

HOUSE BILL No. 1372

DIGEST OF INTRODUCED BILL

Citations Affected: IC 25-34.1-10.

Synopsis: Knowledge imputed to real estate broker. Provides that information concerning defects in a property that is contained in transaction records maintained by a brokerage may not be imputed to a broker or affiliated licensee of the brokerage. Bars a civil action against a broker or licensee for failure to disclose a defect if the action is based on imputed knowledge.

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

Truitt

January 22, 2013, read first time and referred to Committee on Judiciary.

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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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HOUSE BILL No. 1372



A BILL FOR AN ACT to amend the Indiana Code concerning property.

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

1 SECTION 1. IC 25-34.1-10-12.5 (*CURRENT VERSION*) IS
 2 AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]:
 3 Sec. 12.5. (a) An individual licensee affiliated with a principal broker
 4 represents only the client with which the licensee is working in an
 5 in-house agency relationship. A client represented by an individual
 6 licensee affiliated with a principal broker is represented only by that
 7 licensee to the exclusion of all other licensees. A principal or managing
 8 broker does not represent any party in such transactions unless the
 9 principal or managing broker has an agency relationship to personally
 10 represent a client.
 11 (b) A licensee who personally represents both the seller and buyer
 12 or both the landlord and tenant in a real estate transaction is a limited
 13 agent and is required to comply with the provisions of this chapter
 14 governing limited agents.
 15 (c) A licensee representing a client in an in-house agency
 16 relationship owes the client duties and obligations set forth in this
 17 chapter and shall not disclose material or confidential information



1 obtained from the client to other licensees, except to the principal or
 2 managing broker for the purpose of seeking advice or assistance for the
 3 client's benefit.

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

8 (e) In all in-house agency relationships, a principal broker,
 9 managing broker, and an individual licensee possess only actual
 10 knowledge and information. There is no imputation of agency,
 11 knowledge, or information among or between clients, the principal
 12 broker, the managing broker, and licensees. **Information contained in
 13 transaction records maintained by the brokerage or agency
 14 concerning any existing or previous adverse material facts or risks
 15 with respect to real property may not be imputed to a broker or
 16 affiliated licensee. A person may not bring a cause of action against
 17 a broker or licensee for failure to disclose adverse material facts or
 18 risks if the cause of action is based, in whole or in part, on imputed
 19 knowledge of the adverse material facts or risks.**

20 SECTION 2. IC 25-34.1-10-12.5 (*DELAYED VERSION*), AS
 21 AMENDED BY P.L.127-2012, SECTION 45, IS AMENDED TO
 22 READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 12.5. (a) An
 23 individual licensee affiliated with a managing broker represents only
 24 the client with which the licensee is working in an in-house agency
 25 relationship. A client represented by an individual licensee affiliated
 26 with a managing broker is represented only by that licensee to the
 27 exclusion of all other licensees. A managing broker does not represent
 28 any party in such transactions unless the managing broker has an
 29 agency relationship to personally represent a client.

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

34 (c) A licensee representing a client in an in-house agency
 35 relationship owes the client duties and obligations set forth in this
 36 chapter and shall not disclose material or confidential information
 37 obtained from the client to other licensees, except to the managing
 38 broker for the purpose of seeking advice or assistance for the client's
 39 benefit.

40 (d) A managing broker and any affiliated licensee shall take
 41 reasonable and necessary care to protect any material or confidential
 42 information disclosed by a client to the client's in-house agent.

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1 (e) In all in-house agency relationships, a managing broker and an
2 individual licensee possess only actual knowledge and information.
3 There is no imputation of agency, knowledge, or information among or
4 between clients, the managing broker, and licensees. **Information**
5 **contained in transaction records maintained by the brokerage or**
6 **agency concerning any existing or previous adverse material facts**
7 **or risks with respect to real property may not be imputed to a**
8 **broker or affiliated licensee. A person may not bring a cause of**
9 **action against a broker or licensee for failure to disclose adverse**
10 **material facts or risks if the cause of action is based, in whole or in**
11 **part, on imputed knowledge of the adverse material facts or risks.**

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