



Reprinted
February 21, 2012

ENGROSSED SENATE BILL No. 275

DIGEST OF SB 275 (Updated February 20, 2012 2:34 pm - DI 14)

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. Provides that broker's licenses 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, MORRIS, RIECKEN)

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.
February 20, 2012, read second time, amended, ordered engrossed.

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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.

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:

- 1 SECTION 1. IC 5-20-5-18 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 18. (a) An eligible
3 entity shall establish an affordable housing fund advisory committee
4 consisting of the following eleven (11) members:
5 (1) One (1) member appointed by the executive of the eligible
6 entity to represent the interests of low income families.
7 (2) One (1) member appointed by the executive of the eligible
8 entity to represent the interests of owners of subsidized,
9 multifamily housing communities.
10 (3) One (1) member appointed by the executive of the eligible
11 entity to represent the interests of banks and other financial
12 institutions.
13 (4) One (1) member appointed by the executive of the eligible
14 entity to represent the interests of the eligible entity.
15 (5) One (1) member appointed by the executive of the eligible
16 entity to represent real estate brokers. ~~or salespersons~~. The
17 member appointed under this subdivision must be nominated to

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1 the executive by the local realtors' association.

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

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

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

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

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

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

26 (A) revenue from:

27 (i) development ordinances;

28 (ii) fees; or

29 (iii) taxes;

30 (B) financial market based income;

31 (C) revenue derived from private sources; and

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

34 (i) government program;

35 (ii) foundation; or

36 (iii) corporation.

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

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

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

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

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

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

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

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

15 (2) any other financial institution that is:

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

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

22 (3) any insurance company;

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

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

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

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

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

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

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

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

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- 1 does not include a person who:
- 2 (1) performs purely administrative or clerical tasks on behalf of
- 3 a mortgage loan originator or acts as a loan processor or
- 4 underwriter;
- 5 (2) performs only real estate brokerage activities and is licensed
- 6 in accordance with IC 25-34.1 or the applicable laws of another
- 7 state, unless the person is compensated by a creditor, a loan
- 8 broker, a mortgage loan originator, or any agent of a creditor, a
- 9 loan broker, or a mortgage loan originator; or
- 10 (3) is involved only in extensions of credit relating to time share
- 11 plans (as defined in 11 U.S.C. 101(53D)).
- 12 (h) As used in this chapter, "mortgage loan originator license"
- 13 means a license issued by the commissioner authorizing an individual
- 14 to act as a mortgage loan originator on behalf of a loan broker licensee.
- 15 (i) As used in this chapter, "person" means an individual, a
- 16 partnership, a trust, a corporation, a limited liability company, a limited
- 17 liability partnership, a sole proprietorship, a joint venture, a joint stock
- 18 company, or another group or entity, however organized.
- 19 (j) As used in this chapter, "ultimate equitable owner" means a
- 20 person who, directly or indirectly, owns or controls ten percent (10%)
- 21 or more of the equity interest in a loan broker licensed or required to be
- 22 licensed under this chapter, regardless of whether the person owns or
- 23 controls the equity interest through one (1) or more other persons or
- 24 one (1) or more proxies, powers of attorney, or variances.
- 25 (k) As used in this chapter, "principal manager" means an individual
- 26 who:
- 27 (1) has at least three (3) years of experience:
- 28 (A) as a mortgage loan originator; or
- 29 (B) in financial services;
- 30 that is acceptable to the commissioner; and
- 31 (2) is principally responsible for the supervision and management
- 32 of the employees and business affairs of a loan broker licensee.
- 33 (l) As used in this chapter, "principal manager license" means a
- 34 license issued by the commissioner authorizing an individual to act as:
- 35 (1) a principal manager; and
- 36 (2) a mortgage loan originator;
- 37 on behalf of a loan broker licensee.
- 38 (m) As used in this chapter, "bona fide third party fee", with respect
- 39 to a residential mortgage loan, includes any of the following:
- 40 (1) Fees for real estate appraisals. However, if the residential
- 41 mortgage loan is governed by Title XI of the Financial Institutions
- 42 Reform, Recovery, and Enforcement Act (12 U.S.C. 3331 through

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- 1 3352), the fee for an appraisal performed in connection with the
- 2 loan is not a bona fide third party fee unless the appraisal is
- 3 performed by a person that is licensed or certified under
- 4 IC 25-34.1-3-8.
- 5 (2) Fees for title examination, abstract of title, title insurance,
- 6 property surveys, or similar purposes.
- 7 (3) Notary and credit report fees.
- 8 (4) Fees for the services provided by a loan broker in procuring
- 9 possible business for a creditor if the fees are paid by the creditor.
- 10 (n) As used in this chapter, "branch office" means any fixed physical
- 11 location from which a loan broker licensee holds itself out as engaging
- 12 in the loan brokerage business.
- 13 (o) As used in this chapter, "loan processor or underwriter" means
- 14 an individual who:
 - 15 (1) is employed by a loan broker licensee and acts at the direction
 - 16 of, and subject to the supervision of, the loan broker licensee or
 - 17 a licensed principal manager employed by the loan broker
 - 18 licensee; and
 - 19 (2) performs solely clerical or support duties on behalf of the loan
 - 20 broker licensee, including any of the following activities with
 - 21 respect to a residential mortgage loan application received by the
 - 22 loan broker licensee:
 - 23 (A) The receipt, collection, distribution, and analysis of
 - 24 information commonly used in the processing or underwriting
 - 25 of a residential mortgage loan.
 - 26 (B) Communicating with a borrower or potential borrower to
 - 27 obtain the information necessary for the processing or
 - 28 underwriting of a residential mortgage loan, to the extent that
 - 29 the communication does not include:
 - 30 (i) offering or negotiating loan rates or terms; or
 - 31 (ii) counseling borrowers or potential borrowers about
 - 32 residential mortgage loan rates or terms.
 - 33 (p) As used in this chapter, "real estate brokerage activity" means
 - 34 any activity that involves offering or providing real estate brokerage
 - 35 services to the public, including any of the following:
 - 36 (1) Acting as a real estate broker or salesperson for a buyer, seller,
 - 37 lessor, or lessee of real property.
 - 38 (2) Bringing together parties interested in the sale, lease, or
 - 39 exchange of real property.
 - 40 (3) Negotiating, on behalf of any party, any part of a contract
 - 41 concerning the sale, lease, or exchange of real property, other than
 - 42 in connection with obtaining or providing financing for the

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- 1 transaction.
- 2 (4) Engaging in any activity for which the person performing the
- 3 activity is required to be licensed under IC 25-34.1 or the
- 4 applicable laws of another state.
- 5 (5) Offering to engage in any activity, or to act in any capacity
- 6 with respect to any activity, described in subdivisions (1) through
- 7 (4).
- 8 (q) As used in this chapter, "registered mortgage loan originator"
- 9 means a mortgage loan originator who:
- 10 (1) is an employee of:
- 11 (A) a depository institution;
- 12 (B) a subsidiary that is:
- 13 (i) owned and controlled by a depository institution; and
- 14 (ii) regulated by a federal financial institution regulatory
- 15 agency (as defined in 12 U.S.C. 3350(6)); or
- 16 (C) an institution regulated by the Farm Credit Administration;
- 17 and
- 18 (2) is registered with and maintains a unique identifier with the
- 19 Nationwide Mortgage Licensing System and Registry.
- 20 (r) As used in this chapter, "residential mortgage loan" means a loan
- 21 that is secured by a mortgage, deed of trust, or other consensual
- 22 security interest on real estate in Indiana on which there is located or
- 23 intended to be constructed a dwelling (as defined in the federal Truth
- 24 in Lending Act (15 U.S.C. 1602(v)) that is or will be used primarily for
- 25 personal, family, or household purposes.
- 26 (s) As used in this chapter, "personal information" includes any of
- 27 the following:
- 28 (1) An individual's first and last names or first initial and last
- 29 name.
- 30 (2) Any of the following data elements:
- 31 (A) A Social Security number.
- 32 (B) A driver's license number.
- 33 (C) A state identification card number.
- 34 (D) A credit card number.
- 35 (E) A financial account number or debit card number in
- 36 combination with a security code, password, or access code
- 37 that would permit access to the person's account.
- 38 (3) With respect to an individual, any of the following:
- 39 (A) Address.
- 40 (B) Telephone number.
- 41 (C) Information concerning the individual's:
- 42 (i) income or other compensation;

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- 1 (ii) credit history;
 2 (iii) credit score;
 3 (iv) assets;
 4 (v) liabilities; or
 5 (vi) employment history.
- 6 (t) As used in this chapter, personal information is "encrypted" if the
 7 personal information:
 8 (1) has been transformed through the use of an algorithmic
 9 process into a form in which there is a low probability of
 10 assigning meaning without use of a confidential process or key;
 11 or
 12 (2) is secured by another method that renders the personal
 13 information unreadable or unusable.
- 14 (u) As used in this chapter, personal information is "redacted" if the
 15 personal information has been altered or truncated so that not more
 16 than the last four (4) digits of:
 17 (1) a Social Security number;
 18 (2) a driver's license number;
 19 (3) a state identification number; or
 20 (4) an account number;
 21 are accessible as part of the personal information.
- 22 (v) As used in this chapter, "depository institution" has the meaning
 23 set forth in the Federal Deposit Insurance Act (12 U.S.C. 1813(c)) and
 24 includes any credit union.
- 25 (w) As used in this chapter, "state licensed mortgage loan
 26 originator" means any individual who:
 27 (1) is a mortgage loan originator;
 28 (2) is not an employee of:
 29 (A) a depository institution;
 30 (B) a subsidiary that is:
 31 (i) owned and controlled by a depository institution; and
 32 (ii) regulated by a federal financial institution regulatory
 33 agency (as defined in 12 U.S.C. 3350(6)); or
 34 (C) an institution regulated by the Farm Credit Administration;
 35 (3) is licensed by a state or by the Secretary of the United States
 36 Department of Housing and Urban Development under Section
 37 1508 of the S.A.F.E. Mortgage Licensing Act of 2008 (Title V of
 38 P.L.110-289); and
 39 (4) is registered as a mortgage loan originator with, and maintains
 40 a unique identifier through, the Nationwide Mortgage Licensing
 41 System and Registry.
- 42 (x) As used in this chapter, "unique identifier" means a number or

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- 1 other identifier that:
- 2 (1) permanently identifies a mortgage loan originator; and
- 3 (2) is assigned by protocols established by the Nationwide
- 4 Mortgage Licensing System and Registry and the federal financial
- 5 institution regulatory agencies to facilitate:
- 6 (A) the electronic tracking of mortgage loan originators; and
- 7 (B) the uniform identification of, and public access to, the
- 8 employment history of and the publicly adjudicated
- 9 disciplinary and enforcement actions against mortgage loan
- 10 originators.
- 11 SECTION 4. IC 25-20.2-1-1, AS AMENDED BY P.L.2-2008,
- 12 SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 13 JULY 1, 2014]: Sec. 1. (a) This article applies to an individual who
- 14 conducts home inspections for compensation.
- 15 (b) This article does not apply to the following:
- 16 (1) An individual who is acting within the scope of the
- 17 individual's employment as:
- 18 (A) a code enforcement official for the state or a political
- 19 subdivision of the state; or
- 20 (B) a representative of a state or local housing agency or
- 21 authority acting under the authority of the United States
- 22 Department of Housing and Urban Development.
- 23 (2) An individual who is:
- 24 (A) either:
- 25 (i) registered as an architect under IC 25-4;
- 26 (ii) registered as a professional engineer under IC 25-31; or
- 27 (iii) licensed as a plumbing contractor or journeyman
- 28 plumber under IC 25-28.5; and
- 29 (B) acting within the scope of the individual's registration or
- 30 license.
- 31 (3) An individual who is licensed under IC 25-34.1 as a real estate
- 32 broker ~~broker-salesperson, or salesperson~~ and is acting within the
- 33 scope of the individual's license.
- 34 (4) An individual who is licensed or certified under IC 25-34.1 as
- 35 a real estate appraiser and is acting within the scope of the
- 36 individual's license or certificate.
- 37 (5) An individual who holds a certificate of authority under
- 38 IC 27-1-27-2 as a public adjuster and is acting within the scope of
- 39 the individual's certificate.
- 40 (6) An individual who holds a permit, certificate, or license to:
- 41 (A) use and apply pesticides; or
- 42 (B) make diagnostic inspections and reports for wood

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1 destroying pests;
2 under IC 15-16-5 and is acting within the scope of the individual's
3 certificate or license.
4 (7) An individual who holds a license from a political subdivision
5 as a tradesperson or home builder and is acting within the scope
6 of the individual's license.
7 SECTION 5. IC 25-20.2-3-2 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. (a) The board is
9 composed of seven (7) members appointed by the governor as follows:
10 (1) Four (4) members, each of whom:
11 (A) is licensed in Indiana as a home inspector; and
12 (B) has been actively engaged in performing home inspections
13 in Indiana for at least five (5) years immediately before the
14 member's appointment to the board.
15 (2) One (1) member who:
16 (A) is a home builder; and
17 (B) has been actively engaged in home building in Indiana for
18 at least five (5) years immediately before the member's
19 appointment to the board.
20 (3) One (1) member who:
21 (A) is a ~~licensed real estate salesperson under IC 25-34.1-3-3.1~~
22 ~~or a licensed real estate broker under IC 25-34.1-3-4.1;~~ and
23 (B) has been actively engaged in selling, trading, exchanging,
24 optioning, leasing, renting, managing, listing, or appraising
25 residential real estate in Indiana for at least five (5) years
26 immediately before the member's appointment to the board.
27 (4) One (1) member who represents the public at large and is not
28 associated with the home inspection, home building, or real estate
29 business other than as a consumer.
30 (b) The members of the board must be residents of Indiana.
31 SECTION 6. IC 25-34.1-1-1 IS AMENDED TO READ AS
32 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. This article shall be
33 known as the "Real Estate Broker ~~and Salesperson~~ Licensing Act."
34 SECTION 7. IC 25-34.1-1-2, AS AMENDED BY P.L.1-2006,
35 SECTION 479, IS AMENDED TO READ AS FOLLOWS
36 [EFFECTIVE JULY 1, 2014]: Sec. 2. As used in this article:
37 (1) "Person" means an individual, a partnership, a corporation, or
38 a limited liability company.
39 (2) "Commission" means the Indiana real estate commission.
40 (3) "Real estate" means any right, title, or interest in real property.
41 (4) "Broker" means a person who:
42 (A) for consideration, sells, buys, trades, exchanges, options,

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1 leases, rents, manages, lists, or appraises real estate or
 2 negotiates or offers to perform any of those acts; **and**
 3 **(B) is acting in association with and under the auspices of**
 4 **a managing broker.**
 5 ~~(5)~~ "Salesperson" means an individual, other than a broker, who,
 6 for consideration and in association with and under the auspices
 7 of a broker, sells, buys, trades, exchanges, options, leases, rents,
 8 manages, or lists real estate or negotiates or offers to perform any
 9 of those acts.
 10 ~~(6)~~ "Broker-salesperson" means an individual broker who is
 11 acting in association with and under the auspices of another
 12 broker.
 13 ~~(7)~~ "Principal broker" means a broker who is not acting as a
 14 broker-salesperson.
 15 ~~(8)~~ **(5)** "License" means a broker or salesperson license issued
 16 under this article and which is not expired, suspended, or revoked.
 17 ~~(9)~~ **(6)** "Licensee" means a person who holds a license issued
 18 under this article. The term does not include a person who holds
 19 a real estate appraiser license or certificate issued under the real
 20 estate appraiser licensure and certification program established
 21 under IC 25-34.1-3-8.
 22 ~~(10)~~ **(7)** "Course approval" means approval of a broker or
 23 salesperson course granted under this article which is not expired,
 24 suspended, or revoked.
 25 ~~(11)~~ **(8)** "Licensing agency" means the Indiana professional
 26 licensing agency established by IC 25-1-5-3.
 27 ~~(12)~~ **(9)** "Board" refers to the real estate appraiser licensure and
 28 certification board established under IC 25-34.1-8-1.
 29 ~~(13)~~ **(10)** "Commercial real estate" means a parcel of real estate
 30 other than real estate containing one (1) to four (4) residential
 31 units. This term does not include single family residential units
 32 such as:
 33 (A) condominiums;
 34 (B) townhouses;
 35 (C) manufactured homes; or
 36 (D) homes in a subdivision;
 37 when sold, leased, or otherwise conveyed on a unit-by-unit basis,
 38 even if those units are part of a larger building or parcel of real
 39 estate containing more than four (4) residential units.
 40 ~~(14)~~ **(11)** "Out-of-state commercial broker" includes a person, a
 41 partnership, an association, a limited liability company, a limited
 42 liability partnership, or a corporation that is licensed to do

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1 business as a broker in a jurisdiction other than Indiana.
2 ~~(15)~~ **(12)** "Out-of-state commercial salesperson" includes a person
3 affiliated with an out-of-state commercial broker who is not
4 licensed as a ~~salesperson~~ **broker** under this article.

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

8 SECTION 8. IC 25-34.1-1-4 IS ADDED TO THE INDIANA CODE
9 AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY
10 1, 2014]: **Sec. 4. Beginning July 1, 2014, licenses issued under this**
11 **article are for a term of three (3) years.**

12 SECTION 9. IC 25-34.1-2-5, AS AMENDED BY P.L.177-2009,
13 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 2012]: Sec. 5. The commission may:

- 15 (1) administer and enforce the provisions of this article;
- 16 (2) adopt rules in accordance with IC 4-22-2 and prescribe forms
- 17 for licenses, applications, ~~principal broker certifications~~, and
- 18 other documents which are necessary or appropriate for the
- 19 administration and enforcement of this article;
- 20 (3) issue, deny, suspend, and revoke licenses in accordance with
- 21 this article, which licenses shall remain the property of the
- 22 commission;
- 23 (4) subject to IC 25-1-7, investigate complaints concerning
- 24 licensees or persons the commission has reason to believe should
- 25 be licensees, including complaints respecting failure to comply
- 26 with this article or the rules, and, when appropriate, take action
- 27 pursuant to IC 25-34.1-6;
- 28 (5) bring actions, in the name of the state of Indiana, in an
- 29 appropriate circuit court in order to enforce compliance with this
- 30 article or the rules;
- 31 (6) inspect the records of a licensee in accordance with rules and
- 32 standards prescribed by the commission;
- 33 (7) conduct, or designate a member or other representative to
- 34 conduct, public hearings on any matter for which a hearing is
- 35 required under this article and exercise all powers granted in
- 36 IC 4-21.5;
- 37 (8) adopt a seal containing the words "Indiana Real Estate
- 38 Commission" and, through its executive director, certify copies
- 39 and authenticate all acts of the commission;
- 40 (9) utilize counsel, consultants, and other persons who are
- 41 necessary or appropriate to administer and enforce this article and
- 42 the rules;

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- 1 (10) enter into contracts and authorize expenditures that are
- 2 necessary or appropriate, subject to IC 25-1-6, to administer and
- 3 enforce this article and the rules;
- 4 (11) maintain the commission's office, files, records, and property
- 5 in the city of Indianapolis;
- 6 (12) grant, deny, suspend, and revoke approval of examinations
- 7 and courses of study as provided in IC 25-34.1-5;
- 8 (13) provide for the filing and approval of surety bonds which are
- 9 required by IC 25-34.1-5;
- 10 (14) adopt rules in accordance with IC 4-22-2 necessary for the
- 11 administration of the investigative fund established under
- 12 IC 25-34.1-8-7.5;
- 13 (15) annually adopt emergency rules under IC 4-22-2-37.1 to
- 14 adopt any or all parts of Uniform Standards of Professional
- 15 Appraisal Practice (USPAP), including the comments to the
- 16 USPAP, as published by the Appraisal Standards Board of the
- 17 Appraisal Foundation, under the authority of Title XI of the
- 18 Financial Institutions Reform, Recovery, and Enforcement Act
- 19 (12 U.S.C. 3331-3351); ~~and~~
- 20 (16) exercise other specific powers conferred upon the
- 21 commission by this article; ~~and~~
- 22 **(17) adopt rules under IC 4-22-2 governing education,**
- 23 **including prelicensing, postlicensing, and continuing**
- 24 **education.**

25 SECTION 10. IC 25-34.1-2-7, AS ADDED BY P.L.57-2007,
 26 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2014]: Sec. 7. (a) Except as provided in subsection (b), all
 28 funds collected under this article shall, at the end of each month, be
 29 reported to the auditor of state and deposited with the treasurer of state
 30 for deposit in the general fund. All expenses incurred in the
 31 administration of this article shall be paid from the general fund.

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

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

- 42 (1) subsection (b);



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1 (2) section 8(i) of this chapter; and
 2 (3) section 11 of this chapter;
 3 no person shall, for consideration, sell, buy, trade, exchange, option,
 4 lease, rent, manage, list, or appraise real estate or negotiate or offer to
 5 perform any of those acts in Indiana or with respect to real estate
 6 situated in Indiana, without a license.
 7 (b) This article does not apply to:
 8 (1) acts of an attorney which constitute the practice of law;
 9 (2) performance by a public official of acts authorized by law;
 10 (3) acts of a receiver, executor, administrator, commissioner,
 11 trustee, or guardian, respecting real estate owned or leased by the
 12 person represented, performed pursuant to court order or a will;
 13 (4) rental, for periods of less than thirty (30) days, of rooms,
 14 lodging, or other accommodations, by any commercial hotel,
 15 motel, tourist facility, or similar establishment which regularly
 16 furnishes such accommodations for consideration;
 17 (5) rental of residential apartment units by an individual
 18 employed or supervised by a licensed broker;
 19 (6) rental of apartment units which are owned and managed by a
 20 person whose only activities regulated by this article are in
 21 relation to a maximum of twelve (12) apartment units which are
 22 located on a single parcel of real estate or on contiguous parcels
 23 of real estate;
 24 (7) referral of real estate business by a broker ~~salesperson~~, or
 25 referral company which is licensed under the laws of another
 26 state, to or from brokers ~~and salespersons~~ licensed by this state;
 27 (8) acts performed by a person in relation to real estate owned by
 28 that person unless that person is licensed under this article, in
 29 which case the article does apply to him;
 30 (9) acts performed by a regular, full-time, salaried employee of a
 31 person in relation to real estate owned or leased by that person
 32 unless the employee is licensed under this article, in which case
 33 the article does apply to him;
 34 (10) conduct of a sale at public auction by a licensed auctioneer
 35 pursuant to IC 25-6.1;
 36 (11) sale, lease, or other transfer of interests in cemetery lots; and
 37 (12) acts of a broker, ~~or salesperson~~, who is licensed under the
 38 laws of another state, which are performed pursuant to, and under
 39 restrictions provided by, written permission that is granted by the
 40 commission in its sole discretion, except that such a person shall
 41 comply with the requirements of section 5(c) of this chapter.
 42 SECTION 12. IC 25-34.1-3-3.1 IS REPEALED [EFFECTIVE JULY

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- 1 1, 2014]. Sec. 3-1: (a) To obtain a salesperson license, an individual
 2 must:
- 3 (1) be at least eighteen (18) years of age before applying for a
 4 license and must not have a conviction for:
- 5 (A) an act that would constitute a ground for disciplinary
 6 sanction under IC 25-1-11;
- 7 (B) a crime that has a direct bearing on the individual's ability
 8 to practice competently; or
- 9 (C) a crime that indicates the individual has the propensity to
 10 endanger the public;
- 11 (2) have successfully completed courses in the principles;
 12 practices; and law of real estate; totaling eight (8) semester credit
 13 hours; or their equivalent; as a student at an accredited college or
 14 university or have successfully completed an approved
 15 salesperson course as provided in IC 25-34.1-5-5(a);
- 16 (3) apply for a license by submitting the fee prescribed by the
 17 commission and an application containing the name; address; and
 18 age of the applicant; the name under which the applicant intends
 19 to conduct business; the principal broker's address where the
 20 business is to be conducted; proof of compliance with subdivision
 21 (2); and any other information the commission requires;
- 22 (4) pass a written examination prepared and administered by the
 23 commission or its duly appointed agent; and
- 24 (5) submit not more than one (1) year after passing the written
 25 examination under subdivision (4) a sworn certification of a
 26 principal broker that the principal broker intends to associate with
 27 the applicant and maintain that association until notice of
 28 termination of the association is given to the commission.
- 29 (b) Upon the applicant's compliance with the requirements of
 30 subsection (a); the commission shall:
- 31 (1) issue a wall certificate in the name of the salesperson to the
 32 principal broker who certified the applicant's association with the
 33 principal broker; and
- 34 (2) issue to the salesperson a pocket identification card which
 35 certifies that the salesperson is licensed and indicates the
 36 expiration date of the license and the name of the principal
 37 broker.
- 38 (c) A salesperson shall:
- 39 (1) act under the auspices of the principal broker responsible for
 40 that salesperson's conduct under this article;
- 41 (2) be associated with only one (1) principal broker;
- 42 (3) maintain evidence of licensure in the office; branch office; or

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1 sales outlet of the principal broker;

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

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

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

13 (e) Unless a license is renewed, a salesperson license expires on a
14 date specified by the licensing agency under IC 25-1-6-4 and expires
15 biennially after the initial expiration date. An applicant for renewal
16 shall submit an application in the manner prescribed by the board and
17 pay the renewal fee established by the board under IC 25-1-8-2 on or
18 before the renewal date specified by the licensing agency. If the holder
19 of a license does not renew the license by the date specified by the
20 licensing agency, the license expires and becomes invalid without the
21 board taking any action:

22 (f) If the holder of a license under this section fails to renew the
23 license on or before the date specified by the licensing agency, the
24 license may be reinstated by the commission if the holder of the
25 license, not later than three (3) years after the expiration of the license,
26 meets the requirements of IC 25-1-8-6(c):

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

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

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

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

4 SECTION 13. IC 25-34.1-3-4.1, AS AMENDED BY P.L.105-2008,
 5 SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2014]: Sec. 4.1. (a) To obtain a broker license, an individual
 7 must:

8 (1) be at least eighteen (18) years of age before applying for a
 9 license and must not have a conviction for:

10 (A) an act that would constitute a ground for disciplinary
 11 sanction under IC 25-1-11;

12 (B) a crime that has a direct bearing on the individual's ability
 13 to practice competently; or

14 (C) a crime that indicates the individual has the propensity to
 15 endanger the public;

16 (2) have satisfied section 3-1(a)(2) of this chapter and have had
 17 continuous active experience for one (1) year immediately
 18 preceding the application as a licensed salesperson in Indiana.
 19 However, this one (1) year experience requirement may be
 20 waived by the commission upon a finding of equivalent
 21 experience;

22 (2) have a high school diploma or a general educational
 23 development (GED) diploma under IC 20-20-6 (before its
 24 repeal) or IC 22-4.1-18;

25 (3) have successfully completed an approved broker course of
 26 study as prescribed in ~~IC 25-34.1-5-5(b)~~; **IC 25-34.1-5-5**;

27 (4) apply for a license by submitting the application fee
 28 prescribed by the commission and an application specifying the
 29 name, address, and age of the applicant, the name under which
 30 the applicant intends to conduct business, the address where the
 31 business is to be conducted, proof of compliance with
 32 subdivisions (2) and (3), and any other information the
 33 commission requires;

34 (5) pass a written examination prepared and administered by the
 35 commission or its duly appointed agent; and

36 (6) within one (1) year after passing the commission examination,
 37 submit the license fee established by the commission under
 38 IC 25-1-8-2. If an individual applicant fails to file a timely license
 39 fee, the commission shall void the application and may not issue
 40 a license to that applicant unless that applicant again complies
 41 with the requirements of subdivisions (4) and (5) and this
 42 subdivision.

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- 1 (b) To obtain a broker license, a partnership must:
 2 (1) have as partners only individuals who are licensed brokers;
 3 (2) have at least one (1) partner who:
 4 (A) is a resident of Indiana; or
 5 (B) is a **principal managing** broker under IC 25-34.1-4-3(b);
 6 (3) cause each employee of the partnership who acts as a broker
 7 ~~or salesperson~~ to be licensed; and
 8 (4) submit the license fee established by the commission under
 9 IC 25-1-8-2 and an application setting forth the name and
 10 residence address of each partner and the information prescribed
 11 in subsection (a)(4).
 12 (c) To obtain a broker license, a corporation must:
 13 (1) have a licensed broker:
 14 (A) residing in Indiana who is either an officer of the
 15 corporation or, if no officer resides in Indiana, the highest
 16 ranking corporate employee in Indiana with authority to bind
 17 the corporation in real estate transactions; or
 18 (B) who is a **principal managing** broker under
 19 IC 25-34.1-4-3(b);
 20 (2) cause each employee of the corporation who acts as a broker
 21 ~~or salesperson~~ to be licensed; and
 22 (3) submit the license fee established by the commission under
 23 IC 25-1-8-2, an application setting forth the name and residence
 24 address of each officer and the information prescribed in
 25 subsection (a)(4), a copy of the certificate of incorporation, and a
 26 certificate of good standing of the corporation issued by the
 27 secretary of state.
 28 (d) To obtain a broker license, a limited liability company must:
 29 (1) if a member-managed limited liability company:
 30 (A) have as members only individuals who are licensed
 31 brokers; and
 32 (B) have at least one (1) member who is:
 33 (i) a resident of Indiana; or
 34 (ii) a **principal managing** broker under IC 25-34.1-4-3(b);
 35 (2) if a manager-managed limited liability company, have a
 36 licensed broker:
 37 (A) residing in Indiana who is either a manager of the
 38 company or, if no manager resides in Indiana, the highest
 39 ranking company officer or employee in Indiana with authority
 40 to bind the company in real estate transactions; or
 41 (B) who is a **principal managing** broker under
 42 IC 25-34.1-4-3(b);

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1 (3) cause each employee of the limited liability company who acts
2 as a broker ~~or salesperson~~ to be licensed; and

3 (4) submit the license fee established by the commission under
4 IC 25-1-8-2 and an application setting forth the information
5 prescribed in subsection (a)(4), together with:

6 (A) if a member-managed company, the name and residence
7 address of each member; or

8 (B) if a manager-managed company, the name and residence
9 address of each manager, or of each officer if the company has
10 officers.

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

16 (1) any partner in a partnership or all individuals in a corporation
17 satisfying subsection (c)(1); or

18 (2) a member in a member-managed limited liability company or
19 all individuals in a manager-managed limited liability company
20 satisfying subsection (d)(2);

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

23 (f) Upon the applicant's compliance with the requirements of
24 subsection (a), (b), or (c), the commission shall issue the applicant a
25 broker license and an identification card which certifies the issuance
26 of the license and indicates the expiration date of the license. The
27 license shall be displayed at the broker's place of business. **For at least
28 two (2) years after the issuance of a license, the license must be
29 assigned to a managing broker. An individual who applies for a
30 broker's license after June 30, 2014, must, during the first two (2)
31 years after the license is issued, take and pass at least thirty (30)
32 hours of postlicensing education focused on the practical matters
33 of real estate transactions instead of the continuing education
34 requirements under IC 25-34.1-9.**

35 (g) Unless the license is renewed, a broker license expires, for
36 individuals, on a date specified by the licensing agency under
37 IC 25-1-6-4 and expires ~~biennially~~ **three (3) years** after the initial
38 expiration date. An applicant for renewal shall submit an application
39 in the manner prescribed by the ~~board~~ **commission** and pay the renewal
40 fee established by the commission under IC 25-1-8-2 on or before the
41 renewal date specified by the licensing agency. If the holder of a
42 license does not renew the license by the date specified by the licensing

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

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

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

11 (j) A partnership, corporation, or limited liability company may not
12 be a ~~broker-salesperson broker~~ except as authorized in IC 23-1.5. An
13 individual broker who associates as a ~~broker-salesperson~~ with a
14 **principal managing** broker shall immediately notify the commission of
15 the name and business address of the **principal managing** broker and
16 of any changes of **principal managing** broker that may occur. The
17 commission shall then change the address of the ~~broker-salesperson~~
18 **broker** on its records to that of the **principal managing** broker.

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

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

31 (c) The requirements of this section may be waived for individuals
32 of or moving from other jurisdictions if the following requirements are
33 met:

- 34 (1) The jurisdiction grants the same privilege to the licensees of
35 this state.
- 36 (2) The individual is licensed in that jurisdiction.
- 37 (3) The licensing requirements of that jurisdiction are
38 substantially similar to the requirements of this chapter.
- 39 (4) The applicant states that the applicant has studied, is familiar
40 with, and will abide by the statutes and rules of this state.

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

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1 each licensee's ~~principal~~ **managing** broker, if any, shall notify the
 2 commission immediately of any change of name, name under which the
 3 licensee transacts business, business address, or association.

4 SECTION 16. IC 25-34.1-3-10, AS AMENDED BY P.L.157-2006,
 5 SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2014]: Sec. 10. (a) A ~~salesperson licensed under section 3.1~~
 7 ~~of this chapter~~ or a broker licensed under section 4.1 of this chapter
 8 may apply for and receive an inactive license from the commission.

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

12 (c) An individual with an inactive license:

13 (1) may not perform an act that requires a ~~salesperson~~ or broker's
 14 license;

15 (2) is not required to fulfill the continuing education requirements
 16 under IC 25-34.1-9;

17 (3) is required to pay any fees that a licensee is required to pay;
 18 and

19 (4) must fulfill the:

20 (A) requirements under IC 25-34.1-9-11 for the current
 21 licensing period; or

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

24 **whichever is applicable**, before applying for reactivation of the
 25 individual's license.

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

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

36 (f) **Beginning June 30, 2014, a broker licensed after June 30,**
 37 **2014, who becomes inactive before completing the thirty (30) hour**
 38 **postlicensing education required under section 4.1(f) of this**
 39 **chapter, must complete the thirty (30) hours of postlicensure**
 40 **education before reactivation of the broker's license.**

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

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1 [EFFECTIVE JULY 1, 2014]: Sec. 10.5. (a) For purposes of this
 2 section, "referral status" means that the commission has granted
 3 an applicant of a license a waiver under IC 25-34.1-9-19 as a result
 4 of the applicant meeting the requirements under
 5 IC 25-34.1-9-19(2).

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

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

11 (d) Subject to subsection (e), the following applies to an
 12 individual whose salesperson's license is in referral status on June
 13 30, 2014:

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

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

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

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

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

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

30 (f) If:

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

33 (2) the broker's license is placed on referral status before the
 34 broker completes the thirty (30) hours of postlicensing
 35 education required under section 4.1(f) of this chapter;
 36 the broker must complete the thirty (30) hours of postlicensing
 37 education before the broker's license may be moved from referral
 38 status and the broker may perform acts that require a broker's
 39 license under this article beyond making referrals to licensed
 40 brokers.

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

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1 commercial broker, for a fee, commission, or other valuable
2 consideration, or in expectation, or upon the promise of receiving or
3 collecting a fee, commission, or other valuable consideration, may
4 perform acts with respect to commercial real estate that require a
5 license under this article without a license under this article, if the
6 out-of-state commercial broker does all of the following:

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

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

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

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

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

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

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

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

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

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1 (1) The out-of-state commercial salesperson:
 2 (A) is licensed with and works under the direct supervision of
 3 the out-of-state commercial broker;
 4 (B) provides the broker described in subsection (a)(1) with a
 5 copy of the out-of-state commercial salesperson's current
 6 certificate of good standing or other proof of a license in good
 7 standing from the jurisdiction where the out-of-state
 8 commercial salesperson maintains a valid real estate license in
 9 connection with the out-of-state commercial broker; and
 10 (C) collects money, including:
 11 (i) commissions;
 12 (ii) deposits;
 13 (iii) payments;
 14 (iv) rentals; or
 15 (v) escrow funds;
 16 only in the name of and with the consent of the out-of-state
 17 commercial broker under whom the out-of-state commercial
 18 salesperson is licensed.
 19 (2) The out-of-state commercial broker described in subdivision
 20 (1)(A) meets all of the requirements of subsection (a).
 21 ~~(d) A person licensed in a jurisdiction where there is not a legal~~
 22 ~~distinction between a real estate broker license and a real estate~~
 23 ~~salesperson license must meet the requirements of subsection (a)~~
 24 ~~before engaging in an act that requires a license under this article.~~
 25 ~~(e)~~ **(d)** An out-of-state commercial broker or **out-of-state**
 26 **commercial** salesperson acting under this section shall file a written
 27 consent as provided in section 5(b) of this chapter.
 28 SECTION 19. IC 25-34.1-4-0.5 IS ADDED TO THE INDIANA
 29 CODE AS A NEW SECTION TO READ AS FOLLOWS
 30 [EFFECTIVE JULY 1, 2014]: **Sec. 0.5. Except as provided in section**
 31 **6 of this chapter, to become a managing broker, an individual**
 32 **must:**
 33 **(1) hold a broker's license for at least two (2) years; and**
 34 **(2) take and pass at least twenty-four (24) hours of broker**
 35 **management courses approved by the commission.**
 36 SECTION 20. IC 25-34.1-4-1 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. A **principal**
 38 **managing** broker is responsible under this article for the actions of any
 39 ~~associated salesperson and broker-salesperson.~~ **broker who is**
 40 **associated with the managing broker.** Any ~~principal~~ **managing**
 41 broker who maintains two (2) or more separate offices for associated
 42 licensees shall notify the commission of the name and address of the

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

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

18 (b) A nonresident:
 19 (1) individual broker; or
 20 (2) individual designated by a partnership, corporation, or limited
 21 liability company under section 2 of this chapter;
 22 may be a ~~principal~~ **managing** broker if all the licensees affiliated with
 23 the broker, partnership, corporation, or limited liability company are
 24 not residents of Indiana.

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

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

- 35 (1) shall keep in one (1) or more trust accounts (interest or
 36 noninterest bearing) all funds belonging to others that come into
 37 the possession of the ~~principal~~ **managing** broker or of any
 38 ~~associated salesperson or broker-salesperson;~~ **broker whose**
 39 **license the managing broker is holding;** and
- 40 (2) shall clearly identify any account containing those funds as a
 41 trust account. The trust accounts shall contain all earnest money
 42 deposits, funds held for closing escrows, sale proceeds not yet

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1 disbursed, and all other funds belonging to others.

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

7 (c) Upon the death or termination of a ~~principal managing~~ broker
8 or the expiration, revocation, or suspension of the ~~principal managing~~
9 broker's license, the commission shall take custody of each trust
10 account and may appoint a successor trustee to protect and distribute
11 the proceeds of that account.

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

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

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

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

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

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Chapter 4.5. License Transition

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.

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:

- (1) provide the curriculum prescribed in section 5 of this chapter;**

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- 1 (2) have no more than thirty-five (35) students per instructor per
- 2 classroom;
- 3 (3) provide adequate educational facilities and supportive
- 4 personnel as is necessary to implement the purpose of this article;
- 5 (4) schedule not more than the maximum number of hours of
- 6 instruction established by the commission in any twenty-four (24)
- 7 hour period;
- 8 (5) administer **at least** two (2) written examinations during the
- 9 broker course and ~~three (3)~~ **written examinations during the**
- 10 **salesperson course** which are approved, and passing scores
- 11 established, by the commission;
- 12 (6) within ~~fourteen (14)~~ **thirty (30)** days of the end of each
- 13 course, submit to the commission the names and addresses of
- 14 those students who successfully complete the course;
- 15 (7) maintain records of students who successfully complete and
- 16 pass the course of study for a minimum of five (5) years or, in the
- 17 event the school should cease operation, the owner shall provide
- 18 a custodian acceptable to the commission to keep those records
- 19 and provide copies to students at the fee in effect when the school
- 20 ceases operation; and
- 21 (8) meet any other standards the commission may establish by
- 22 regulation.

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

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

36 (b) The required curriculum for brokers shall consist of a total of at
 37 least ~~twenty-four (24)~~ **ninety (90)** hours of instruction and shall include
 38 the following subjects: **principles, practices**, Indiana license law and
 39 professional standards, law of agency, contracts, financing, settlement
 40 procedures, escrow responsibility, recordkeeping, government
 41 regulations, and appraising.

42 SECTION 30. IC 25-34.1-5-12 IS ADDED TO THE INDIANA

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1 CODE AS A NEW SECTION TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2012]: **Sec. 12. (a) The real estate education
3 advisory council established by IC 25-34.1-9-2 shall make
4 recommendations to the commission concerning the following:**

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

13 **(b) The commission shall approve all prelicensing courses.**
14 **(c) The commission may, with the advice of the council, approve
15 online education required for licensing under this article.**

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

- 19 ~~(1) performs the acts of a salesperson without a salesperson
20 license;~~
- 21 ~~(2) (1) performs the acts of a broker without a broker license; or~~
- 22 ~~(3) (2) conducts, or solicits or accepts enrollment of students for,
23 a course as prescribed in IC 25-34.1-3 without course approval;
24 commits a Class A infraction. Upon conviction for an offense under
25 this section, the court shall add to any fine imposed the amount of any
26 fee or other compensation earned in the commission of the offense.
27 Each transaction constitutes a separate offense.~~

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

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

35 SECTION 32. IC 25-34.1-7-6 IS AMENDED TO READ AS
36 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 6. Any broker ~~or
37 salesperson~~ who is licensed or renews a license under this article after
38 December 31, 1987, and upon whom personal service cannot be made
39 with reasonable diligence shall be considered to have appointed the
40 commission as the licensee's agent for service of process for purposes
41 of actions filed under section 4 of this chapter for recovery from the
42 real estate recovery fund. Service of process under this section shall be

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1 made as nearly as practicable in the manner prescribed by the Indiana
2 Rules of Trial Procedure for service on corporations.

3 SECTION 33. IC 25-34.1-7-10 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 10. If the commission
5 is required to make any payment from the real estate recovery fund in
6 settlement of a claim or toward the satisfaction of a judgment under
7 this chapter, the commission shall suspend the judgment debtor's
8 license and, if the judgment debtor is licensed under ~~IC 25-34.1-3-3.1,~~
9 **IC 25-34.1-3-4.1**, the license of the individual designated broker, under
10 this article. The licensee is not eligible to be licensed again as ~~either~~ a
11 broker ~~or a salesperson~~ until the licensee has repaid in full the amount
12 paid from the real estate recovery fund with interest of twelve percent
13 (12%) per annum.

14 SECTION 34. IC 25-34.1-8-7.5, AS AMENDED BY P.L.77-2010,
15 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 JULY 1, 2014]: Sec. 7.5. (a) The investigative fund is established to
17 provide funds for administering and enforcing the provisions of this
18 article, including investigating and taking enforcement action against
19 real estate fraud and real estate appraisal fraud. The fund shall be
20 administered by the attorney general and the professional licensing
21 agency.

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

- 24 (1) money from a fee imposed upon licensed or certified
25 appraisers and real estate brokers ~~and salespersons~~ under
26 IC 25-34.1-2-7 and IC 25-34.1-3-9.5;
- 27 (2) civil penalties deposited in the fund under IC 24-5-23.5-9(d);
- 28 (3) registration fees imposed on appraisal management companies
29 under IC 25-34.1-11-15; and
- 30 (4) civil penalties deposited under IC 25-34.1-11-17.

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

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

41 (e) Money in the fund is continually appropriated for use by the
42 attorney general and the licensing agency to administer and enforce the



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1 provisions of this article and to conduct investigations and take
 2 enforcement action against real estate and appraisal fraud under this
 3 article. The attorney general shall receive five dollars (\$5) of each fee
 4 collected under IC 25-34.1-2-7 and IC 25-34.1-3-9.5, and the licensing
 5 agency shall receive any amount that exceeds five dollars (\$5) of each
 6 fee collected under IC 25-34.1-2-7 and IC 25-34.1-3-9.5.

7 SECTION 35. IC 25-34.1-9-3 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. ~~(a)~~ The council
 9 consists of **five (5) members, three (3) of whom must be**
 10 **recommended by the Indiana association of realtors and the**
 11 **following members** appointed by the commission.

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

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

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

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

21 SECTION 36. IC 25-34.1-9-9 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 9. **(a)** The council shall
 23 make recommendations to the commission concerning the following:

24 (1) Requirements for sponsors of courses under this chapter.

25 (2) Requirements for instructors to be used by sponsors in
 26 providing courses under this chapter.

27 (3) Requirements for the curricula ~~in providing for postlicensing~~
 28 **and continuing education** courses under this chapter.

29 (4) Rules to implement this chapter.

30 (5) Other issues identified by the commission to implement this
 31 chapter.

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

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

36 SECTION 37. IC 25-34.1-9-10 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 10. Except for an
 38 individual who has been granted an inactive license under
 39 IC 25-34.1-3-10, an individual who is licensed as a real estate broker
 40 under IC 25-34.1-3-4.1 ~~or a salesperson under IC 25-34.1-3-3.1~~ must
 41 complete the approved education requirement ~~before the end of each~~
 42 ~~renewal period.~~ **each year.**



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

4 (1) At least ~~six (6)~~ **hours twelve (12) hours per year** in any of the
 5 following subjects as determined by the commission:

- 6 (A) License and escrow law.
- 7 (B) Anti-trust law.
- 8 (C) Civil rights law.
- 9 (D) Agency law.
- 10 (E) Listing contracts and purchase agreements.
- 11 (F) Ethics and professionals standards.
- 12 (G) Settlement procedures.
- 13 ~~(H) Other courses approved by the commission.~~

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

- 16 ~~(A)~~ **(H)** Appraising.
- 17 ~~(B)~~ **(I)** Property management.
- 18 ~~(C)~~ **(J)** Farm property management.
- 19 ~~(D)~~ **(K)** Commercial brokerage and leasing.
- 20 ~~(E)~~ **(L)** Financing.
- 21 ~~(F)~~ **(M)** Residential brokerage.
- 22 ~~(G)~~ **(N)** Land development.
- 23 ~~(H)~~ **(O)** Legislative issues affecting the real estate practice.
- 24 ~~(I)~~ **(P)** Other courses approved by the commission.

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

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

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

41 SECTION 39. IC 25-34.1-9-11.1 IS ADDED TO THE INDIANA
 42 CODE AS A NEW SECTION TO READ AS FOLLOWS



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1 [EFFECTIVE JULY 1, 2012]: **Sec. 11.1. (a) Notwithstanding section**
 2 **11 of this chapter, from July 1, 2013, until June 30, 2014, a real**
 3 **estate broker licensed under IC 25-34.1-3-4.1, must complete eight**
 4 **(8) hours of continuing education.**

5 **(b) This section expires July 1, 2014.**

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

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

11 ~~(2) a broker's course expires December 31 each even-numbered~~
 12 ~~year.~~

13 (b) A sponsor must submit:

14 (1) a letter requesting renewal of approval; and

15 (2) the renewal fee;

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

17 SECTION 41. IC 25-34.1-9-19, AS AMENDED BY P.L.42-2011,
 18 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2014]: Sec. 19. The commission may grant an applicant a
 20 waiver from the continuing education requirement for the renewal
 21 period if the applicant meets one (1) of the following conditions:

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

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

26 (B) An incapacitating illness.

27 (C) Other circumstances determined by the commission.

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

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

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

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

41 SECTION 42. IC 25-34.1-10-6.8 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 6.8. As used in this

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1 chapter, "licensee" means an individual or entity issued a ~~salesperson's~~
 2 ~~or~~ broker's real estate license by the Indiana real estate commission.

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

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

14 SECTION 45. IC 25-34.1-10-12.5 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 12.5. (a) An individual
 16 licensee affiliated with a ~~principal~~ **managing** broker represents only
 17 the client with which the licensee is working in an in-house agency
 18 relationship. A client represented by an individual licensee affiliated
 19 with a ~~principal~~ **managing** broker is represented only by that licensee
 20 to the exclusion of all other licensees. A ~~principal or~~ managing broker
 21 does not represent any party in such transactions unless the ~~principal~~
 22 ~~or~~ managing broker has an agency relationship to personally represent
 23 a client.

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

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

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

38 (e) In all in-house agency relationships, a ~~principal broker,~~
 39 ~~managing~~ broker and an individual licensee possess only actual
 40 knowledge and information. There is no imputation of agency,
 41 knowledge, or information among or between clients, ~~the principal~~
 42 ~~broker,~~ the managing broker, and licensees.



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1 SECTION 46. IC 25-34.1-10-13 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 13. (a) A **principal**
 3 **managing** broker shall develop and enforce a written office policy that
 4 identifies and describes the agency relationships that a licensee may
 5 have with a seller, landlord, buyer, or tenant and that specifically
 6 permits or rejects the practice of disclosed limited agency.

7 (b) At the beginning of an agency relationship, a licensee shall
 8 disclose in writing the **principal managing** broker's written office
 9 policy set forth in this section before the disclosure by the potential
 10 seller, landlord, buyer, or tenant of any confidential information
 11 specific to that potential seller, landlord, buyer, or tenant.

12 (c) Parties to a real estate transaction shall be advised whether
 13 compensation will be shared with other **principal managing** brokers
 14 who may represent other parties to the transaction whose interests are
 15 different or even adverse.

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

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

22 (1) A mortgage transaction (as defined in IC 24-9-3-7(a)) that:

23 (A) is:

- 24 (i) a first lien purchase money mortgage transaction; or
 25 (ii) a refinancing transaction; and

26 (B) is closed by a closing agent after December 31, 2009.

27 (2) A real estate transaction (as defined in IC 24-9-3-7(b)) that:

28 (A) does not involve a mortgage transaction described in
 29 subdivision (1); and

30 (B) is closed by a closing agent (as defined in
 31 IC 6-1.1-12-43(a)(2)) after December 31, 2011.

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

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

42 (2) In the case of a transaction described in subsection (a)(1), the

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- 1 name and license or registration number of any mortgage loan
 2 originator who is:
- 3 (A) either licensed or registered under state or federal law as
 4 a mortgage loan originator consistent with the Secure and Fair
 5 Enforcement for Mortgage Licensing Act of 2008 (H.R. 3221
 6 Title V); and
 7 (B) involved in the transaction.
- 8 (3) The name and license number (under IC 25-34.1) of each:
 9 (A) ~~principal managing~~ broker; and
 10 (B) ~~salesperson or broker-salesperson~~; **broker** if any;
 11 involved in the transaction.
- 12 (4) The following information:
 13 (A) The:
 14 (i) name of; and
 15 (ii) code assigned by the National Association of Insurance
 16 Commissioners (NAIC) to;
 17 each title insurance underwriter involved in the transaction.
 18 (B) The type of title insurance policy issued in connection with
 19 the transaction.
- 20 (5) The name and license number (under IC 27-1-15.6) of each
 21 title insurance agency and agent involved in the transaction as a
 22 closing agent (as defined in IC 6-1.1-12-43(a)(2)).
- 23 (6) The following information:
 24 (A) The name and:
 25 (i) license or certificate number (under IC 25-34.1-3-8) of
 26 each licensed or certified real estate appraiser; or
 27 (ii) license number (under IC 25-34.1) of each broker;
 28 who appraises the property that is the subject of the
 29 transaction.
 30 (B) The name and registration number (under
 31 IC 25-34.1-11-10) of any appraisal management company that
 32 performs appraisal management services (as defined in
 33 IC 25-34.1-11-3) in connection with the transaction.
- 34 (7) In the case of a transaction described in subsection (a)(1), the
 35 name of the creditor and, if the creditor is required to be licensed
 36 under IC 24-4.4, the license number of the creditor.
- 37 (8) In the case of a transaction described in subsection
 38 (a)(1)(A)(i) or (a)(2), the name of the seller of the property that is
 39 the subject of the transaction.
- 40 (9) In the case of a transaction described in subsection
 41 (a)(1)(A)(i), the following information:
 42 (A) The name of the buyer of the property that is the subject of

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- 1 the transaction.
- 2 (B) The purchase price of the property that is the subject of the
- 3 transaction.
- 4 (C) The loan amount of the mortgage transaction.
- 5 (10) In the case of a transaction described in subsection (a)(2), the
- 6 following information:
- 7 (A) The name of the buyer of the property that is the subject of
- 8 the transaction.
- 9 (B) The purchase price of the property that is the subject of the
- 10 transaction.
- 11 (11) In the case of a transaction described in subsection
- 12 (a)(1)(A)(ii), the following information:
- 13 (A) The name of the borrower in the mortgage transaction.
- 14 (B) The loan amount of the refinancing.
- 15 (12) The:
- 16 (A) name; and
- 17 (B) license number, certificate number, registration number,
- 18 or other code, as appropriate;
- 19 of any other person that is involved in a transaction to which this
- 20 section applies, as the department may prescribe.
- 21 (c) The system established by the department under this section
- 22 must include a form that:
- 23 (1) is uniformly accessible in an electronic format to the closing
- 24 agent (as defined in IC 6-1.1-12-43(a)(2)) in the transaction; and
- 25 (2) allows the closing agent to do the following:
- 26 (A) Input information identifying the property that is the
- 27 subject of the transaction by lot or parcel number, street
- 28 address, or some other means of identification that the
- 29 department determines:
- 30 (i) is sufficient to identify the property; and
- 31 (ii) is determinable by the closing agent.
- 32 (B) Subject to subsection (d) and to the extent determinable,
- 33 input the applicable information described in subsection (b).
- 34 (C) Respond to the following questions, if applicable:
- 35 (i) "On what date did you receive the closing instructions
- 36 from the creditor in the transaction?".
- 37 (ii) "On what date did the transaction close?".
- 38 (D) Submit the form electronically to a data base maintained
- 39 by the department.
- 40 (d) Not later than the time of the closing, each person described in
- 41 subsection (b), other than a person described in subsection (b)(8),
- 42 (b)(9), (b)(10), or (b)(11), shall provide to the closing agent in the

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- 1 transaction the person's:
- 2 (1) legal name; and
- 3 (2) license number, certificate number, registration number, or
- 4 NAIC code, as appropriate;
- 5 to allow the closing agent to comply with subsection (c)(2)(B). In the
- 6 case of a transaction described in subsection (a)(1), the person
- 7 described in subsection (b)(7) shall, with the cooperation of any person
- 8 involved in the transaction and described in subsection (b)(6)(A) or
- 9 (b)(6)(B), provide the information described in subsection (b)(6). In the
- 10 case of a transaction described in subsection (a)(1)(A)(ii), the person
- 11 described in subsection (b)(7) shall also provide the information
- 12 described in subsection (b)(11). A person described in subsection
- 13 (b)(3)(B) who is involved in the transaction may provide the
- 14 information required by this subsection for a person described in
- 15 subsection (b)(3)(A) that serves as the ~~principal~~ **managing** broker for
- 16 the person described in subsection (b)(3)(B). The closing agent shall
- 17 determine the information described in subsection (b)(8), (b)(9), and
- 18 (b)(10) from the HUD-1 settlement statement, or in the case of a
- 19 transaction described in subsection (a)(2), from the contract or any
- 20 other document executed by the parties in connection with the
- 21 transaction.
- 22 (e) Except for a person described in subsection (b)(8), (b)(9),
- 23 (b)(10), or (b)(11), a person described in subsection (b) who fails to
- 24 comply with subsection (d) is subject to a civil penalty of one hundred
- 25 dollars (\$100) for each closing with respect to which the person fails
- 26 to comply with subsection (d). The penalty:
- 27 (1) may be enforced by the state agency that has administrative
- 28 jurisdiction over the person in the same manner that the agency
- 29 enforces the payment of fees or other penalties payable to the
- 30 agency; and
- 31 (2) shall be paid into the home ownership education account
- 32 established by IC 5-20-1-27.
- 33 (f) Subject to subsection (g), the department shall make the
- 34 information stored in the data base described in subsection (c)(2)(D)
- 35 accessible to:
- 36 (1) each entity described in IC 4-6-12-4; and
- 37 (2) the homeowner protection unit established under IC 4-6-12-2.
- 38 (g) The department, a closing agent who submits a form under
- 39 subsection (c), each entity described in IC 4-6-12-4, and the
- 40 homeowner protection unit established under IC 4-6-12-2 shall exercise
- 41 all necessary caution to avoid disclosure of any information:
- 42 (1) concerning a person described in subsection (b), including the

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1 person's license, registration, or certificate number; and
 2 (2) contained in the data base described in subsection (c)(2)(D);
 3 except to the extent required or authorized by state or federal law.

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

- 8 (1) establish;
 9 (2) collect; and
 10 (3) change as necessary;

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

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

- 17 (1) require the fee to be paid:
 18 (A) to the closing agent responsible for inputting the
 19 information and submitting the form described in subsection
 20 (c)(2); and
 21 (B) by the borrower, the seller, or the buyer in the transaction;
 22 (2) allow the closing agent described in subdivision (1)(A) to
 23 retain a part of the fee collected to cover the closing agent's costs
 24 in inputting the information and submitting the form described in
 25 subsection (c)(2); and
 26 (3) require the closing agent to pay the remainder of the fee
 27 collected to the department for deposit in the title insurance
 28 enforcement fund established by IC 27-7-3.6-1, for the
 29 department's use in establishing and maintaining the electronic
 30 system required by this section.

31 SECTION 48. IC 32-21-14-2, AS AMENDED BY HEA 1009-2012,
 32 SECTION 208, IS AMENDED TO READ AS FOLLOWS
 33 [EFFECTIVE JULY 1, 2014]: Sec. 2. (a) As used in this chapter,
 34 "transfer fee" means a fee or charge that:

- 35 (1) is required under a transfer fee covenant; and
 36 (2) is payable:
 37 (A) upon the transfer of an interest in real property; or
 38 (B) for the right to make or accept a transfer of an interest in
 39 real property;

40 regardless of whether the fee or charge is in a fixed amount or is
 41 determined as a percentage of the value of the property, of the purchase
 42 price of the property, or of any consideration given for the transfer of

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- 1 the property.
- 2 (b) The term does not include any of the following:
- 3 (1) Any consideration payable by the transferee to the transferor
- 4 for the interest in the real property being transferred, including
- 5 any consideration payable for a separate mineral estate and its
- 6 appurtenant surface access rights.
- 7 (2) Any commission to a real estate broker ~~or salesperson~~ licensed
- 8 under IC 25-34.1 payable:
- 9 (A) in connection with the transfer of an interest in real
- 10 property; and
- 11 (B) under an agreement between the real estate broker ~~or~~
- 12 ~~salesperson~~ and the transferor or transferee.
- 13 (3) Any interest, charges, fees, or other amounts payable by a
- 14 borrower to a lender under a loan secured by a mortgage against
- 15 an interest in real property, including the following:
- 16 (A) Any fee payable to the lender for consenting to an
- 17 assumption of the loan or to a transfer of the property interest
- 18 subject to the mortgage.
- 19 (B) Any fees or charges payable to the lender for estoppel
- 20 letters or certificates.
- 21 (C) Any other consideration allowed by law and payable to the
- 22 lender in connection with the loan.
- 23 (4) Any rent, reimbursement, charge, fee, or other amount payable
- 24 by a lessee to a lessor under a lease, including any fee payable to
- 25 the lessor for consenting to an assignment, subletting,
- 26 encumbrance, or transfer of the lease.
- 27 (5) Any consideration payable to the holder of:
- 28 (A) an option to purchase an interest in real property; or
- 29 (B) a right of first refusal or first offer to purchase an interest
- 30 in real property;
- 31 for waiving, releasing, or not exercising the option or right upon
- 32 the transfer of the property interest to another person.
- 33 (6) Any tax, fee, charge, assessment, fine, or other amount
- 34 payable to or imposed by a governmental entity.
- 35 (7) Any fee, charge, assessment, fine, or other amount payable to:
- 36 (A) a homeowners association;
- 37 (B) a condominium association;
- 38 (C) a cooperative association;
- 39 (D) a mobile home association;
- 40 (E) another property owners association; or
- 41 (F) an agent representing an association described in clauses
- 42 (A) through (E);

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1 under a covenant, law, or contract applicable to the association.
2 SECTION 49. IC 32-28-12.5-2, AS ADDED BY P.L.78-2006,
3 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2014]: Sec. 2. As used in this chapter, "fees or commissions"
5 means compensation owed to a ~~principal~~ **managing** broker for
6 performing services requiring a license under IC 25-34.1-3-2.
7 SECTION 50. IC 32-28-12.5-3, AS ADDED BY P.L.78-2006,
8 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2014]: Sec. 3. As used in this chapter, "~~principal broker~~"
10 "**managing broker**" has the meaning set forth in IC 25-34.1-1-2.
11 SECTION 51. IC 32-28-12.5-5, AS ADDED BY P.L.78-2006,
12 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2014]: Sec. 5. A ~~principal~~ **managing** broker may have a lien
14 upon commercial real estate, or any interest in commercial real estate,
15 that is the subject of a purchase, a lease, or other conveyance to a buyer
16 or tenant, in the amount that the ~~principal~~ **managing** broker is due for
17 licensed services, including brokerage fees, consulting fees, and
18 management fees due the ~~principal~~ **managing** broker under a written
19 agreement, a contract, or another written instrument:
20 (1) signed by:
21 (A) the owner of an interest in the commercial real estate or by
22 the owner's authorized agent; or
23 (B) a prospective buyer or prospective tenant, or by the buyer's
24 or tenant's authorized agent; and
25 (2) entered into after June 30, 2006.
26 A lien under this chapter is available to the ~~principal~~ **managing** broker
27 named in the written agreement, contract, or other written instrument
28 signed by the owner, buyer, or tenant, or their respective agents, and
29 not to an employee or independent contractor of the ~~principal~~
30 **managing** broker.
31 SECTION 52. IC 32-28-12.5-6, AS ADDED BY P.L.78-2006,
32 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
33 JULY 1, 2014]: Sec. 6. (a) A lien under this chapter attaches to
34 commercial real estate or an interest in commercial real estate upon:
35 (1) the ~~principal~~ **managing** broker being entitled to fees or
36 commissions under a written agreement, a contract, or another
37 instrument signed by the owner, buyer, or tenant of the
38 commercial real estate, or by an authorized agent of the owner,
39 buyer, or tenant; and
40 (2) except as provided in sections 8 and 9 of this chapter, the
41 ~~principal~~ **managing** broker recording a notice of lien in the office
42 of the recorder of the county in which the commercial real estate

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1 or an interest in the commercial real estate is located:
 2 (A) before the recording of the deed for the actual conveyance
 3 or transfer of the commercial real estate against which the
 4 broker is claiming a lien, if the ~~principal~~ **managing** broker
 5 claims fees or commissions from the party conveying or
 6 transferring an interest in the commercial real estate; or
 7 (B) not later than ninety (90) days after the recording of the
 8 deed or other instrument for the purchase or other conveyance
 9 or transfer of the commercial real estate, if the ~~principal~~
 10 **managing** broker claims fees or commissions from the party
 11 receiving a conveyance or transfer of an interest in the
 12 commercial real estate.

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

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

- 20 (1) to fees or commissions that arise from a lease, including fees
 21 or commissions for a sale of the property, lease expansions, or
 22 lease renewals;
- 23 (2) if a ~~principal~~ **managing** broker's fees or commissions have
 24 been paid in full; or
- 25 (3) if a ~~principal~~ **managing** broker waives the notice requirements
 26 of this section in writing.

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

- 32 (1) One (1) or more ~~principal~~ **managing** brokers to whom the
 33 owner owes fees or commissions.
- 34 (2) The closing agent, title company, or title insurance agent
 35 involved in the transaction.

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

40 (c) To exercise its rights under this chapter to file a lien after receipt
 41 of the notice under subsection (b), the ~~principal~~ **managing** broker must
 42 notify the closing agent, title company, or title insurance agent at the

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1 address in the notice of the amount of the fees or commissions owed
2 before the time of the closing stated in the notice.

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

6 (1) that:

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

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

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

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

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

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

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

30 (c) A single claim for a lien recorded:

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

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

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

40 SECTION 55. IC 32-28-12.5-9, AS AMENDED BY P.L.1-2007,
41 SECTION 212, IS AMENDED TO READ AS FOLLOWS
42 [EFFECTIVE JULY 1, 2014]: Sec. 9. (a) Subject to subsection (b), in

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1 the case of a lease of commercial real estate, including a sublease or an
 2 assignment of a lease, the notice of a lien under this chapter must be
 3 recorded not later than ninety (90) days after the tenant takes
 4 possession of the leased premises. However, if:

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

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

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

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

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

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

24 (A) expand the leased premises;

25 (B) renew or extend a lease; or

26 (C) purchase the commercial real estate;

27 under a written agreement, a contract, or another written instrument
 28 signed by the owner or tenant of the commercial real estate. The
 29 **principal managing** broker may record a memorandum of lien at any
 30 time after execution of the lease or other written agreement, contract,
 31 or written instrument that contains rights to future fees or commissions.

32 The **principal managing** broker shall record a notice of lien no later
 33 than ninety (90) days after the occurrence of a condition for which
 34 future fees or commissions are claimed, but may not file a notice of lien
 35 against an owner's property if the tenant is the sole party liable for
 36 payment of the future fees or commissions. Except as provided in
 37 section 11(a) or 13(b) of this chapter, an action to foreclose a lien to
 38 collect future fees or commissions must be commenced not later than
 39 one (1) year after the recording of the notice of the lien. A
 40 memorandum of lien recorded under this chapter must meet the
 41 requirements of section 12(1)(A), 12(1)(B), 12(1)(C), 12(1)(E), 12(2),
 42 12(3), and 12(4) of this chapter. A memorandum of lien shall not



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1 constitute a lien against the real estate but shall provide notice of the
2 right to future fees or commissions.

3 (c) If:

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

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

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

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

39 SECTION 57. IC 32-28-12.5-11, AS ADDED BY P.L.78-2006,
40 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
41 JULY 1, 2014]: Sec. 11. (a) The ~~principal~~ **managing** broker claiming
42 the lien shall, not later than one (1) year after recording the notice of

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

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

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

- 23 (1) a brief statement of the written agreement, contract, or other
 24 written instrument that is the basis for the lien;
- 25 (2) the date when the written agreement, contract, or other written
 26 instrument was made;
- 27 (3) a description of the services performed by the **principal**
 28 **managing** broker;
- 29 (4) the amount due and unpaid for the services described in
 30 subdivision (3);
- 31 (5) a description of the commercial real estate subject to the
 32 notice of lien; and
- 33 (6) other facts reasonably necessary to describe the rights of the
 34 parties.

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

- 39 (1) state:
 - 40 (A) the name of the claimant;
 - 41 (B) the name of the owner of the commercial real estate upon
 42 which the lien is claimed;

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- 1 (C) a legal description of the commercial real estate upon
- 2 which the lien is claimed;
- 3 (D) the amount for which the lien is claimed; and
- 4 (E) the license number of the ~~principal~~ **managing** broker's
- 5 license under IC 25-34.1;
- 6 (2) contain a statement that the information contained in the
- 7 notice is true and accurate to the knowledge of the signatory;
- 8 (3) be signed by the ~~principal~~ **managing** broker or by a person
- 9 authorized to sign on behalf of the ~~principal~~ **managing** broker;
- 10 and
- 11 (4) be verified.

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

- 15 (1) a memorandum of lien or notice of lien has been recorded
- 16 with the office of the recorder of the appropriate county; and
- 17 (2) a condition occurs that would preclude the ~~principal~~ **managing**
- 18 **broker** from receiving fees or commissions under the
- 19 terms of the written agreement, contract, or other written
- 20 instrument upon which the lien is based;
- 21 the ~~principal~~ **managing** broker shall provide to the owner of record of
- 22 the commercial real estate, not later than ten (10) days after written
- 23 demand by the owner of record, a written release or satisfaction of the
- 24 memorandum of lien or notice of lien.

25 (b) Upon written demand:

- 26 (1) served by the owner, buyer, or tenant described in section 5 of
- 27 this chapter, or the authorized agent of the owner, buyer, or tenant
- 28 described in section 5 of this chapter, on the ~~principal~~ **managing**
- 29 **broker** claiming a lien under this chapter; and
- 30 (2) requiring the ~~principal~~ **managing** broker to:
- 31 (A) bring a suit to enforce the lien; or
- 32 (B) file an answer in a pending suit;

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

39 (c) If:

- 40 (1) a memorandum of lien or notice of lien under this chapter has
- 41 been filed with the office of the recorder and the fees or
- 42 commissions upon which the lien is based have been paid to the

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1 **principal managing** broker claiming the lien; or
 2 (2) the **principal managing** broker fails to institute a suit to
 3 enforce the lien within the time prescribed by this chapter;
 4 the **principal managing** broker shall, not later than five (5) days after
 5 receipt of a written demand from the owner, buyer, or tenant described
 6 in section 5 of this chapter for a release or an acknowledgment of
 7 satisfaction of the memorandum or lien, acknowledge satisfaction or
 8 release of the memorandum or lien in writing.

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

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

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

- 33 (1) a claim for a lien under this chapter has been filed with the
 34 office of the recorder of the county in which commercial real
 35 estate or any interest in commercial real estate is located; and
 36 (2) an escrow account is established among:
 37 (A) the one (1) or more parties allegedly responsible for
 38 payment of the fees or commissions on which the lien is based;
 39 (B) the **principal managing** broker that filed the lien; and
 40 (C) an independent third party as escrowee;
 41 from the proceeds of the conveyance, or from any other source of
 42 funds, in an amount that is at least one hundred ten percent

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1 (110%) of the amount of the lien claimed under this chapter;
2 the lien against the real estate is extinguished and becomes a lien on
3 the funds contained in the escrow account. The establishment of an
4 escrow account described in this section does not constitute cause for
5 any party to refuse to close the transaction.

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

- 13 (1) Actual damages.
- 14 (2) The costs of the action.
- 15 (3) Reasonable attorney's fees.

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

19 (b) It is a defense to an action brought under this section that the
20 most recent address provided by the **principal managing** broker to the
21 owner in the agreement, contract, or other written instrument, including
22 a written instrument described in section 5 of this chapter, was
23 incorrect, and as a result of the incorrect address, the principal broker
24 did not receive the owner's notice described in section 7(b) of this
25 chapter, and as a result the **principal managing** broker failed to provide
26 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,

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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".

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- 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**".

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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.)

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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.

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 275 be amended to read as follows:

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

Page 23, line 31, delete "IC 25-34.1-4-6," and insert "**section 6 of this chapter,**".

Page 24, line 37, delete "broker-salesperson" and insert "~~broker-salesperson~~; **broker**".

Page 26, line 20, delete "The licensee must attest to the".

Page 26, delete lines 21 through 22.

Page 27, line 9, after "administer" insert "**at least**".

Page 30, line 9, delete "2014" and insert "2012".

Page 30, line 23, delete "2014" and insert "2012".

Page 38, line 32, delete "AS ADDED BY P.L.136-2011," and insert "AS AMENDED BY HEA 1009-2012, SECTION 208,".

Page 38, line 33, delete "SECTION 1,".

Page 38, line 34, delete "section, chapter," and insert "chapter,".

(Reference is to ESB 275 as printed February 14, 2012.)

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