



January 23, 2012

HOUSE BILL No. 1102

DIGEST OF HB 1102 (Updated January 20, 2012 3:11 pm - DI 96)

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

Synopsis: Real estate brokers. Provides for: (1) the licensure of real estate brokers and managing real estate brokers; and (2) license transition. Eliminates the license for real estate salesperson and the certification for principal real estate brokers. Provides that licenses issued under this article are issued for three years. (Currently licenses are issued for two years.) Revises continuing education requirements. Requires the real estate education council to make certain recommendations to the Indiana real estate commission. Makes conforming changes.

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

Davis, Clere, Burton

January 9, 2012, read first time and referred to Committee on Employment, Labor and Pensions.
January 23, 2012, amended, reported — Do Pass.

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HB 1102—LS 6869/DI 14+



January 23, 2012

Second Regular Session 117th General Assembly (2012)

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

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

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2011 Regular Session of the General Assembly.

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HOUSE BILL No. 1102

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

HB 1102—LS 6869/DI 14+



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 **lots and land for** single family
 32 residential units 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 a
 4 licensed as a ~~salesperson~~ **broker** under this article.
 5 **(13) "Managing broker" refers to a broker the Indiana real**
 6 **estate commission holds responsible for the actions of**
 7 **licensees who 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, 2014]: 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 and**
- 23 **continuing education.**

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

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

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

- 41 (1) subsection (b);
- 42 (2) section 8(i) of this chapter; and



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1 (3) section 11 of this chapter;
 2 no person shall, for consideration, sell, buy, trade, exchange, option,
 3 lease, rent, manage, list, or appraise real estate or negotiate or offer to
 4 perform any of those acts in Indiana or with respect to real estate
 5 situated in Indiana, without a license.
 6 (b) This article does not apply to:
 7 (1) acts of an attorney which constitute the practice of law;
 8 (2) performance by a public official of acts authorized by law;
 9 (3) acts of a receiver, executor, administrator, commissioner,
 10 trustee, or guardian, respecting real estate owned or leased by the
 11 person represented, performed pursuant to court order or a will;
 12 (4) rental, for periods of less than thirty (30) days, of rooms,
 13 lodging, or other accommodations, by any commercial hotel,
 14 motel, tourist facility, or similar establishment which regularly
 15 furnishes such accommodations for consideration;
 16 (5) rental of residential apartment units by an individual
 17 employed or supervised by a licensed broker;
 18 (6) rental of apartment units which are owned and managed by a
 19 person whose only activities regulated by this article are in
 20 relation to a maximum of twelve (12) apartment units which are
 21 located on a single parcel of real estate or on contiguous parcels
 22 of real estate;
 23 (7) referral of real estate business by a broker ~~salesperson~~, or
 24 referral company which is licensed under the laws of another
 25 state, to or from brokers ~~and salespersons~~ licensed by this state;
 26 (8) acts performed by a person in relation to real estate owned by
 27 that person unless that person is licensed under this article, in
 28 which case the article does apply to him;
 29 (9) acts performed by a regular, full-time, salaried employee of a
 30 person in relation to real estate owned or leased by that person
 31 unless the employee is licensed under this article, in which case
 32 the article does apply to him;
 33 (10) conduct of a sale at public auction by a licensed auctioneer
 34 pursuant to IC 25-6.1;
 35 (11) sale, lease, or other transfer of interests in cemetery lots; and
 36 (12) acts of a broker, ~~or salesperson~~, who is licensed under the
 37 laws of another state, which are performed pursuant to, and under
 38 restrictions provided by, written permission that is granted by the
 39 commission in its sole discretion, except that such a person shall
 40 comply with the requirements of section 5(c) of this chapter.
 41 SECTION 12. IC 25-34.1-3-3.1 IS REPEALED [EFFECTIVE JULY
 42 1, 2014]. Sec. 3-1: (a) To obtain a salesperson license, an individual

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

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- 1 (4) advertise only in the name of the principal broker; with the
- 2 principal broker's name in letters of advertising larger than that of
- 3 the salesperson's name; and
- 4 (5) not maintain any real estate office apart from that office
- 5 provided by the principal broker.
- 6 (d) Upon termination of a salesperson's association with a principal
- 7 broker, the salesperson's license shall be returned to the commission
- 8 within five (5) business days. The commission shall reissue the license
- 9 to any principal broker whose certification, as prescribed in subsection
- 10 (a)(5); is filed with the commission; and the commission shall issue a
- 11 new identification card to the salesperson reflecting that change.
- 12 (e) Unless a license is renewed, a salesperson license expires on a
- 13 date specified by the licensing agency under IC 25-1-6-4 and expires
- 14 biennially after the initial expiration date. An applicant for renewal
- 15 shall submit an application in the manner prescribed by the board and
- 16 pay the renewal fee established by the board under IC 25-1-8-2 on or
- 17 before the renewal date specified by the licensing agency. If the holder
- 18 of a license does not renew the license by the date specified by the
- 19 licensing agency, the license expires and becomes invalid without the
- 20 board taking any action.
- 21 (f) If the holder of a license under this section fails to renew the
- 22 license on or before the date specified by the licensing agency, the
- 23 license may be reinstated by the commission if the holder of the
- 24 license, not later than three (3) years after the expiration of the license,
- 25 meets the requirements of IC 25-1-8-6(c).
- 26 (g) If a license under this section has been expired for more than
- 27 three (3) years, the license may be reinstated by the commission if the
- 28 holder meets the requirements for reinstatement under IC 25-1-8-6(d).
- 29 (h) A salesperson license may be issued to an individual who is not
- 30 yet associated with a principal broker but who otherwise meets the
- 31 requirements of subsection (a). A license issued under this subsection
- 32 shall be held by the commission in an unassigned status until the date
- 33 the individual submits the certification of a principal broker required
- 34 by subsection (a)(5). If the individual does not submit the application
- 35 for licensure within one (1) year after passing the commission
- 36 examination, the commission shall void the application and may not
- 37 issue a license to that applicant unless the applicant again complies
- 38 with the requirements of subsection (a)(4) through (a)(5).
- 39 (i) If an individual holding a salesperson license is not associated
- 40 with a principal broker for two (2) successive renewal periods, the
- 41 commission shall notify the individual in writing that the individual's
- 42 license will become void if the individual does not associate with a

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1 principal broker within thirty (30) days from the date the notification
2 is mailed. A void license may not be renewed.

3 SECTION 13. IC 25-34.1-3-3.2 IS ADDED TO THE INDIANA
4 CODE AS A NEW SECTION TO READ AS FOLLOWS
5 [EFFECTIVE JULY 1, 2014]: **Sec. 3.2. (a) From July 1, 2012,**
6 **through June 30, 2014, an individual holding a license as a**
7 **salesperson under section 3.1 of this chapter may perform the**
8 **functions the licensee performed as a salesperson.**

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

10 SECTION 14. IC 25-34.1-3-4.1, AS AMENDED BY P.L.105-2008,
11 SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2014]: Sec. 4.1. (a) To obtain a broker license, an individual
13 must:

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

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

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

20 (C) a crime that indicates the individual has the propensity to
21 endanger the public;

22 (2) have satisfied section 3-1(a)(2) of this chapter and have had
23 continuous active experience for one (1) year immediately
24 preceding the application as a licensed salesperson in Indiana.
25 However, this one (1) year experience requirement may be
26 waived by the commission upon a finding of equivalent
27 experience;

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

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

33 (4) apply for a license by submitting the application fee
34 prescribed by the commission and an application specifying the
35 name, address, and age of the applicant, the name under which
36 the applicant intends to conduct business, the address where the
37 business is to be conducted, proof of compliance with
38 subdivisions (2) and (3), and any other information the
39 commission requires;

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

42 (6) within one (1) year after passing the commission examination,

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- 1 submit the license fee established by the commission under
 2 IC 25-1-8-2. If an individual applicant fails to file a timely license
 3 fee, the commission shall void the application and may not issue
 4 a license to that applicant unless that applicant again complies
 5 with the requirements of subdivisions (4) and (5) and this
 6 subdivision.
- 7 (b) To obtain a broker license, a partnership must:
 8 (1) have as partners only individuals who are licensed brokers;
 9 (2) have at least one (1) partner who:
 10 (A) is a resident of Indiana; or
 11 (B) is a **principal managing** broker under IC 25-34.1-4-3(b);
 12 (3) cause each employee of the partnership who acts as a broker
 13 ~~or salesperson~~ to be licensed; and
 14 (4) submit the license fee established by the commission under
 15 IC 25-1-8-2 and an application setting forth the name and
 16 residence address of each partner and the information prescribed
 17 in subsection (a)(4).
- 18 (c) To obtain a broker license, a corporation must:
 19 (1) have a licensed broker:
 20 (A) residing in Indiana who is either an officer of the
 21 corporation or, if no officer resides in Indiana, the highest
 22 ranking corporate employee in Indiana with authority to bind
 23 the corporation in real estate transactions; or
 24 (B) who is a **principal managing** broker under
 25 IC 25-34.1-4-3(b);
 26 (2) cause each employee of the corporation who acts as a broker
 27 ~~or salesperson~~ to be licensed; and
 28 (3) submit the license fee established by the commission under
 29 IC 25-1-8-2, an application setting forth the name and residence
 30 address of each officer and the information prescribed in
 31 subsection (a)(4), a copy of the certificate of incorporation, and a
 32 certificate of good standing of the corporation issued by the
 33 secretary of state.
- 34 (d) To obtain a broker license, a limited liability company must:
 35 (1) if a member-managed limited liability company:
 36 (A) have as members only individuals who are licensed
 37 brokers; and
 38 (B) have at least one (1) member who is:
 39 (i) a resident of Indiana; or
 40 (ii) a **principal managing** broker under IC 25-34.1-4-3(b);
 41 (2) if a manager-managed limited liability company, have a
 42 licensed broker:

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- 1 (A) residing in Indiana who is either a manager of the
- 2 company or, if no manager resides in Indiana, the highest
- 3 ranking company officer or employee in Indiana with authority
- 4 to bind the company in real estate transactions; or
- 5 (B) who is a ~~principal~~ **managing** broker under
- 6 IC 25-34.1-4-3(b);
- 7 (3) cause each employee of the limited liability company who acts
- 8 as a broker ~~or salesperson~~ to be licensed; and
- 9 (4) submit the license fee established by the commission under
- 10 IC 25-1-8-2 and an application setting forth the information
- 11 prescribed in subsection (a)(4), together with:
- 12 (A) if a member-managed company, the name and residence
- 13 address of each member; or
- 14 (B) if a manager-managed company, the name and residence
- 15 address of each manager, or of each officer if the company has
- 16 officers.
- 17 (e) Licenses granted to partnerships, corporations, and limited
- 18 liability companies are issued, expire, are renewed, and are effective on
- 19 the same terms as licenses granted to individual brokers, except as
- 20 provided in subsection (h), and except that expiration or revocation of
- 21 the license of:
- 22 (1) any partner in a partnership or all individuals in a corporation
- 23 satisfying subsection (c)(1); or
- 24 (2) a member in a member-managed limited liability company or
- 25 all individuals in a manager-managed limited liability company
- 26 satisfying subsection (d)(2);
- 27 terminates the license of that partnership, corporation, or limited
- 28 liability company.
- 29 (f) Upon the applicant's compliance with the requirements of
- 30 subsection (a), (b), or (c), the commission shall issue the applicant a
- 31 broker license and an identification card which certifies the issuance
- 32 of the license and indicates the expiration date of the license. The
- 33 license shall be displayed at the broker's place of business. **For at least**
- 34 **two (2) years after the issuance of a license, the license must be**
- 35 **assigned to a managing broker. For an individual applying for a**
- 36 **broker's license after July 1, 2014, during the first two (2) years**
- 37 **after the license is issued, the individual must take and pass thirty**
- 38 **(30) hours of postlicensing education focused on the practical**
- 39 **matters of real estate transactions instead of the continuing**
- 40 **education requirements of IC 25-34.1-9.**
- 41 (g) Unless the license is renewed, a broker license expires, for
- 42 individuals, on a date specified by the licensing agency under

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1 IC 25-1-6-4 and expires ~~biennially~~ **three (3) years** after the initial
 2 expiration date. An applicant for renewal shall submit an application
 3 in the manner prescribed by the board and pay the renewal fee
 4 established by the commission under IC 25-1-8-2 on or before the
 5 renewal date specified by the licensing agency. If the holder of a
 6 license does not renew the license by the date specified by the licensing
 7 agency, the license expires and becomes invalid without the board
 8 taking any action.

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

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

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

25 **(k) On July 1, 2014, an individual who:**

26 **(1) holds a salesperson license on June 30, 2012; and**

27 **(2) meets the broker licensing requirements of this section;**

28 **is a licensed broker.**

29 SECTION 15. IC 25-34.1-3-5 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 5. (a) A resident of
 31 another state, meeting the requirements of this chapter, may be
 32 licensed.

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

41 (c) The requirements of this section may be waived for individuals
 42 of or moving from other jurisdictions if the following requirements are



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met:

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

SECTION 16. IC 25-34.1-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 6. Each licensee and each licensee's **principal managing** broker, if any, shall notify the commission immediately of any change of name, name under which the licensee transacts business, business address, or association.

SECTION 17. IC 25-34.1-3-10, AS AMENDED BY P.L.157-2006, SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 10. (a) A ~~salesperson licensed under section 3.1 of this chapter~~ or a broker licensed under section 4.1 of this chapter may apply for and receive an inactive license from the commission.

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

(c) An individual with an inactive license:

- (1) may not perform an act that requires a ~~salesperson~~ or broker's license;
- (2) is not required to fulfill the continuing education requirements under IC 25-34.1-9;
- (3) is required to pay any fees that a licensee is required to pay; and
- (4) must fulfill the requirements under IC 25-34.1-9-11 for the current licensing period before applying for reactivation of the individual's license.

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

(e) Beginning July 1, 2014, a person who was licensed as a salesperson under section 3.1 of this chapter, before its repeal, and who applies for reactivation must complete the twenty-four (24) hour course required to become a broker under this article.

(f) Beginning July 1, 2014, a broker licensed on or after July 1, 2014, who becomes inactive must complete the thirty (30) hour postlicensure course established by the commission before

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reactivation of the licensee's license.

SECTION 18. IC 25-34.1-3-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 11. (a) An out-of-state commercial broker, for a fee, commission, or other valuable consideration, or in expectation, or upon the promise of receiving or collecting a fee, commission, or other valuable consideration, may perform acts with respect to commercial real estate that require a license under this article without a license under this article, if the out-of-state commercial broker does all of the following:

- (1) Works in cooperation with a broker who holds a valid license issued under this article.
- (2) Enters into a written agreement with the broker described in subdivision (1) that includes the terms of cooperation and compensation and a statement that the out-of-state commercial broker and the broker's agents will comply with the laws of this state.
- (3) Furnishes the broker described in subdivision (1) with a copy of the out-of-state commercial broker's current certificate of good standing or other proof of a license in good standing from a jurisdiction where the out-of-state commercial broker maintains a valid real estate license.
- (4) Files an irrevocable written consent with the commission that legal actions arising out of the conduct of the out-of-state commercial broker or the broker's agents may be commenced against the out-of-state commercial broker in a court with jurisdiction in a county in Indiana in which the cause of action accrues.
- (5) Advertises in compliance with state law and includes the name of the broker described in subdivision (1) in all advertising.
- (6) Deposits all escrow funds, security deposits, and other money received by either the out-of-state commercial broker or the broker described in subdivision (1) in a trust account maintained by the broker described in subdivision (1).
- (7) Deposits all documentation required by this section and records and documents related to the transaction with the broker described in subdivision (1).

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

(c) An out-of-state commercial salesperson may perform acts with respect to commercial real estate that require a ~~salesperson~~ **broker** to

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1 be licensed under this article without a license under this article if the
 2 out-of-state commercial salesperson meets all of the following
 3 requirements:

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

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

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

13 (C) collects money, including:

14 (i) commissions;

15 (ii) deposits;

16 (iii) payments;

17 (iv) rentals; or

18 (v) escrow funds;

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

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

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

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

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

31 SECTION 19. IC 25-34.1-4-0.5 IS ADDED TO THE INDIANA
 32 CODE AS A NEW SECTION TO READ AS FOLLOWS
 33 [EFFECTIVE JULY 1, 2014]: **Sec. 0.5. To become a managing**
 34 **broker, a person must hold a broker's license for at least two (2)**
 35 **years and take and pass at least twenty-four (24) hours of broker**
 36 **management courses approved by the commission.**

37 SECTION 20. IC 25-34.1-4-1 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 1. A **principal**
 39 **managing** broker is responsible under this article for the actions of any
 40 ~~associated salesperson and broker-salesperson:~~ **broker**. Any **principal**
 41 **managing** broker who maintains two (2) or more separate offices for
 42 associated licensees shall notify the commission of the name and

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1 address of the 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;** and

39 (2) shall clearly identify any account containing those funds as a
40 trust account. The trust accounts shall contain all earnest money
41 deposits, funds held for closing escrows, sale proceeds not yet
42 disbursed, and all other funds belonging to others.



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

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

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

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

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

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

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

42 **Chapter 4.5. License Transition**

HB 1102—LS 6869/DI 14+



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1 **Sec. 1. After June 30, 2014, the board may not issue a new**
2 **salesperson license under IC 25-34.1-3.**

3 **Sec. 2. An individual holding a license as a salesperson must**
4 **obtain a broker's license not later than June 30, 2014, to continue**
5 **performing functions under this article.**

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

- 8 **(1) complete at least twenty-four (24) hours of education**
- 9 **required under IC 25-34.1-5-5 to be licensed as a broker; and**
- 10 **(2) meet the requirements to be licensed as a broker under**
- 11 **IC 25-34.1-3-4.1.**

12 **Sec. 4. Notwithstanding any other law concerning education or**
13 **continuing education for salespersons, a salesperson may obtain**
14 **the twenty-four (24) hours of board approved education required**
15 **under section 3 of this chapter at any time after June 30, 2012, and**
16 **before July 1, 2014. The licensee must attest to the board that the**
17 **licensee has completed the additional twenty-four (24) hours of**
18 **education. When the twenty-four (24) hours have been completed,**
19 **the salesperson becomes a broker.**

20 **Sec. 5. For the period beginning July 1, 2012, and ending June**
21 **30, 2014, notwithstanding any other law concerning continuing**
22 **education, the twenty-four (24) hours of additional education**
23 **required under section 3 of this chapter may be used to meet the**
24 **continuing education requirement for a salesperson under**
25 **IC 25-34.1-9-11.**

26 **Sec. 6. An individual who is a principal broker on June 30, 2014,**
27 **becomes a managing broker on July 1, 2014.**

28 **Sec. 7. This chapter expires December 31, 2014.**

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

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

- 37 (1) provide the curriculum prescribed in section 5 of this chapter;
- 38 (2) have no more than thirty-five (35) students per instructor per
- 39 classroom;
- 40 (3) provide adequate educational facilities and supportive
- 41 personnel as is necessary to implement the purpose of this article;
- 42 (4) schedule not more than the maximum number of hours of

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- 1 instruction established by the commission in any twenty-four (24)
 2 hour period;
 3 (5) administer two (2) written examinations during the broker
 4 course ~~and three (3) written examinations during the salesperson~~
 5 ~~course~~ which are approved, and passing scores established, by the
 6 commission;
 7 (6) within ~~fourteen (14)~~ **thirty (30)** days of the end of each
 8 course, submit to the commission the names and addresses of
 9 those students who successfully complete the course;
 10 (7) maintain records of students who successfully complete and
 11 pass the course of study for a minimum of five (5) years or, in the
 12 event the school should cease operation, the owner shall provide
 13 a custodian acceptable to the commission to keep those records
 14 and provide copies to students at the fee in effect when the school
 15 ceases operation; and
 16 (8) meet any other standards the commission may establish by
 17 regulation.

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

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

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

37 SECTION 30. IC 25-34.1-5-12 IS ADDED TO THE INDIANA
 38 CODE AS A NEW SECTION TO READ AS FOLLOWS
 39 [EFFECTIVE JULY 1, 2014]: **Sec. 12. (a) The real estate education**
 40 **advisory council established by IC 25-34.1-9-2 shall make**
 41 **recommendations to the commission concerning the following:**

42 (1) **Requirements for sponsors of courses.**

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

- 8 **(b) The commission shall approve all preclicensing courses.**
- 9 **(c) The commission may, with the advice of the council, approve**
- 10 **online education required for licensing.**

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

- 14 ~~(1)~~ **performs the acts of a salesperson without a salesperson**
- 15 **license;**
- 16 ~~(2)~~ **(1) performs the acts of a broker without a broker license; or**
- 17 ~~(3)~~ **(2) conducts, or solicits or accepts enrollment of students for,**
- 18 **a course as prescribed in IC 25-34.1-3 without course approval;**
- 19 **commits a Class A infraction. Upon conviction for an offense under**
- 20 **this section, the court shall add to any fine imposed the amount of any**
- 21 **fee or other compensation earned in the commission of the offense.**
- 22 **Each transaction constitutes a separate offense.**

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

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

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

40 SECTION 33. IC 25-34.1-7-10 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 10. If the commission
 42 is required to make any payment from the real estate recovery fund in

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1 settlement of a claim or toward the satisfaction of a judgment under
 2 this chapter, the commission shall suspend the judgment debtor's
 3 license and, if the judgment debtor is licensed under ~~IC 25-34.1-3-3.1,~~
 4 **IC 25-34.1-3-4.1** the license of the individual designated broker, under
 5 this article. The licensee is not eligible to be licensed again as ~~either~~ a
 6 broker ~~or a salesperson~~ until the licensee has repaid in full the amount
 7 paid from the real estate recovery fund with interest of twelve percent
 8 (12%) per annum.

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

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

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

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

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

36 (e) Money in the fund is continually appropriated for use by the
 37 attorney general and the licensing agency to administer and enforce the
 38 provisions of this article and to conduct investigations and take
 39 enforcement action against real estate and appraisal fraud under this
 40 article. The attorney general shall receive five dollars (\$5) of each fee
 41 collected under IC 25-34.1-2-7 and IC 25-34.1-3-9.5, and the licensing
 42 agency shall receive any amount that exceeds five dollars (\$5) of each



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1 fee collected under IC 25-34.1-2-7 and IC 25-34.1-3-9.5.

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

7 ~~(1) Three (3) members who represent residential real estate sales~~
8 ~~practitioners:~~

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

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

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

16 SECTION 36. IC 25-34.1-9-9 IS AMENDED TO READ AS
17 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 9. **(a)** The council shall
18 make recommendations to the commission concerning the following:

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

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

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

24 (4) Rules to implement this chapter.

25 (5) Other issues identified by the commission to implement this
26 chapter.

27 **(b) Notwithstanding IC 25-1-4-0.2, the commission shall**
28 **approve all postlicensing and continuing education courses.**

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

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

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

41 (1) At least ~~six (6) hours~~ **eight (8) hours per year** in any of the
42 following subjects as determined by the commission:

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- 1 (A) License and escrow law.
- 2 (B) Anti-trust law.
- 3 (C) Civil rights law.
- 4 (D) Agency law.
- 5 (E) Listing contracts and purchase agreements.
- 6 (F) Ethics and professionals standards.
- 7 (G) Settlement procedures.
- 8 ~~(H) Other courses approved by the commission:~~
- 9 ~~(2) At least ten (10) hours of course work in any of the following~~
- 10 ~~subjects as determined by the commission:~~
- 11 ~~(A) (H) Appraising.~~
- 12 ~~(B) (I) Property management.~~
- 13 ~~(C) (J) Farm property management.~~
- 14 ~~(D) (K) Commercial brokerage and leasing.~~
- 15 ~~(E) (L) Financing.~~
- 16 ~~(F) (M) Residential brokerage.~~
- 17 ~~(G) (N) Land development.~~
- 18 ~~(H) (O) Legislative issues affecting the real estate practice.~~
- 19 ~~(I) (P) Other courses approved by the commission.~~

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

24 **(c) An individual who applies for a broker's license after July 1,**
 25 **2014, must, during the first two (2) years after the license is issued,**
 26 **take and pass thirty (30) hours of postlicensing education focused**
 27 **on the practical matters of real estate transactions instead of the**
 28 **continuing education requirements of this chapter.**

29 **(d) For license renewal, a managing broker must complete eight**
 30 **(8) hours of continuing education each year. At least four (4) hours**
 31 **of the continuing education must be dedicated to the necessary**
 32 **business and management skills and legal knowledge needed by a**
 33 **managing broker. The commission shall develop or approve the**
 34 **continuing education courses for managing brokers.**

35 SECTION 39. IC 25-34.1-9-11.1 IS ADDED TO THE INDIANA
 36 CODE AS A NEW SECTION TO READ AS FOLLOWS
 37 [EFFECTIVE JULY 1, 2014]: **Sec. 11.1. (a) Notwithstanding section**
 38 **11 of this chapter, from July 1, 2012, until June 30, 2014, a real**
 39 **estate broker licensed under IC 25-34.1-3-4.1, must complete eight**
 40 **(8) hours of continuing education each year.**

41 **(b) This section expires July 1, 2014.**
 42 SECTION 40. IC 25-34.1-9-14 IS AMENDED TO READ AS

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- 1 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 14. (a) The approval for
 2 a sponsor for
 3 ~~(1) a salesperson's course expires December 31 each~~
 4 ~~odd-numbered year; and~~
 5 ~~(2) a broker's course expires December 31 each even-numbered~~
 6 ~~year.~~
 7 (b) A sponsor must submit:
 8 (1) a letter requesting renewal of approval; and
 9 (2) the renewal fee;
 10 at least thirty (30) days before a sponsor's approval expires.
 11 SECTION 41. IC 25-34.1-9-19, AS AMENDED BY P.L.42-2011,
 12 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2014]: Sec. 19. The commission may grant an applicant a
 14 waiver from the continuing education requirement for the renewal
 15 period if the applicant meets one (1) of the following conditions:
 16 (1) Was not able to fulfill the requirement due to a hardship that
 17 resulted from any of the following:
 18 (A) Service in the armed forces of the United States during a
 19 substantial part of the renewal period.
 20 (B) An incapacitating illness.
 21 (C) Other circumstances determined by the commission.
 22 (2) Has certified on approved forms to the commission the
 23 following:
 24 (A) That the applicant has an active license but will not
 25 perform an act that requires a ~~salesperson~~ or broker's license.
 26 (B) That the applicant is affiliated with a ~~principal managing~~
 27 broker for the sole purpose of making referrals to a licensed
 28 ~~salesperson~~ or broker.
 29 An individual granted a waiver under this subdivision may not
 30 perform an act that requires a ~~salesperson~~ or broker's license until
 31 the individual has fulfilled the same continuing education
 32 requirements needed to reactivate an inactive license under
 33 IC 25-34.1-3-10(c) and IC 25-34.1-3-10(d).
 34 SECTION 42. IC 25-34.1-10-6.8 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 6.8. As used in this
 36 chapter, "licensee" means an individual or entity issued a ~~salesperson's~~
 37 ~~or broker's~~ real estate license by the Indiana real estate commission.
 38 SECTION 43. IC 25-34.1-10-7.5 IS REPEALED [EFFECTIVE
 39 JULY 1, 2014]. ~~Sec. 7.5: As used in this chapter, "managing broker"~~
 40 ~~means a broker who manages a branch office or who acts on behalf of~~
 41 ~~a principal broker.~~
 42 SECTION 44. IC 25-34.1-10-7.8 IS REPEALED [EFFECTIVE

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1 JULY 1, 2014]. Sec. 7-8: As used in this chapter, "principal broker"
 2 means the individual broker (including the broker designated or
 3 representative of a partnership, corporation, or limited liability
 4 company) whom the Indiana real estate commission shall hold
 5 responsible for the actions of licensees who are affiliated with the
 6 individual broker.

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

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

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

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

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

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

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

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1 disclose in writing the ~~principal~~ **managing** broker's written office
 2 policy set forth in this section before the disclosure by the potential
 3 seller, landlord, buyer, or tenant of any confidential information
 4 specific to that potential seller, landlord, buyer, or tenant.

5 (c) Parties to a real estate transaction shall be advised whether
 6 compensation will be shared with other ~~principal~~ **managing** brokers
 7 who may represent other parties to the transaction whose interests are
 8 different or even adverse.

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

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

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

16 (A) is:

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

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

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

21 (A) does not involve a mortgage transaction described in
 22 subdivision (1); and

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

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

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

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

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

42 (B) involved in the transaction.



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- 1 (3) The name and license number (under IC 25-34.1) of each:
 2 (A) ~~principal~~ **managing** broker; and
 3 (B) ~~salesperson or broker-salesperson,~~ **broker** if any;
 4 involved in the transaction.
 5 (4) The following information:
 6 (A) The:
 7 (i) name of; and
 8 (ii) code assigned by the National Association of Insurance
 9 Commissioners (NAIC) to;
 10 each title insurance underwriter involved in the transaction.
 11 (B) The type of title insurance policy issued in connection with
 12 the transaction.
 13 (5) The name and license number (under IC 27-1-15.6) of each
 14 title insurance agency and agent involved in the transaction as a
 15 closing agent (as defined in IC 6-1.1-12-43(a)(2)).
 16 (6) The following information:
 17 (A) The name and:
 18 (i) license or certificate number (under IC 25-34.1-3-8) of
 19 each licensed or certified real estate appraiser; or
 20 (ii) license number (under IC 25-34.1) of each broker;
 21 who appraises the property that is the subject of the
 22 transaction.
 23 (B) The name and registration number (under
 24 IC 25-34.1-11-10) of any appraisal management company that
 25 performs appraisal management services (as defined in
 26 IC 25-34.1-11-3) in connection with the transaction.
 27 (7) In the case of a transaction described in subsection (a)(1), the
 28 name of the creditor and, if the creditor is required to be licensed
 29 under IC 24-4.4, the license number of the creditor.
 30 (8) In the case of a transaction described in subsection
 31 (a)(1)(A)(i) or (a)(2), the name of the seller of the property that is
 32 the subject of the transaction.
 33 (9) In the case of a transaction described in subsection
 34 (a)(1)(A)(i), the following information:
 35 (A) The name of the buyer of the property that is the subject of
 36 the transaction.
 37 (B) The purchase price of the property that is the subject of the
 38 transaction.
 39 (C) The loan amount of the mortgage transaction.
 40 (10) In the case of a transaction described in subsection (a)(2), the
 41 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 (11) In the case of a transaction described in subsection
- 5 (a)(1)(A)(ii), the following information:
- 6 (A) The name of the borrower in the mortgage transaction.
- 7 (B) The loan amount of the refinancing.
- 8 (12) The:
- 9 (A) name; and
- 10 (B) license number, certificate number, registration number,
- 11 or other code, as appropriate;
- 12 of any other person that is involved in a transaction to which this
- 13 section applies, as the department may prescribe.
- 14 (c) The system established by the department under this section
- 15 must include a form that:
- 16 (1) is uniformly accessible in an electronic format to the closing
- 17 agent (as defined in IC 6-1.1-12-43(a)(2)) in the transaction; and
- 18 (2) allows the closing agent to do the following:
- 19 (A) Input information identifying the property that is the
- 20 subject of the transaction by lot or parcel number, street
- 21 address, or some other means of identification that the
- 22 department determines:
- 23 (i) is sufficient to identify the property; and
- 24 (ii) is determinable by the closing agent.
- 25 (B) Subject to subsection (d) and to the extent determinable,
- 26 input the applicable information described in subsection (b).
- 27 (C) Respond to the following questions, if applicable:
- 28 (i) "On what date did you receive the closing instructions
- 29 from the creditor in the transaction?"
- 30 (ii) "On what date did the transaction close?"
- 31 (D) Submit the form electronically to a data base maintained
- 32 by the department.
- 33 (d) Not later than the time of the closing, each person described in
- 34 subsection (b), other than a person described in subsection (b)(8),
- 35 (b)(9), (b)(10), or (b)(11), shall provide to the closing agent in the
- 36 transaction the person's:
- 37 (1) legal name; and
- 38 (2) license number, certificate number, registration number, or
- 39 NAIC code, as appropriate;
- 40 to allow the closing agent to comply with subsection (c)(2)(B). In the
- 41 case of a transaction described in subsection (a)(1), the person
- 42 described in subsection (b)(7) shall, with the cooperation of any person

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

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

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

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

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

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

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

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

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

37 (2) contained in the data base described in subsection (c)(2)(D);
 38 except to the extent required or authorized by state or federal law.

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



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- 1 (1) establish;
- 2 (2) collect; and
- 3 (3) change as necessary;
- 4 an administrative fee to cover the department's expenses in establishing
- 5 and maintaining the electronic system required by this section.

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

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

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

- 28 (1) is required under a transfer fee covenant; and
- 29 (2) is payable:
 - 30 (A) upon the transfer of an interest in real property; or
 - 31 (B) for the right to make or accept a transfer of an interest in
 - 32 real property;

33 regardless of whether the fee or charge is in a fixed amount or is
 34 determined as a percentage of the value of the property, of the purchase
 35 price of the property, or of any consideration given for the transfer of
 36 the property.

- 37 (b) The term does not include any of the following:
 - 38 (1) Any consideration payable by the transferee to the transferor
 - 39 for the interest in the real property being transferred, including
 - 40 any consideration payable for a separate mineral estate and its
 - 41 appurtenant surface access rights.
 - 42 (2) Any commission to a real estate broker ~~or salesperson~~ licensed

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- 1 under IC 25-34.1 payable:
- 2 (A) in connection with the transfer of an interest in real
- 3 property; and
- 4 (B) under an agreement between the real estate broker ~~or~~
- 5 ~~salesperson~~ and the transferor or transferee.
- 6 (3) Any interest, charges, fees, or other amounts payable by a
- 7 borrower to a lender under a loan secured by a mortgage against
- 8 an interest in real property, including the following:
- 9 (A) Any fee payable to the lender for consenting to an
- 10 assumption of the loan or to a transfer of the property interest
- 11 subject to the mortgage.
- 12 (B) Any fees or charges payable to the lender for estoppel
- 13 letters or certificates.
- 14 (C) Any other consideration allowed by law and payable to the
- 15 lender in connection with the loan.
- 16 (4) Any rent, reimbursement, charge, fee, or other amount payable
- 17 by a lessee to a lessor under a lease, including any fee payable to
- 18 the lessor for consenting to an assignment, subletting,
- 19 encumbrance, or transfer of the lease.
- 20 (5) Any consideration payable to the holder of:
- 21 (A) an option to purchase an interest in real property; or
- 22 (B) a right of first refusal or first offer to purchase an interest
- 23 in real property;
- 24 for waiving, releasing, or not exercising the option or right upon
- 25 the transfer of the property interest to another person.
- 26 (6) Any tax, fee, charge, assessment, fine, or other amount
- 27 payable to or imposed by a governmental entity.
- 28 (7) Any fee, charge, assessment, fine, or other amount payable to:
- 29 (A) a homeowners association;
- 30 (B) a condominium association;
- 31 (C) a cooperative association;
- 32 (D) a mobile home association;
- 33 (E) another property owners association; or
- 34 (F) an agent representing an association described in clauses
- 35 (A) through (E);
- 36 under a covenant, law, or contract applicable to the association.
- 37 SECTION 49. IC 32-28-12.5-2, AS ADDED BY P.L.78-2006,
- 38 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 39 JULY 1, 2014]: Sec. 2. As used in this chapter, "fees or commissions"
- 40 means compensation owed to a ~~principal~~ **managing** broker for
- 41 performing services requiring a license under IC 25-34.1-3-2.
- 42 SECTION 50. IC 32-28-12.5-3, AS ADDED BY P.L.78-2006,

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1 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2014]: Sec. 3. As used in this chapter, "~~principal broker~~"
3 "**managing broker**" has the meaning set forth in IC 25-34.1-1-2.

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

13 (1) signed by:

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

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

18 (2) entered into after June 30, 2006.

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

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

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

33 (2) except as provided in sections 8 and 9 of this chapter, the
34 ~~principal~~ **managing** broker recording a notice of lien in the office
35 of the recorder of the county in which the commercial real estate
36 or an interest in the commercial real estate is located:

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

42 (B) not later than ninety (90) days after the recording of the

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1 deed or other instrument for the purchase or other conveyance
2 or transfer of the commercial real estate, if the ~~principal~~
3 **managing** broker claims fees or commissions from the party
4 receiving a conveyance or transfer of an interest in the
5 commercial real estate.

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

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

- 13 (1) to fees or commissions that arise from a lease, including fees
- 14 or commissions for a sale of the property, lease expansions, or
- 15 lease renewals;
- 16 (2) if a ~~principal~~**managing** broker's fees or commissions have
- 17 been paid in full; or
- 18 (3) if a ~~principal~~**managing** broker waives the notice requirements
- 19 of this section in writing.

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

- 25 (1) One (1) or more ~~principal~~**managing** brokers to whom the
- 26 owner owes fees or commissions.
- 27 (2) The closing agent, title company, or title insurance agent
- 28 involved in the transaction.

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

33 (c) To exercise its rights under this chapter to file a lien after receipt
34 of the notice under subsection (b), the ~~principal~~**managing** broker must
35 notify the closing agent, title company, or title insurance agent at the
36 address in the notice of the amount of the fees or commissions owed
37 before the time of the closing stated in the notice.

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

- 41 (1) that:
- 42 (A) the owner has notified the ~~principal~~**managing** broker in

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1 accordance with subsection (b); and
2 (B) the **principal managing** broker received the notice; or
3 (2) that the **principal managing** broker has been paid in full.
4 SECTION 54. IC 32-28-12.5-8, AS ADDED BY P.L.78-2006,
5 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
6 JULY 1, 2014]: Sec. 8. (a) This section applies to a transaction
7 involving the conveyance or transfer of commercial real estate in
8 which:
9 (1) payment to a **principal managing** broker is due in
10 installments; and
11 (2) a part of the installment payments is due only after the
12 conveyance or transfer of the commercial real estate involved in
13 the transaction.
14 (b) Subject to subsection (c), the **principal managing** broker may
15 record a notice of lien for those payments described in subsection
16 (a)(2) at any time after the transfer or conveyance, but not later than
17 ninety (90) days after the date on which the payment is due. A notice
18 of lien under this section is effective as a lien against the transferor's
19 interest in the commercial real estate only to the extent consideration
20 is still owed to the transferor by the transferee. However, the lien is
21 effective against the transferee's interest in the commercial real estate
22 without the limitation described in this subsection.
23 (c) A single claim for a lien recorded:
24 (1) before the transfer or conveyance of the commercial real
25 estate; and
26 (2) with respect to all payments due in installments;
27 is valid and enforceable with respect to payments due after the transfer
28 or conveyance. However, as payments or partial payments of fees or
29 commissions are received by the **principal managing** broker, the
30 **principal managing** broker shall, by providing partial releases with
31 respect to those payments, reduce the amount due the **principal**
32 **managing** broker under the notice of lien described in this subsection.
33 SECTION 55. IC 32-28-12.5-9, AS AMENDED BY P.L.1-2007,
34 SECTION 212, IS AMENDED TO READ AS FOLLOWS
35 [EFFECTIVE JULY 1, 2014]: Sec. 9. (a) Subject to subsection (b), in
36 the case of a lease of commercial real estate, including a sublease or an
37 assignment of a lease, the notice of a lien under this chapter must be
38 recorded not later than ninety (90) days after the tenant takes
39 possession of the leased premises. However, if:
40 (1) the transferor personally serves, on the **principal managing**
41 broker entitled to claim a lien, written notice of the intended
42 execution of the lease; and

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- 1 (2) the notice described in subdivision (1) is served not later than
 2 ten (10) days before the date of the intended execution of the
 3 lease;
- 4 the **principal managing** broker's notice of lien must be recorded before
 5 the date indicated in the notice described in subdivision (1) for the
 6 execution of the lease. The lien attaches on the recording of the notice
 7 of lien and does not relate back to the date of the written agreement,
 8 contract, or written instrument under which the **principal managing**
 9 broker is entitled to fees or commissions.
- 10 (b) As used in this subsection, "future fees or commissions" refers
 11 to fees or commissions:
- 12 (1) other than those fees or commissions due to a **principal**
 13 **managing** broker upon the execution of a lease under subsection
 14 (a); or
- 15 (2) due to the **principal managing** broker upon the exercise of an
 16 option to:
- 17 (A) expand the leased premises;
 18 (B) renew or extend a lease; or
 19 (C) purchase the commercial real estate;
- 20 under a written agreement, a contract, or another written instrument
 21 signed by the owner or tenant of the commercial real estate. The
 22 **principal managing** broker may record a memorandum of lien at any
 23 time after execution of the lease or other written agreement, contract,
 24 or written instrument that contains rights to future fees or commissions.
 25 The **principal managing** broker shall record a notice of lien no later
 26 than ninety (90) days after the occurrence of a condition for which
 27 future fees or commissions are claimed, but may not file a notice of lien
 28 against an owner's property if the tenant is the sole party liable for
 29 payment of the future fees or commissions. Except as provided in
 30 section 11(a) or 13(b) of this chapter, an action to foreclose a lien to
 31 collect future fees or commissions must be commenced not later than
 32 one (1) year after the recording of the notice of the lien. A
 33 memorandum of lien recorded under this chapter must meet the
 34 requirements of section 12(1)(A), 12(1)(B), 12(1)(C), 12(1)(E), 12(2),
 35 12(3), and 12(4) of this chapter. A memorandum of lien shall not
 36 constitute a lien against the real estate but shall provide notice of the
 37 right to future fees or commissions.
- 38 (c) If:
- 39 (1) commercial real estate is sold or otherwise conveyed before
 40 the date on which future fees or commissions are due; and
 41 (2) the **principal managing** broker has recorded a valid
 42 memorandum of lien or notice of lien before the sale or other

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

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

32 SECTION 57. IC 32-28-12.5-11, AS ADDED BY P.L.78-2006,
 33 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 JULY 1, 2014]: Sec. 11. (a) The **principal managing** broker claiming
 35 the lien shall, not later than one (1) year after recording the notice of
 36 the lien, commence proceedings to foreclose the lien. However, for
 37 future fees or commissions payable over a period in excess of one (1)
 38 year from the occurrence of a condition for which such future fees or
 39 commissions are claimed, the commencement of the suit must be
 40 within one (1) year of the latest date for which future fees or
 41 commissions are due. A **principal managing** broker's failure to
 42 commence proceedings within the time prescribed by this subsection



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1 extinguishes the lien and a subsequent notice of lien may not be given
 2 for the same claim, nor may that claim be asserted in any other
 3 proceedings under this chapter.

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

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

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

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

- 32 (1) state:
 - 33 (A) the name of the claimant;
 - 34 (B) the name of the owner of the commercial real estate upon
 35 which the lien is claimed;
 - 36 (C) a legal description of the commercial real estate upon
 37 which the lien is claimed;
 - 38 (D) the amount for which the lien is claimed; and
 - 39 (E) the license number of the ~~principal~~ **managing** broker's
 40 license under IC 25-34.1;
- 41 (2) contain a statement that the information contained in the
 42 notice is true and accurate to the knowledge of the signatory;



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

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

- 8 (1) a memorandum of lien or notice of lien has been recorded
 9 with the office of the recorder of the appropriate county; and
 10 (2) a condition occurs that would preclude the ~~principal~~
 11 **managing** broker from receiving fees or commissions under the
 12 terms of the written agreement, contract, or other written
 13 instrument upon which the lien is based;

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

18 (b) Upon written demand:

- 19 (1) served by the owner, buyer, or tenant described in section 5 of
 20 this chapter, or the authorized agent of the owner, buyer, or tenant
 21 described in section 5 of this chapter, on the ~~principal~~ **managing**
 22 broker claiming a lien under this chapter; and
 23 (2) requiring the ~~principal~~ **managing** broker to:
 24 (A) bring a suit to enforce the lien; or
 25 (B) file an answer in a pending suit;

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

32 (c) If:

- 33 (1) a memorandum of lien or notice of lien under this chapter has
 34 been filed with the office of the recorder and the fees or
 35 commissions upon which the lien is based have been paid to the
 36 ~~principal~~ **managing** broker claiming the lien; or
 37 (2) the ~~principal~~ **managing** broker fails to institute a suit to
 38 enforce the lien within the time prescribed by this chapter;

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

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1 release of the memorandum or lien in writing.

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

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

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

- 26 (1) a claim for a lien under this chapter has been filed with the
27 office of the recorder of the county in which commercial real
28 estate or any interest in commercial real estate is located; and
29 (2) an escrow account is established among:

- 30 (A) the one (1) or more parties allegedly responsible for
31 payment of the fees or commissions on which the lien is based;
32 (B) the **principal managing** broker that filed the lien; and
33 (C) an independent third party as escrowee;

34 from the proceeds of the conveyance, or from any other source of
35 funds, in an amount that is at least one hundred ten percent
36 (110%) of the amount of the lien claimed under this chapter;
37 the lien against the real estate is extinguished and becomes a lien on
38 the funds contained in the escrow account. The establishment of an
39 escrow account described in this section does not constitute cause for
40 any party to refuse to close the transaction.

41 SECTION 63. IC 32-28-12.5-19, AS ADDED BY P.L.78-2006,
42 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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1 JULY 1, 2014]: Sec. 19. (a) If any party, including a **principal**
2 **managing** broker, buyer, or buyer's mortgagee suffers a pecuniary loss
3 as the result of an owner's violation of the notice or certification
4 provisions described in section 7 of this chapter, the party may bring a
5 civil action against the owner for the following:

- 6 (1) Actual damages.
- 7 (2) The costs of the action.
- 8 (3) Reasonable attorney's fees.

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

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

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Employment, Labor and Pensions, to which was referred House Bill 1102, has had the same under consideration and begs leave to report the same back to the House 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 18, after "include" insert "**lots and land for**".

Page 9, line 32, after "not" insert "**a**".

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

Page 9, line 34, delete "licensed under" and insert "**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**".

Page 11, between lines 7 and 8, begin a new line block indented and insert:

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



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

Page 14, line 33, delete "IC 25-34.1-3-3.1," and insert "**section 3.1 of this chapter**".

Page 14, line 33, delete "before its repeal,".

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" and insert "**For an individual applying for a broker's license after July 1, 2014, during**".

Page 17, line 18, delete "an individual with a broker's license" and insert "**the individual**".

Page 17, line 19, delete "post-licensing" and insert "**postlicensing**".

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 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.

(f) Beginning July 1, 2014, a broker licensed on or after July 1, 2014, who becomes inactive must complete the thirty (30) hour postlicensure course established by the commission before reactivation of the licensee's license."

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



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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 IC 25-34.1-3.

Sec. 2. An individual holding a license as a salesperson must obtain a broker's license not later than June 30, 2014, to continue performing functions under this article.

Sec. 3. To obtain a broker's 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 board 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 board that the licensee has completed the additional twenty-four (24) hours of education. When the twenty-four (24) hours have been completed, the salesperson becomes a broker.

Sec. 5. 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. 6. An individual who is a principal broker on June 30, 2014, becomes a managing broker on July 1, 2014.

Sec. 7. 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

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[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 prelicensing education courses.**
- (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."

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 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.



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(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, 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 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 26, line 40, delete "twelve (12)" and insert "**eight (8)**".

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 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 eight (8) hours of continuing education each year. At least four (4) hours of the continuing education must be dedicated to the necessary business and management skills and legal knowledge needed by a managing broker. The commission shall develop or approve the continuing education courses for managing brokers."

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 "2013," and insert "**2014,**".

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

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:

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"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, delete lines 23 through 33 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 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, 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;



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- (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 HB 1102 as introduced.)

GUTWEIN, Chair

Committee Vote: yeas 10, nays 0.

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