

Economic Impact Statement

LSA Document #14-61

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

The Indiana Real Estate Commission (Commission) has determined that this proposed rule will impose minimal requirements or costs on small businesses. This proposed rule repeals all of the Commission's rules (except [876 IAC 3](#) concerning the licensure of appraisers) and adds new rules ([876 IAC 5](#) through [876 IAC 9](#)) in their place. Most of the changes are based upon recent legislation (P.L.127-2012 (SEA 275) and P.L.200-2013 (SEA 615)) among other things addressing the elimination of the salesperson license and educational requirements for brokers. Other rules are reorganized and streamlined with some changes in substantive requirements.

Estimated Number of Small Businesses Subject to this Rule:

The estimated number of small businesses subject to this rule may include all licensed real estate broker companies, of which there are currently 2,604. Also included would be any individual real estate principal broker who does not operate a licensed company. 4,234 real estate principal brokers fall into this category of sole proprietor brokers and therefore may meet the definition of a small business under [IC 4-22-2.1-4](#). Finally, active approved education providers, both prelicensing and continuing education totaling 117, should also be considered. The majority of the licensees listed above are likely to meet the definition of small business under [IC 4-22-2.1-4](#) so the total number will be used for this analysis.

Estimated Average Annual Reporting, Record Keeping, and Other Administrative Costs Small Businesses Will Incur to Comply with the Proposed Rule:

Here the focus will primarily be on the annual reporting, record keeping, and other administrative costs imposed by the new items in the rule and therefore those imposed by the accompanying legislation or imposed by rules that are currently in place and only moved to reorganize the rule will mostly not be considered here.

[876 IAC 5-1:](#) This rule describes the authority and purpose of the Commission and does not impose any new annual reporting, record keeping, or other administrative costs on small businesses.

[876 IAC 5-2:](#) This rule provides definitions used throughout the rule and does not impose any new annual reporting, record keeping, or other administrative costs on small businesses.

[876 IAC 5-3:](#) This rule establishes the fee schedule for applications and renewals under the Commission. While most of the fees in this section are those that are currently in place, changes imposed by the legislature in 2012 and 2013 require that the Commission set fees for application and renewal of instructor permits and application and renewal of real estate school permits. The only small businesses affected by this rule are education providers. Of the 117 education providers, only 23 hold real estate school permits. The Commission did not receive any new real estate school permit applications in 2013. The school permit expires every December 31st so the cost of the renewal to those 23 schools will be \$1,150 annually.

[876 IAC 6-1:](#) This rule provides definitions and general provisions for real estate schools. Because the language in this rule was moved from a repealed section (as a result of this rulemaking) under Title 876 and the changes made to this rule only reduced and did not impose additional requirements on small businesses, the rule does not impose any new annual reporting, record keeping, or other administrative costs on small businesses.

[876 IAC 6-2:](#) This rule provides general requirements for real estate schools and does not impose any new annual reporting, record keeping, or other administrative costs on small businesses.

[876 IAC 6-3:](#) This rule establishes requirements for prelicensing instructors and does not impose any new annual reporting, record keeping, or other administrative costs on small businesses.

[876 IAC 6-4:](#) This rule establishes the 90 hour prelicensing broker course and the conduct of the course. The statutory changes that take effect on July 1, 2014, require that the Commission prescribe the education for the broker course. This section outlines what the course must cover as well as other course provisions. While the course mostly includes topics that are being taught today by schools under the current rule, some new topics were added that will cause schools to update their course in that regard. There are 23 real estate schools. An estimated cost of \$200 per new course hour for preparation and materials for 12 new topic hours would equal a total cost of \$2,400. The total cost to all schools is estimated at \$55,200. The costs estimated here are a combination of the statutory requirement of a 90 hour course and the topics selected by the Commission.

[876 IAC 6-5:](#) This rule provides miscellaneous provisions for real estate schools. Because the language in this rule was moved from a repealed section (as a result of this rulemaking) under Title 876 and the changes made to this rule only clarified provisions and did not impose additional requirements on small businesses, the rule does not impose any new annual reporting, record keeping, or other administrative costs on small businesses.

[876 IAC 6-6:](#) This rule establishes the licensing examination and does not impose any annual reporting,

record keeping, or other administrative costs on small businesses.

876 IAC 6-7: This rule establishes the requirements for certain inactive status brokers and certain referral status brokers to activate the license and does not impose any annual reporting, record keeping, or other administrative costs on small businesses.

876 IAC 7-1: This rule establishes the scope of the article for broker and instructor continuing education. This provision does not impose any new annual reporting, record keeping, or other administrative costs on small businesses.

876 IAC 7-2: This rule establishes the approval of sponsors of courses for postlicensing education, managing broker education, and continuing education for brokers, managing brokers, and instructors. This rule does impose new annual reporting, record keeping, or other administrative costs on small businesses; specifically the requirements for approval of postlicensing and managing broker courses. While most providers already have courses that are approved and fit under prelicensing and managing broker courses, some courses will be required to be submitted to the Commission for approval. The Commission expects very few new continuing education sponsors that will request approval of these courses.

876 IAC 7-3: This rule establishes the 24 hour managing broker course. The statutory changes that take effect on July 1, 2014, require that the Commission prescribe the education for the managing broker course. This section outlines what the course must cover as well as other course provisions. While the course mostly includes topics that are being taught today by providers, some are not and therefore will impose new annual reporting, record keeping, or other administrative costs on small businesses. There are 94 continuing education providers. An estimated cost of \$200 per new course hour for preparation and materials for an average of eight hours (since we can estimate that the providers will have at least 3/4 of the courses already approved and in use) would equal a total cost of \$1,600. The total potential cost to all providers is estimated at \$150,400. The costs estimated here are mostly due to the statutory requirement of a 24 hour course and less due to the topics selected by the Commission.

876 IAC 7-4: This rule establishes the 30 hour postlicensing education course. The statutory changes that take effect on July 1, 2014, require that the Commission prescribe the education for postlicensing education. This section outlines what the course must cover as well as other course provisions. While the course mostly includes topics that are being taught today by providers, some are not and therefore will impose new annual reporting, record keeping, or other administrative costs on small businesses. There are 94 continuing education providers. An estimated cost of \$200 per new course hour for preparation and materials for an average of eight hours (since we can estimate that the providers will have at least 3/4 of the courses already approved and in use) would equal a total cost of \$1,600. The total potential cost to all providers is estimated at \$150,400. The costs estimated here are mostly due to the statutory requirement of a 30 hour course and less due to the topics selected by the Commission.

876 IAC 7-5: This rule establishes the continuing education requirements for brokers and managing brokers. It also sets the continuing education requirements for inactivation, activation, and reinstatement of a license. Any individual real estate broker who does not operate a licensed company, currently estimated at 4,234, falls into this category of sole proprietor brokers and therefore may meet the definition of a small business under [IC 4-22-2.1-4](#) so they will be considered here. This rule imposes annual reporting and record keeping requirements on sole proprietor brokers in that these brokers must complete approved continuing education courses under certain guidelines and must keep records of continuing education courses. It also imposes costs to brokers who want to activate or reinstate a license.

876 IAC 7-6: This rule establishes requirements for distance learning education for continuing education providers. This language was simply moved from a section listed to be repealed to this new section and was not modified in content. However, the rule itself does impose new minimal annual reporting, record keeping, or other administrative costs on small businesses in preparing and providing distance learning courses. However, because the rule is currently in place and providers are already adhering to these requirements, these requirements and costs are not new due to this rule.

876 IAC 7-7: This rule outlines the process for a licensee to request a waiver of the required continuing education and does not impose any new annual reporting, record keeping, or other administrative costs on small businesses.

876 IAC 8-1: This rule establishes requirements of broker companies to provide a licensed broker to supervise and direct the broker company, requirements of notice to the Commission for certain assignments and transfers of individual brokers, and other miscellaneous requirements. This rule does not impose minimal annual reporting, record keeping, or other administrative costs on small businesses.

876 IAC 8-2: This rule establishes the requirements for listing agreements and offers to purchase as well as other provisions regarding real estate practice. The requirements in this section are largely taken from sections listed to be repealed with some substantive changes.

The current rule requires that all written offers to purchase be made in quadruplicate, with one (1) copy to the prospective purchasers at the time of signing, one (1) copy for the principal broker's files, one (1) copy to the sellers, and one (1) copy to be returned to the purchasers after acceptance or rejection. The Commission realizes

that new technology provides the means to communicate with all involved parties sufficiently without the burdensome requirement of creating documents in quadruplicate. The changes that were made to this rule will reduce the amount of paper and copying that a broker is required to produce. The Commission is unable to determine the number of written offers to purchase this rule change affects as that information is not available. However, there is clearly a cost savings associated with the rule change and therefore reduces the annual reporting, record keeping, or other administrative costs on small businesses.

The changes that were made to the "attendance at closing" rule will reduce the amount of closings that a broker or the broker designee is required to attend. The Commission is unable to determine the number of brokers or closings this rule change affects as that information is not available. However, there is clearly a cost savings associated with the rule change and therefore reduces the annual reporting, record keeping, or other administrative costs on small businesses.

876 IAC 9-1: This rule provides the seller's disclosure form and is a form that is in current rule. Some modifications have been made to the form, but this rule does not impose any new annual reporting, record keeping, or other administrative costs on small businesses.

While the total possible annual costs and requirements at estimated at \$357,150, they are reduced by the removal of the requirement of quadruplicate copies and the "attendance at closing" rule found in [876 IAC 8-2](#). Unfortunately we cannot associate a cost savings because the required data is unavailable.

Estimated Total Annual Economic Impact on Small Businesses:

The total estimated annual economic impact on small businesses is \$357,150; however, this impact is almost entirely as a result of the legislation and not because of the rule. While the total possible annual costs and requirements at estimated at \$357,150, they are reduced by the removal of the requirement of quadruplicate copies and the "attendance at closing" rule found in [876 IAC 8-2](#). Unfortunately we cannot associate a cost savings because the required data is unavailable.

Justification of Any Requirement Imposed by the Proposed Rule and Not Expressly Required by the Statute Authorizing the Rule:

The requirement of the 90 hour broker course, 24 hour managing broker course, 30 hour postlicensing course, and the required continuing education for all licensees was all imposed by statute. The costs and requirements associated with this rule are almost entirely as a result of the legislation that requires the courses.

Supporting Data, Studies, and Analyses:

There is no supporting data, studies, or analyses.

Regulatory Flexibility Analysis of Alternative Methods:

The Commission determined that this proposed rule is the most effective way to adequately regulate real estate licensees including small business and address the changes required by statute.

Posted: 04/02/2014 by Legislative Services Agency
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