

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.

SENATE ENROLLED ACT No. 615

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

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

SECTION 1. IC 25-34.1-1-2, AS AMENDED BY P.L.127-2012, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. As used in this article:

- (1) "Person" means an individual, a partnership, a corporation, or a limited liability company.
- (2) "Commission" means the Indiana real estate commission.
- (3) "Real estate" means any right, title, or interest in real property.
- (4) "Broker" means a person who:
 - (A) for consideration, sells, buys, trades, exchanges, options, leases, rents, manages, lists, or appraises real estate or negotiates or offers to perform any of those acts; and
 - (B) is acting in association with and under the auspices of a managing broker.
- (5) "License" means a broker license issued under this article and which is not expired, suspended, or revoked.
- (6) "Licensee" means a person who holds a license issued under this article. The term does not include a person who holds a real estate appraiser license or certificate issued under the real estate appraiser licensure and certification program established under IC 25-34.1-3-8.
- (7) "Course approval" means approval of a broker course granted under this article which is not expired, suspended, or revoked.

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

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

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

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

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

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

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

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

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

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

- (1) administer and enforce the provisions of this article;
- (2) adopt rules in accordance with IC 4-22-2 and prescribe forms for licenses, applications, and other documents which are necessary or appropriate for the administration and enforcement of this article;
- (3) issue, deny, suspend, and revoke licenses in accordance with this article, which licenses shall remain the property of the commission;
- (4) subject to IC 25-1-7, investigate complaints concerning

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licensees or persons the commission has reason to believe should be licensees, including complaints respecting failure to comply with this article or the rules, and, when appropriate, take action pursuant to IC 25-34.1-6;

(5) bring actions, in the name of the state of Indiana, in an appropriate circuit court in order to enforce compliance with this article or the rules;

(6) inspect the records of a licensee in accordance with rules and standards prescribed by the commission;

(7) conduct, or designate a member or other representative to conduct, public hearings on any matter for which a hearing is required under this article and exercise all powers granted in IC 4-21.5;

(8) adopt a seal containing the words "Indiana Real Estate Commission" and, through its executive director, certify copies and authenticate all acts of the commission;

(9) utilize counsel, consultants, and other persons who are necessary or appropriate to administer and enforce this article and the rules;

(10) enter into contracts and authorize expenditures that are necessary or appropriate, subject to IC 25-1-6, to administer and enforce this article and the rules;

(11) maintain the commission's office, files, records, and property in the city of Indianapolis;

(12) grant, deny, suspend, and revoke approval of examinations and courses of study as provided in IC 25-34.1-5;

(13) provide for the filing and approval of surety bonds which are required by IC 25-34.1-5;

(14) adopt rules in accordance with IC 4-22-2 necessary for the administration of the investigative fund established under IC 25-34.1-8-7.5;

(15) ~~annually~~ adopt emergency rules under IC 4-22-2-37.1 to adopt any or all parts of Uniform Standards of Professional Appraisal Practice (USPAP), including the comments to the USPAP, as published by the Appraisal Standards Board of the Appraisal Foundation, under the authority of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act (12 U.S.C. 3331-3351);

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

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

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SECTION 4. IC 25-34.1-3-10 *CURRENT VERSION*, AS AMENDED BY P.L.157-2006, SEC.73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: 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) A valid inactive salesperson license issued before July 1, 2014, under subsection (a), becomes a broker's license on July 1, 2014.

(f) Notwithstanding subsection (c), an individual whose salesperson's license becomes a broker's license under subsection (e) may not perform an act that requires a broker's license under this article unless the individual does all of the following:

- (1) Completes at least twenty-four (24) hours of the education described in IC 25-34.1-5-5.**
- (2) Meets the requirements to be a licensed broker under IC 25-34.1-3-4.1.**
- (3) Attests to the commission that the individual has completed the twenty-four (24) hours of education described in subdivision (1).**

SECTION 5. IC 25-34.1-3-10 *DELAYED VERSION*, AS AMENDED BY P.L.127-2012, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 10. (a) 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 broker's license;
- (2) is not required to fulfill the continuing education requirements under IC 25-34.1-9;
- (3) is required to pay any fees that a licensee is required to pay; and
- (4) must fulfill the:

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

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

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

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

(e) A valid inactive salesperson license issued before July 1, 2014, under subsection (a), becomes a broker's license on July 1, 2014.

(f) Notwithstanding subsection (c), an individual whose salesperson's license becomes a broker's license under subsection (e) may not perform an act that requires a broker's license under this article unless the individual does all of the following:

- (1) Completes at least twenty-four (24) hours of the education described in IC 25-34.1-5-5.**
- (2) Meets the requirements to be a licensed broker under IC 25-34.1-3-4.1.**
- (3) Attests to the commission that the individual has completed the twenty-four (24) hours of education described in subdivision (1).**

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

(h) Beginning June 30, 2014, a broker licensed after June 30, 2014, who becomes inactive before completing the thirty (30) hour

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postlicensing education required under section 4.1(f) of this chapter, must complete the thirty (30) hours of postlicensure education before reactivation of the broker's license.

SECTION 6. IC 25-34.1-4-0.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 0.6. Beginning July 1, 2013, a real estate school may offer courses described in section 0.5(2) of this chapter. An individual who takes and passes a course offered under this section is entitled to credit under section 0.5(2) of this chapter for the hours taken and passed under the course, regardless of whether the individual takes and passes the course before, on, or after July 1, 2014.**

SECTION 7. IC 25-34.1-4.5-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5.5. (a) Notwithstanding IC 25-34.1-3-4.1(g), a license issued to a broker under this article that would have expired on June 30, 2013, will instead expire on June 30, 2014. The 2014 renewals will be for a three (3) year term.**

(b) The continuing education requirements for the 2014 broker renewal shall be the:

- (1) sixteen (16) hours required by IC 25-34.1-9-11 (before its repeal on July 1, 2014), which may have been obtained any time between July 1, 2011, and June 30, 2014; and**
- (2) eight (8) hours required by IC 25-34-9-11.1 (before its expiration on July 1, 2014) to be obtained between July 1, 2013, and June 30, 2014.**

SECTION 8. IC 25-34.1-5-13 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 13. (a) Each instructor of a prelicensing education course under this chapter must have a permit issued by the commission.**

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

- (1) be issued for a term of three (3) years and expires on a date set by the licensing agency; and**
- (2) expire if not renewed by the end of the permit period.**

(c) An instructor issued a permit under subsection (a) must meet the following requirements:

- (1) Be a licensed real estate broker or attorney licensed in Indiana, or an expert in the field working in conjunction with a licensed real estate broker or licensed attorney.**
- (2) Each year, complete four (4) hours of continuing education approved by the licensing agency and specific to providing**

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real estate instruction. Hours earned under this subdivision may be used toward the completion of the continuing education requirement for a broker under IC 25-34.1-9-11.

(3) Pay applicable fees established under rules adopted by the commission under IC 4-22-2.

(4) Meet any additional requirements established by the commission under rules adopted under IC 4-22-2.

(d) If a permit expires under subsection (b)(2), to return the permit to active status, the instructor must:

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

(2) file a renewal application;

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

(4) pay any applicable late fees established under rules adopted by the commission under IC 4-22-2; and

(5) meet any additional requirements established by the commission.

(e) Instructors approved by the commission before July 1, 2013, shall be exempted from the requirement under subsection (c)(1).

SECTION 9. IC 25-34.1-5-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 15. (a) Each real estate school must have a permit issued by the commission.**

(b) A real estate school permit under subsection (a) must meet the following requirements:

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

(2) Course rosters must be provided to the commission each month.

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

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

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

(e) A school must annually file with the commission a list of courses offered by the school.

SECTION 10. IC 25-34.1-9-15.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS



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[EFFECTIVE JULY 1, 2013]: **Sec. 15.5. (a) The commission may deny, suspend, or revoke approval of any course or course sponsor if the commission determines that the course sponsor, by the act of an employee or agent, has failed to comply with the standards established in this chapter and the rules of the commission.**

(b) The commission may deny, suspend, or revoke approval of any course instructor permit issued under this article if the commission determines that the instructor has failed to comply with the standards established in this chapter and the rules of the commission.

SECTION 11. IC 25-34.1-9-22 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 22. (a) Each instructor of a continuing education course under this chapter must have a permit issued by the commission.**

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

- (1) be issued for a term of three (3) years and expire on a date set by the licensing agency; and**
- (2) automatically expire if not renewed by the end of the permit period.**

(c) An instructor issued a permit under subsection (a), must meet the following requirements:

- (1) Be a licensed real estate broker or attorney licensed in Indiana, or an expert in the field working in conjunction with a licensed real estate broker or licensed attorney.**
- (2) Each year, complete four (4) hours of continuing education approved by the commission and specific to providing real estate instruction. Hours earned under this subdivision may be used toward the completion of the continuing education requirement for a broker under IC 25-34.1-9-11.**
- (3) Pay applicable fees established under rules adopted by the commission under IC 4-22-2.**
- (4) Meet any additional requirements established by the commission under rules adopted under IC 4-22-2.**

(d) If a permit expires under subsection (b)(2), to return to active status, the instructor must:

- (1) successfully complete continuing education requirements set by the commission;**
- (2) file a renewal application;**
- (3) pay a renewal fee under rules adopted by the commission under IC 4-22-2; and**
- (4) pay any applicable late fees established under rules**

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adopted by the commission under IC 4-22-2.

(e) Instructors approved by the commission before July 1, 2013, shall be exempted from the requirement under subsection (c)(1).

(f) The commission may deny, suspend, or revoke approval of any instructor permit issued under this chapter if the commission determines that the instructor has failed to comply with the standards established in this chapter and the rules of the commission.

SECTION 12. An emergency is declared for this act.

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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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