideration without a broker's license under this article. However, a salesperson whose license is in referral status (as defined in IC 25-34.1-3-10.5) may continue making referrals to a licensed broker.

Sec. 3. To obtain a brokers license, an individual holding a license as a salesperson on June 30, 2012, must:

(1) complete at least twenty-four (24) hours of education required under IC 25-34.1-5-5 to be licensed as a broker; and

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

Sec. 4. Notwithstanding any other law concerning education or continuing education for salespersons, a salesperson may obtain the twenty-four (24) hours of commission approved education required under section 3 of this chapter at any time after June 30, 2012, and before July 1, 2014. The licensee must attest to the commission that the licensee has completed the additional twenty-four (24) hours of education.

Sec. 5. The commission shall issue a broker's license to a licensed salesperson who meets the requirements under sections 3 and 4 of this chapter.

Sec. 6. For the period beginning July 1, 2012, and ending June 30, 2014, notwithstanding any other law concerning continuing education, the twenty-four (24) hours of additional education required under section 3 of this chapter may be used to meet the

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continuing education requirement for a salesperson under IC 25-34.1-9-11.

Sec. 7. An individual who is a principal broker on June 30, 2014, becomes a managing broker on July 1, 2014.

Sec. 8. This chapter expires December 31, 2014.".

Page 24, between lines 12 and 13, begin a new paragraph and insert:

"SECTION 27. IC 25-34.1-5-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **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 chapter.

(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.".

Page 25, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 30. IC 25-34.1-8-7.5, AS AMENDED BY P.L.77-2010, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: 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 ~~and salespersons~~ 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

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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.".

Page 25, line 12, strike "(a)".

Page 25, line 13, delete "selected" and insert "**recommended by**".

Page 25, line 14, delete "from members of".

Page 25, line 14, after "realtors" delete "," and insert "**and**".

Page 25, strike line 22.

Page 25, line 23, strike "geographic areas of Indiana.".

Page 25, delete lines 25 through 42.

Page 26, delete lines 1 through 14.

Page 26, line 21, strike "in".

Page 26, line 21, delete "prelicensing" and insert "**postlicensing**".

Page 26, line 26, delete "IC 25-1-4-0.2," and insert "**IC 25-1-4,**".

Page 26, line 27, delete "prelicensing " and insert "**postlicensing**".

Page 26, line 35, strike "before the end of each".

Page 26, line 36, strike "renewal period." and insert "**each year.**".

Page 27, between lines 22 and 23, begin a new paragraph and insert:

"**(c) An individual who applies for a broker's license after July 1, 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 of this chapter.**

(d) For license renewal, a managing broker must complete at least twelve (12) hours of continuing education each year. At least four (4) hours of the continuing education must be dedicated to the necessary business and management skills and legal knowledge needed by a managing broker. The commission shall develop or

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approve the continuing education courses for managing brokers.".

Page 27, line 25, delete "(a) Notwithstanding section".

Page 27, delete lines 26 through 28.

Page 27, line 29, delete "(b)" and insert "**(a)**".

Page 27, run in lines 25 through 29.

Page 27, line 30, delete "2012," and insert "**2013,**".

Page 27, line 30, delete "2013," and insert "**2014,**".

Page 27, line 31, delete "sixteen (16)" and insert "**eight (8)**".

Page 27, line 32, delete "each year." and insert "**.**".

Page 27, delete lines 33 through 36.

Page 27, line 37, delete "(d)" and insert "**(b)**".

Page 27, between lines 37 and 38, begin a new paragraph and insert:

"SECTION 35. IC 25-34.1-9-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 14. (a) The approval for a sponsor for

~~(1) a salesperson's course expires December 31 each odd-numbered year; and~~

~~(2)~~ 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.".

Page 28, line 18, after "IC 25-34.1-3-10(d)" delete "." and insert "**and applicable requirements under IC 25-34.1-3-10.5.**".

Page 28, between lines 22 and 23, begin a new paragraph and insert:

"SECTION 38. IC 25-34.1-10-7.5 IS REPEALED [EFFECTIVE JULY 1, 2014]. ~~Sec. 7.5. As used in this chapter, "managing broker" means a broker who manages a branch office or who acts on behalf of a principal broker.~~

SECTION 39. IC 25-34.1-10-7.8 IS REPEALED [EFFECTIVE JULY 1, 2014]. ~~Sec. 7.8. As used in this chapter, "principal broker" means the individual broker (including the broker designated or representative of a partnership, corporation, or limited liability company) whom the Indiana real estate commission shall hold responsible for the actions of licensees who are affiliated with the individual broker.~~".

Page 28, delete lines 23 through 33.

Page 29, line 9, strike "principal".

Page 29, line 10, reset in roman "managing".

Page 35, between lines 21 and 22, begin a new paragraph and insert:

"SECTION 44. IC 32-28-12.5-2, AS ADDED BY P.L.78-2006,

C o p y

SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. As used in this chapter, "fees or commissions" means compensation owed to a ~~principal~~ **managing** broker for performing services requiring a license under IC 25-34.1-3-2.".

Page 41, between lines 7 and 8, begin a new paragraph and insert:

"SECTION 52. IC 32-28-12.5-12, AS ADDED BY P.L.78-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 12. A notice of lien recorded under this chapter must:

(1) state:

(A) the name of the claimant;

(B) the name of the owner of the commercial real estate upon which the lien is claimed;

(C) a legal description of the commercial real estate upon which the lien is claimed;

(D) the amount for which the lien is claimed; and

(E) the license number of the ~~principal~~ **managing** broker's license under IC 25-34.1;

(2) contain a statement that the information contained in the notice is true and accurate to the knowledge of the signatory;

(3) be signed by the ~~principal~~ **managing** broker or by a person authorized to sign on behalf of the ~~principal~~ **managing** broker; and

(4) be verified.".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 275 as introduced.)

ALTING, Chairperson

Committee Vote: Yeas 9, Nays 0.

SENATE MOTION

Madam President: I move that Senate Bill 275 be amended to read as follows:

Page 9, line 41, reset in roman "who:".

Page 10, line 30, delete "lots and land or".

Page 10, line 31, delete "." and insert "**or lots and land.**".

Page 11, line 5, delete "Indiana".

C o p y

Page 11, line 6, delete "real estate".

Page 11, line 13, delete "[EFFECTIVE" and insert "[EFFECTIVE JULY 1, 2012]:".

Page 11, line 14, delete "JULY 1, 2014]:".

Page 18, line 30, delete "July 1, 2014," and insert "**June 30, 2014,**".

Page 18, line 39, strike "board" and insert "**commission**".

Page 19, line 1, strike "board" and insert "**commission**".

Page 20, line 19, after "fulfill the" insert ":

(A)".

Page 20, line 20, after "period" insert "; **or**

(B) postlicensing education requirements as described in subsection (f);

whichever is applicable,".

Page 20, line 32, delete "on or".

Page 20, line 32, delete "July 1," and insert "**June 30,**".

Page 21, line 6, delete "IC 25-34.1-3-3.1" and insert "**section 3.1 of this chapter**".

Page 21, line 7, delete "An individual whose salesperson's license is in referral status" and insert "**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).".

Page 21, delete lines 8 through 23.

Page 21, line 25, delete "on or after July 1," and insert "**after June 30,**".

Page 21, line 32, after "acts" insert "**that require a broker's license under this article**".

C o p y

Page 23, line 23, delete "To" and insert "**Except as provided in IC 25-34.1-4-6, to**".

Page 23, line 24, delete "a person" and insert "**an individual**".

Page 23, line 31, delete "." and insert "**who is associated with the managing broker.**".

Page 24, line 29, after "associated salesperson" delete "broker".

Page 24, line 29, after "broker" delete ";" and insert "**whose license the managing broker is holding;**".

Page 25, line 34, delete "After June 30, 2014," and insert "**Beginning July 1, 2014,**".

Page 25, line 34, delete "board" and insert "**commission**".

Page 25, line 41, delete "However, a salesperson whose license is".

Page 25, delete line 42.

Page 26, delete line 1.

Page 26, line 2, delete "brokers" and insert "**broker's**".

Page 26, line 3, after "on" insert "**or after**".

Page 26, line 5, delete "required under" and insert "**described in**".

Page 26, line 6, after "(2)" insert "**except for the requirement under IC 25-34.1-3-4.1(a)(2),**".

Page 27, line 37, delete [EFFECTIVE JULY 1, 2014]:" and insert "[EFFECTIVE JULY 1, 2012]:".

Page 28, line 2, delete "chapter." and insert "**article.**".

Page 29, line 2, after "IC 25-34.1-3-4.1" insert "**,**".

Page 31, line 22, delete "July 1," and insert "**June 30,**".

Page 31, line 26, after "requirements" delete "of" and insert "**under**".

Page 31, line 35, delete "[EFFECTIVE JULY 1, 2014]:" and insert "[EFFECTIVE JULY 1, 2012]:".

(Reference is to SB 275 as printed January 27, 2012.)

MERRITT

C o p y

COMMITTEE REPORT

Mr. Speaker: Your Committee on Employment, Labor and Pensions, to which was referred Senate Bill 275, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

GUTWEIN, Chair

Committee Vote: yeas 9, nays 0.

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