

SENATE BILL No. 615

DIGEST OF INTRODUCED BILL

Citations Affected: IC 25-34.1.

Synopsis: Real estate agents and brokers. Provides that to be a managing broker licensed under the real estate licensing law, an individual must meet certain requirements. Provides that real estate licenses are valid for a term of three years and expire on a date set by the licensing agency. Removes a requirement that the Indiana real estate commission must adopt certain rules annually. Specifies the continuing education needed for managing brokers during the transition period for the licensing provisions taking effect July 1, 2014. Requires that instructors providing training for real estate licensees must have permits to teach. Provides for permits for real estate schools.

Effective: July 1, 2013; July 1, 2014.

Merritt

January 17, 2013, read first time and referred to Committee on Commerce, Economic Development & Technology.

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First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

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SENATE BILL No. 615



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

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

- 1 SECTION 1. IC 25-34.1-1-2, AS AMENDED BY P.L.127-2012,
- 2 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2014]: Sec. 2. As used in this article:
- 4 (1) "Person" means an individual, a partnership, a corporation, or
- 5 a limited liability company.
- 6 (2) "Commission" means the Indiana real estate commission.
- 7 (3) "Real estate" means any right, title, or interest in real property.
- 8 (4) "Broker" means a person who:
- 9 (A) for consideration, sells, buys, trades, exchanges, options,
- 10 leases, rents, manages, lists, or appraises real estate or
- 11 negotiates or offers to perform any of those acts; and
- 12 (B) is acting in association with and under the auspices of a
- 13 managing broker.
- 14 (5) "License" means a broker license issued under this article and
- 15 which is not expired, suspended, or revoked.
- 16 (6) "Licensee" means a person who holds a license issued under
- 17 this article. The term does not include a person who holds a real



1 estate appraiser license or certificate issued under the real estate
 2 appraiser licensure and certification program established under
 3 IC 25-34.1-3-8.

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

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

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

10 (10) "Commercial real estate" means a parcel of real estate other
 11 than real estate containing one (1) to four (4) residential units.
 12 This term does not include single family residential units such as:

- 13 (A) condominiums;
- 14 (B) townhouses;
- 15 (C) manufactured homes; or
- 16 (D) homes in a subdivision;

17 when sold, leased, or otherwise conveyed on a unit-by-unit basis,
 18 even if those units are part of a larger building or parcel of real
 19 estate containing more than four (4) residential units.

20 (11) "Out-of-state commercial broker" includes a person, a
 21 partnership, an association, a limited liability company, a limited
 22 liability partnership, or a corporation that is licensed to do
 23 business as a broker in a jurisdiction other than Indiana.

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

27 (13) "Managing broker" refers to a broker whom the commission
 28 holds responsible for the actions of licensees who are affiliated
 29 with the managing broker **and who meets the requirements of**
 30 **IC 25-34.1-4-0.5.**

31 SECTION 2. IC 25-34.1-1-4, AS ADDED BY P.L.127-2012,
 32 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2014]: Sec. 4. Beginning July 1, 2014, licenses issued under
 34 this article are for a term of three (3) years **and expire on the date set**
 35 **by the licensing agency.**

36 SECTION 3. IC 25-34.1-2-5, AS AMENDED BY P.L.127-2012,
 37 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 2013]: Sec. 5. The commission may:

- 39 (1) administer and enforce the provisions of this article;
- 40 (2) adopt rules in accordance with IC 4-22-2 and prescribe forms
 41 for licenses, applications, and other documents which are
 42 necessary or appropriate for the administration and enforcement

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- 1 of this article;
- 2 (3) issue, deny, suspend, and revoke licenses in accordance with
- 3 this article, which licenses shall remain the property of the
- 4 commission;
- 5 (4) subject to IC 25-1-7, investigate complaints concerning
- 6 licensees or persons the commission has reason to believe should
- 7 be licensees, including complaints respecting failure to comply
- 8 with this article or the rules, and, when appropriate, take action
- 9 pursuant to IC 25-34.1-6;
- 10 (5) bring actions, in the name of the state of Indiana, in an
- 11 appropriate circuit court in order to enforce compliance with this
- 12 article or the rules;
- 13 (6) inspect the records of a licensee in accordance with rules and
- 14 standards prescribed by the commission;
- 15 (7) conduct, or designate a member or other representative to
- 16 conduct, public hearings on any matter for which a hearing is
- 17 required under this article and exercise all powers granted in
- 18 IC 4-21.5;
- 19 (8) adopt a seal containing the words "Indiana Real Estate
- 20 Commission" and, through its executive director, certify copies
- 21 and authenticate all acts of the commission;
- 22 (9) utilize counsel, consultants, and other persons who are
- 23 necessary or appropriate to administer and enforce this article and
- 24 the rules;
- 25 (10) enter into contracts and authorize expenditures that are
- 26 necessary or appropriate, subject to IC 25-1-6, to administer and
- 27 enforce this article and the rules;
- 28 (11) maintain the commission's office, files, records, and property
- 29 in the city of Indianapolis;
- 30 (12) grant, deny, suspend, and revoke approval of examinations
- 31 and courses of study as provided in IC 25-34.1-5;
- 32 (13) provide for the filing and approval of surety bonds which are
- 33 required by IC 25-34.1-5;
- 34 (14) adopt rules in accordance with IC 4-22-2 necessary for the
- 35 administration of the investigative fund established under
- 36 IC 25-34.1-8-7.5;
- 37 (15) ~~annually~~ adopt emergency rules under IC 4-22-2-37.1 to
- 38 adopt any or all parts of Uniform Standards of Professional
- 39 Appraisal Practice (USPAP), including the comments to the
- 40 USPAP, as published by the Appraisal Standards Board of the
- 41 Appraisal Foundation, under the authority of Title XI of the
- 42 Financial Institutions Reform, Recovery, and Enforcement Act

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1 (12 U.S.C. 3331-3351);

2 (16) exercise other specific powers conferred upon the
3 commission by this article; and

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

6 SECTION 4. IC 25-34.1-4.5-6, AS ADDED BY P.L.127-2012,
7 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2013]: Sec. 6. **(a)** For the period beginning July 1, 2012, and
9 ending June 30, 2014, notwithstanding any other law concerning
10 continuing education, the twenty-four (24) hours of additional
11 education required under section 3 of this chapter may be used to meet
12 the continuing education requirement for a salesperson under
13 IC 25-34.1-9-11.

14 **(b) For the period beginning July 1, 2012, and ending July 1,
15 2014, notwithstanding any other law concerning continuing
16 education, the twenty-four (24) hours of managing broker
17 continuing education course may be offered.**

18 SECTION 5. IC 25-34.1-5-13 IS ADDED TO THE INDIANA
19 CODE AS A NEW SECTION TO READ AS FOLLOWS
20 [EFFECTIVE JULY 1, 2013]: Sec. 13. **(a) Each instructor of a
21 continuing education course under this chapter must have a permit
22 issued by the commission.**

23 **(b) An instructor permit under subsection (a) must:**

24 **(1) be issued for a term of three (3) years on a date set by the
25 commission;**

26 **(2) automatically revert to involuntary inactive status if not
27 renewed by the end of the permit period; and**

28 **(3) require the instructor to be a licensed real estate broker or
29 attorney licensed in Indiana.**

30 **(c) If a permit becomes inactive under subsection (a)(2), to
31 return to active status, the instructor must:**

32 **(1) successfully complete continuing education requirements
33 set by the commission;**

34 **(2) file a renewal application;**

35 **(3) pay a renewal fee under rules adopted by the commission
36 under IC 4-22-2; and**

37 **(4) pay any applicable late fees established under rules
38 adopted by the commission under IC 4-22-2.**

39 **(d) Any permit that has been involuntarily inactive for two (2)
40 years automatically expires. An expired permit is void unless the
41 commission takes further action.**

42 SECTION 6. IC 25-34.1-5-14 IS ADDED TO THE INDIANA

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1 CODE AS A NEW SECTION TO READ AS FOLLOWS
 2 [EFFECTIVE JULY 1, 2013]: **Sec. 14. (a) Each instructor of a**
 3 **prelicensing education course under this chapter must have a**
 4 **permit issued by the commission.**

5 **(b) An instructor permit under subsection (a) must:**

6 **(1) be issued for a term of three (3) years on a date set by the**
 7 **commission;**

8 **(2) automatically revert to involuntary inactive status if not**
 9 **renewed by the end of the permit period; and**

10 **(3) require the instructor to be a licensed real estate broker or**
 11 **attorney licensed in Indiana.**

12 **(c) If a permit becomes inactive under subsection (a)(2), to**
 13 **return the permit to active status, the instructor must:**

14 **(1) successfully complete continuing education requirements**
 15 **required by the commission;**

16 **(2) file a renewal application;**

17 **(3) pay a renewal fee under rules adopted by the commission**
 18 **under IC 4-22-2; and**

19 **(4) pay any applicable late fees established under rules**
 20 **adopted by the commission under IC 4-22-2.**

21 **(d) Any permit that has been involuntarily inactive for two (2)**
 22 **years automatically expires. An expired permit is void unless the**
 23 **commission takes further action.**

24 SECTION 7. IC 25-34.1-5-15 IS ADDED TO THE INDIANA
 25 CODE AS A NEW SECTION TO READ AS FOLLOWS
 26 [EFFECTIVE JULY 1, 2013]: **Sec. 15. (a) Each real estate school**
 27 **must have a permit issued by the commission.**

28 **(b) A permit under subsection (a) must meet the following**
 29 **requirements:**

30 **(1) For online courses, an instructor that has been issued a**
 31 **permit under this chapter must be available during normal**
 32 **business hours.**

33 **(2) Student records must be provided to the commission each**
 34 **month.**

35 **(3) A school must pay the permit fees established by the**
 36 **commission under subsection (d).**

37 **(c) The commission shall establish a permit period for real**
 38 **estate schools. A permit issued under this section must be renewed**
 39 **at the end of the period established by the commission.**

40 **(d) The commission shall establish, by rule adopted under**
 41 **IC 4-22-2, fees for permits under this section.**

42 **(e) A school must annually file with the commission a list of**

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1 **classes offered by the school.**

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