ARTICLE 15. ASSESSOR-APPRAISERS, PROFESSIONAL APPRAISERS, AND TAX REPRESENTATIVES

Rule 1. Definitions

50 IAC 15-1-1 Applicability

Authority: IC 6-1.1-31-1; IC 6-1.1-31.7-3; IC 6-1.1-35.5-8
Affected: IC 6-1.1

Sec. 1. The definitions in this rule apply throughout this article. *(Department of Local Government Finance; 50 IAC 15-1-1; filed Mar 31, 1999, 10:31 a.m.: 22 IR 2482)*

50 IAC 15-1-1.5 "Clarification of the authority of Indiana board of tax review" defined

Authority: IC 6-1.1-30-1.1; IC 6-1.1-35.5-8.5
Affected: IC 6-1.1-31-1; IC 6-1.1-35.5-6

Sec. 1.5. The department of local government finance, as successor agency to the state board of tax commissioners and under the authority of IC 6-1.1-35.5-8.5, adopts these amendments to the rules as they pertain to the department of local government finance and proceedings before the department and the property tax assessment board of appeals. Pursuant to IC 6-1.1-31-1(c), this rulemaking action does not repeal or supersede the rules of the state board of tax commissioners until the Indiana board of tax review adopts rules to repeal or supersede the rules of the state board of tax commissioners as they pertain to rules of practice before the Indiana board. *(Department of Local Government Finance; 50 IAC 15-1-1.5; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1516)*

50 IAC 15-1-2 "Assessor-appraiser" defined

Authority: IC 6-1.1-31-1; IC 6-1.1-31.7-3; IC 6-1.1-35.5-8
Affected: IC 6-1.1-35.5

Sec. 2. "Assessor-appraiser" means a person certified under IC 6-1.1-35.5. *(Department of Local Government Finance; 50 IAC 15-1-2; filed Mar 31, 1999, 10:31 a.m.: 22 IR 2482)*

50 IAC 15-1-2.5 "Commissioner" defined

Authority: IC 6-1.1-30-1.1; IC 6-1.1-31-1
Affected: IC 6-1.1-35.5-6

Sec. 2.5. "Commissioner" is the commissioner of the department of local government finance established under IC 6-1.1-30-1.1. *(Department of Local Government Finance; 50 IAC 15-1-2.5; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1516)*

50 IAC 15-1-2.6 "Department" defined

Authority: IC 6-1.1-30-1.1
Affected: IC 6-1.1-35.5-6

Sec. 2.6. "Department" is the department of local government finance established under IC 6-1.1-30-1.1. References to the department in this rule shall where necessary include its predecessor agency, the state board of tax commissioners. *(Department of Local Government Finance; 50 IAC 15-1-2.6; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1516)*

50 IAC 15-1-3 "Board" defined (Repealed)

Sec. 3. *(Repealed by Department of Local Government Finance; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1522)*

50 IAC 15-1-3.5 "Gross incompetence" defined

Authority: IC 6-1.1-31-1
Affected: IC 6-1.1

Sec. 3.5. (a) As applied to a certified assessor-appraiser, "gross incompetence" means repeated or pervasive failure to perform an assessment, including, but not limited to, the following:

(1) Repeated or pervasive failure to recognize and comply with the laws of the state that pertain to the assessment of tangible property, including, but not limited to, the following:

(A) IC 6-1.1-3 (personal property assessment procedures).
(B) IC 6-1.1-4 (real property assessment procedures).
(C) IC 6-1.1-5-14 (submission of assessed values to county auditor).
(D) IC 6-1.1-5.5-3 (sales disclosure form review).
(E) IC 6-1.1-7 (mobile home assessment procedures).
(F) IC 6-1.1-9 (assessment of undervalued or omitted property).
(G) IC 6-1.1-11 (property tax exemption procedures).
(H) IC 6-1.1-15 (review and appeal of assessment and correction of errors).
(I) IC 6-1.1-35.7 (assessor-appraiser standards).
(J) IC 6-1.1-37-2 (assessment violations by public officials or employees).

(2) Repeated or pervasive failure to recognize and comply with the rules of the department that pertain to assessment of tangible property, including, but not limited to, the following:

(A) 50 IAC 2.4 (real property assessment guidelines).
(B) 50 IAC 3.3 (mobile home assessment guidelines).
(C) 50 IAC 4.2 (personal property assessment guidelines).
(D) 50 IAC 5.1 (state distributable property assessment guidelines).
(E) 50 IAC 15-3 (assessor-appraiser certification standards).
(F) 50 IAC 27 (annual adjustment guidelines).
(G) 50 IAC 29 (golf course assessment procedures).

(3) Repeated or pervasive failure to acquire or maintain the knowledge necessary to complete an assessment competently as required by the department's rules listed in subdivision (2).

(4) Repeated or pervasive failure to conduct an assessment properly in accordance with Indiana statutes listed in subdivision (1).

(b) As applied to a tax representative or professional appraiser, "gross incompetence" means repeated or pervasive carelessness in the conduct of the duties of a tax representative or professional appraiser, including, but not limited to, the following:

(1) Repeated or pervasive failure to timely file, supply, or receive documents.
(2) Repeated or pervasive failure to provide correct data or information pertaining to the subject of an appeal.
(3) Repeated or pervasive failure to appear at hearings or meetings in person, electronically, or telephonically, as appropriate.
(4) Repeated or pervasive misstatement or misapplication, or both, of any aspect of Indiana property assessment or taxation.
(5) In the case of a tax representative only, repeated or pervasive failure to timely notify the tax representative's client of all matters relating to the review of the assessment of the client's property by the property tax assessment board of appeals, the Indiana board, or the department.

(Department of Local Government Finance; 50 IAC 15-1-3.5; filed Jul 11, 2016, 3:36 p.m.: 20160810-IR-050150165FRA)

50 IAC 15-1-4 "Professional appraiser" defined

Authority: IC 6-1.1-31-1; IC 6-1.1-31.7-3; IC 6-1.1-35.5-8
Affected: IC 6-1.1-4

Sec. 4. "Professional appraiser" means a professional appraiser or professional appraisal firm that contracts with a township or county under IC 6-1.1-4. *(Department of Local Government Finance; 50 IAC 15-1-4; filed Mar 31, 1999, 10:31 a.m.: 22 IR*

2482)

50 IAC 15-1-5 "Tax representative" defined (Repealed)

Sec. 5. *(Repealed by Department of Local Government Finance; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1522)*

Rule 2. Purpose

50 IAC 15-2-1 Purpose
Authority: IC 6-1.1-31-1; IC 6-1.1-31.7-3; IC 6-1.1-35.5-8
Affected: IC 6-1.1-31.7; IC 6-1.1-35.5

Sec. 1. The purpose of this article is to establish rules regarding the following:
(1) The training and education of assessor-appraisers certified under IC 6-1.1-35.5.
(2) Contracting with professional appraisers and appraisal firms required to be certified under IC 6-1.1-31.7.
(Department of Local Government Finance; 50 IAC 15-2-1; filed Mar 31, 1999, 10:31 a.m.: 22 IR 2482)

Rule 3. Assessor-Appraisers Certification

50 IAC 15-3-1 Level One requirements
Authority: IC 6-1.1-31-1; IC 6-1.1-35.5-8
Affected: IC 6-1.1

Sec. 1. In order to be certified as a Level One assessor-appraiser, an individual must:
(1) complete six (6) hours of Level One preexamination course work designated by the department;
(2) pass the Level One examination designated by the department; and
(3) complete the continuing education requirements specified in section 2 of this rule.
(Department of Local Government Finance; 50 IAC 15-3-1; filed Mar 31, 1999, 10:31 a.m.: 22 IR 2482; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1516)

50 IAC 15-3-2 Level One continuing education
Authority: IC 6-1.1-31-1; IC 6-1.1-35.5-8.5
Affected: IC 6-1.1

Sec. 2. (a) The continuing education requirements for Level One certification are thirty (30) hours of course work approved by the department.
(b) The continuing education requirements specified in this section must be obtained in twenty-four (24) month cycles, beginning January 1 of the first year following certification. *(Department of Local Government Finance; 50 IAC 15-3-2; filed Mar 31, 1999, 10:31 a.m.: 22 IR 2482; filed Dec 18, 2000, 11:01 a.m.: 24 IR 1302; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1516; filed Mar 26, 2007, 2:24 p.m.: 20070425-IR-050060172FRA; filed Jul 11, 2016, 3:36 p.m.: 20160810-IR-050150165FRA)*

50 IAC 15-3-3 Level Two requirements
Authority: IC 6-1.1-31-1; IC 6-1.1-35.5-4.5
Affected: IC 6-1.1

Sec. 3. In order to be certified as a Level Two assessor-appraiser, an individual must:
(1) complete Level Two preexamination course work designated by the department;
(2) pass the Level Two examination designated by the department;
(3) complete the continuing education requirements specified in section 4 of this rule; and

(4) attain certification as a Level One assessor-appraiser.
(Department of Local Government Finance; 50 IAC 15-3-3; filed Mar 31, 1999, 10:31 a.m.: 22 IR 2483; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1517; filed Dec 14, 2009, 2:34 p.m.: 20100113-IR-050090197FRA)

50 IAC 15-3-4 Level Two continuing education
Authority: IC 6-1.1-31-1; IC 6-1.1-35.5-8.5
Affected: IC 6-1.1

Sec. 4. (a) The continuing education requirements for Level Two certification are forty-five (45) hours of course work approved by the department.

(b) The continuing education requirements specified in this section must be obtained in twenty-four (24) month cycles, beginning January 1 of the first year following certification. *(Department of Local Government Finance; 50 IAC 15-3-4; filed Mar 31, 1999, 10:31 a.m.: 22 IR 2483; filed Dec 18, 2000, 11:01 a.m.: 24 IR 1302; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1517; filed Mar 26, 2007, 2:24 p.m.: 20070425-IR-050060172FRA; filed Jul 11, 2016, 3:36 p.m.: 20160810-IR-050150165FRA)*

50 IAC 15-3-5 Miscellaneous provisions
Authority: IC 6-1.1-31-1; IC 6-1.1-35.5-8
Affected: IC 6-1.1-4

Sec. 5. (a) The department shall maintain, publish, and distribute to each assessor-appraiser, a list of courses that have been accredited as approved assessor-appraiser continuing education courses. Courses that are not included on the list may be submitted for inclusion and will, at the discretion of the department, be accredited.

(b) A certified assessor-appraiser that meets the continuing education requirements of section 4 of this rule is not required to meet the continuing education requirements of section 3 of this rule in order to maintain their Level One certification.

(c) An assessor-appraiser holding a valid certification on January 1, 1999, shall be deemed certified under this rule. *(Department of Local Government Finance; 50 IAC 15-3-5; filed Mar 31, 1999, 10:31 a.m.: 22 IR 2483; filed Dec 18, 2000, 11:01 a.m.: 24 IR 1302; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1517)*

50 IAC 15-3-6 Revocation of certification
Authority: IC 6-1.1-31-1; IC 6-1.1-35.5-4.5
Affected: IC 6-1.1-4; IC 6-1.1-35.5-6; IC 6-1.1-35.7

Sec. 6. (a) The department may revoke the Level One, Level Two, or Level Three assessor-appraiser certification of an individual for:
(1) conduct proscribed by IC 6-1.1-35.5-6(b);
(2) gross incompetence in the performance of an assessment; or
(3) noncompliance with:
(A) the continuing education provisions of this article;
(B) the provisions of the contract entered under IC 6-1.1-4; or
(C) assessing laws under IC 6-1.1 and rules of the department.
(b) The revocation procedure shall be initiated by the department's issuance of a notice to the respondent. The notice shall:
(1) be sent by certified mail, return receipt requested;
(2) contain a clear and concise statement detailing the alleged misconduct;
(3) state the time and place for a hearing not less than ninety (90) days from the date of mailing the notice; and
(4) inform the respondent:
(A) of the information contained in subsections (d) and (g); and
(B) that the failure to attend the hearing without good cause may constitute grounds for default entered in favor of the department, as well as the sanction imposed.
(c) The department shall appoint a hearing officer for purposes of these proceedings. The hearing officer may by prior written

notice:

(1) conduct any prehearing proceedings:

(A) requested by either party; or

(B) that the hearing officer determines may aid in the ultimate resolution of the proceedings; and

(2) allow informal discovery subject to any terms and conditions the hearing officer deems to be appropriate.

(d) The revocation hearing shall be conducted on the record and as follows:

(1) The respondent:

(A) may be represented by counsel; and

(B) shall have the right to:

(i) present witnesses and evidence on the respondent's own behalf; and

(ii) cross-examine the department's witnesses or evidence.

(2) The burden of proof shall be on the department to prove the violation or violations alleged by a preponderance of the evidence.

(3) No continuance shall be granted except upon a showing of good cause.

(e) The hearing officer may consider any of the following in recommending to the commissioner whether respondent's Level One, Level Two, or Level Three assessor-appraiser certification should be revoked:

(1) The seriousness of the violation that gave rise to the proceedings.

(2) Whether the violation is likely to recur.

(3) The respondent's character, including remorse, if any.

(4) Whether the respondent's continued status as a Level One, Level Two, or Level Three assessor-appraiser would pose an undue risk to the public.

(5) Any other factor the hearing officer determines to be appropriate under the circumstances.

(f) The hearing officer shall submit a written recommendation for final action to the commissioner. The recommendation shall contain the reasons for the hearing officer's determination of the sanction, if any, to be imposed. The commissioner is not bound by the hearing officer's recommendation.

(g) If the commissioner determines that a violation of section 2(a) of this rule has occurred, the commissioner may take any of the following remedies with respect to the respondent:

(1) Decline to issue any sanction.

(2) Issue a written reprimand admonishing the respondent for the violation.

(3) Suspend the respondent's Level One, Level Two, or Level Three assessor-appraiser certification for a period of up to one (1) year, at the conclusion of which the respondent shall be automatically reinstated, provided that the respondent meets all the educational requirements for a Level One, Level Two, or Level Three assessor-appraiser certification, as applicable to the proceedings.

(4) Revoke the respondent's certification for not more than three (3) years.

(h) The commissioner may take any of the remedies provided in subsection (g)(1) through (g)(3) if the respondent demonstrates through an affidavit signed under the penalties of perjury that the respondent was unable to satisfy one (1) or more of the conditions required to maintain the respondent's certification due to a natural disaster, accident, or other unanticipated emergency. The commissioner may request supporting documentation to supplement the affidavit.

(i) The commissioner's determination as to which of the actions under subsection (g) to take regarding the respondent's certification shall be based on the following factors:

(1) The severity of the violation.

(2) The nature of the natural disaster, accident, or other unanticipated emergency the respondent claims prevented the respondent from satisfying the condition or conditions required to maintain the respondent's certification.

(3) The respondent's previous compliance with or violation of the conditions required to maintain the respondent's certification.

(j) The determination of the commissioner constitutes a final appealable order of the department. *(Department of Local Government Finance; 50 IAC 15-3-6; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1518; filed Dec 14, 2009, 2:34 p.m.: 20100113-IR-050090197FRA; filed Jul 11, 2016, 3:36 p.m.: 20160810-IR-050150165FRA)*

50 IAC 15-3-7 Level Three requirements

Authority: IC 6-1.1-31-1; IC 6-1.1-35.5-4.5
Affected: IC 6-1.1-4; IC 6-1.1-35.5-6

Sec. 7. (a) In order to be certified as a Level Three assessor-appraiser, an individual must do the following:

(1) Attain certification as a Level Two assessor-appraiser under 50 IAC 15-3-3.

(2) Successfully complete the following core curriculum:

(A) International Association of Assessing Officers (IAAO) Course 101, Fundamentals of Real Property Appraisal, or an equivalent course approved by the department.

(B) IAAO Course 102, Income Approach to Value, or an equivalent course approved by the department.

(C) IAAO Course 300, Fundamentals of Mass Appraisal, or an equivalent course approved by the department.

(D) IAAO Course 400, Assessment Administration, or an equivalent course approved by the department.

(E) IAAO Uniform Standards of Professional Appraisal Practice (USPAP) Workshop 151: Uniform Standards of Appraisal Practice, or an equivalent course approved by the department.

(3) Complete the continuing education requirements specified in section 8 of this rule.

(b) "Course sponsor" means a nationally recognized assessing organization, appraisal organization, postsecondary educational institution, or other education delivery organization approved by the department under this section to offer courses approved by the department for Level Three assessor-appraiser certification.

(c) To be approved by the department as an approved course sponsor, a potential course sponsor must demonstrate that it will provide the following:

(1) Faculty consisting of instructors certified as Level Three assessor-appraisers or who can provide documentation of comparable professional certification or designation.

(2) One (1) or more of the courses listed in subsection (a)(2)(A) through (a)(2)(E).

(d) In order to demonstrate that it meets the requirements of subsection (c), a potential course sponsor must submit the following to the department on an application prescribed by the department:

(1) The name and contact information of the potential course sponsor.

(2) A brief description and schedule of all planned courses for which the course sponsor is seeking approval.

(3) Written policies on the following:

(A) Attendance.

(B) Cancellations.

(C) Refunds.

(D) Inclement weather.

(E) Insufficient enrollment.

(F) Failure of an instructor to preside over class sessions.

(G) Timely grading of final examination and notification of results.

(4) A brief description of the potential course sponsor's capability to develop and deliver consistent, quality education and the commitment to continuous improvement and excellence in education.

(5) Documentation showing that the potential course sponsor has or will have faculty consisting of individuals certified as Level Three assessor-appraisers or who can provide documentation of comparable professional certification or designation.

The department will make a determination on the application and will inform the sponsor in writing of the approval or disapproval of course sponsorship and the reason or reasons therefor.

(e) The department may approve a course that is the equivalent of an IAAO course listed in subsection (a)(2)(A) through (a)(2)(E). A course may be determined by the department to be such an equivalent upon a showing that the course contains the following:

(1) Instruction on one (1) of the following subjects:

(A) Fundamentals of real property appraisal.

(B) Income approach to value.

(C) Fundamentals of mass appraisal.

(D) Assessment administration.

(E) USPAP.

(2) Substantially similar topic coverage as a course listed in subsection (a)(2)(A) through (a)(2)(E).

(3) Substantially similar learning objectives as a course listed in subsection (a)(2)(A) through (a)(2)(E) that:

(A) conform to the learning objectives achieved by the IAAO in the courses enumerated in subsection (a)(2)(A) through (a)(2)(E);

(B) clearly state the specific knowledge and skills students are expected to acquire by completing the course;

(C) are consistent with the course description;

(D) are consistent with the instructional materials; and

(E) are reasonably achievable within the number of classroom hours allotted for the course.

(4) Substantially similar student and instructor materials as a course listed in subsection (a)(2)(A) through (a)(2)(E) that:

(A) cover the subject matter in sufficient depth to achieve the learning objectives of the course;

(B) provide appropriately balanced coverage of the subject matter in view of the stated course learning objectives; and

(C) reflect current knowledge and practice.

(5) Substantially similar testing given at the end of the course that is closed book, proctored, and evaluates the students on the cumulative material covered in the course.

(f) To obtain approval for a course under subsection (e), the course sponsor shall provide to the department the following at least one hundred eighty (180) days prior to the first scheduled class session:

(1) An application on a form prescribed by the department. The application shall contain the following information:

(A) The course title.

(B) The name and contact information of the course sponsor.

(C) The date or dates upon which the course shall begin and end.

(D) Number of credit hours offered, including hours for taking the final examination.

(E) The manner of course presentation.

(F) A statement that this course is equivalent to one (1) of the courses enumerated in subsection (a)(2)(A) through (a)(2)(E).

(2) The following supporting documentation:

(A) A sample of the final examination and answer key.

(B) A course outline that accounts for the general flow and recommended time spent on topics contained within the course.

(C) A course description clearly describing the content and specific learning objectives of the course.

(D) A document certifying satisfactory completion that shall be issued to each student upon taking and passing the final examination of the course.

The department will make a determination on the application and will inform the course sponsor in writing of the approval or disapproval of the course and the reasons therefor.

(g) The department may withdraw approval of a course sponsor upon a finding by the department that an approved course is no longer an equivalent course. *(Department of Local Government Finance; 50 IAC 15-3-7; filed Dec 14, 2009, 2:34 p.m.: 20100113-IR-050090197FRA; filed Jul 11, 2016, 3:36 p.m.: 20160810-IR-050150165FRA)*

50 IAC 15-3-8 Level Three continuing education

Authority: IC 6-1.1-31-1; IC 6-1.1-35.5-4.5
Affected: IC 6-1.1-4; IC 6-1.1-35.5-6

Sec. 8. (a) The continuing education requirements for Level Three certification are forty-five (45) hours of course work approved by the department.

(b) For education cycles beginning on or after January 1, 2010, the continuing education requirements specified in this section must be obtained in twenty-four (24) month cycles, beginning January 1 of the first year following certification. *(Department of Local Government Finance; 50 IAC 15-3-8; filed Dec 14, 2009, 2:34 p.m.: 20100113-IR-050090197FRA)*

Rule 4. Professional Appraisers

50 IAC 15-4-1 Certification requirements

Authority: IC 6-1.1-31-1; IC 6-1.1-31.7-3
Affected: IC 6-1.1

Sec. 1. (a) To be designated as a professional appraiser, an individual must:

(1) be a certified Level Two assessor-appraiser under IC 6-1.1-35.5, but must, by December 31, 2013, be a certified Level Three assessor-appraiser under IC 6-1.1-35.5;

(2) enter a contract that contains all applicable standard contract provisions developed by the department under IC 6-1.1-4-19.5;

(3) specify in the contract entered under IC 6-1.1-4-19.5 that the contract is void if the individual's appraiser certification, issued under IC 6-1.1-31.7, is revoked; and

(4) specify in the contract entered under IC 6-1.1-4-19.5 the precise contractual duties that:

(A) the professional appraiser will personally:

(i) fulfill; and

(ii) review, direct, administer, supervise, or oversee;

(B) will be conducted by an administrative assistant or any person other than the professional appraiser; and

(C) will remain the responsibility of the township or county.

(b) Professional appraisers that are firms must:

(1) employ a certified Level Two assessor-appraiser under IC 6-1.1-35.5, but must, by December 31, 2013, employ a certified Level Three assessor-appraiser under IC 6-1.1-35.5;

(2) enter a contract that contains all applicable standard contract provisions developed by the department under IC 6-1.1-4-19.5, including, specifically, provisions for sanctions;

(3) specify in the contract entered under IC 6-1.1-4-19.5 that the contract is void if the firm's appraiser certification, issued under IC 6-1.1-31.7, is revoked; and

(4) specify in the contract entered under IC 6-1.1-4 the precise contractual duties that:

(A) a certified Level Two assessor-appraiser will personally fulfill, but, after December 31, 2013, the precise contractual duties a certified Level Three assessor-appraiser will personally fulfill;

(B) a certified Level Two assessor-appraiser will personally review, direct, administer, supervise, or oversee, but after December 31, 2013, the precise contractual duties that a certified Level Three assessor-appraiser will personally review;

(C) will be conducted by administrative personnel or any person other than a certified Level Two assessor-appraiser, but after December 31, 2013, the precise contractual duties that will be conducted by administrative personnel or any person other than a certified Level Three assessor-appraiser; and

(D) will remain the responsibility of the township or county.

(Department of Local Government Finance; 50 IAC 15-4-1; filed Mar 31, 1999, 10:31 a.m.: 22 IR 2483; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1518; filed Dec 14, 2009, 2:34 p.m.: 20100113-IR-050090197FRA)

50 IAC 15-4-2 Revocation of certification

Authority: IC 6-1.1-31-1; IC 6-1.1-31.7-3
Affected: IC 6-1.1-31.7-4

Sec. 2. (a) In addition to the grounds listed in IC 6-1.1-31.7-4, the following are grounds on which the department may revoke a certification issued to a firm or appraiser under section 1 of this rule for at least three (3) years:

(1) Knowingly misrepresenting any information or acting in a fraudulent manner.

(2) Knowingly holding oneself out as representing an entity in a property assessment appeal without authorization from the entity.

(3) Knowingly submitting false or erroneous information in a property assessment appeal.

(4) Acting with gross incompetence.

(5) Knowingly violating any rule applicable to certification or practice before the department or the property tax assessment

board of appeals.

With respect to the ground described in IC 6-1.1-31.7-4(a)(1), the department may revoke a certification if the appraiser applicant provided false information knowingly.

(b) If the commissioner determines that a violation of subsection (a) has occurred, the commissioner may take any of the following remedies with respect to the firm or appraiser:

(1) Decline to issue any sanction.

(2) Issue a written reprimand admonishing the firm or appraiser for the violation.

(3) Suspend the firm's or appraiser's certification for a period of up to one (1) year, at the conclusion of which the certification shall be automatically reinstated, provided that the firm or appraiser meets the department's minimum requirements for certification.

(4) Revoke the firm's or appraiser's certification.

(c) In determining which of the remedies provided in subsection (b) to take, the commissioner may request documents, statements, or information from the firm, appraiser, or any other entity.

(d) The commissioner's determination as to which of the actions under subsection (b) to take regarding the firm's or appraiser's certification shall be based on the following factors:

(1) The seriousness of the violation.

(2) Whether the violation is likely to recur.

(3) The firm's or appraiser's character, including remorse, if any.

(4) Whether the firm's or appraiser's continued certification would pose an undue risk to the public.

(Department of Local Government Finance; 50 IAC 15-4-2; filed Jul 11, 2016, 3:36 p.m.: 20160810-IR-050150165FRA)

Rule 5. Tax Representatives

50 IAC 15-5-1 Definitions

Authority: IC 6-1.1-31-1
Affected: IC 6-1.1-2-4; IC 6-1.1-15; IC 6-1.1-28-1; IC 6-1.5

Sec. 1. The following definitions apply throughout this rule:

(1) "Indiana board" means the Indiana board of tax review established under IC 6-1.5, et seq.

(2) "Practice before the property tax assessment board of appeals or the department" is the participation in all matters connected with a presentation to the property tax assessment board of appeals, the department, or any of their officers or employees relating to a client's rights, privileges, or liabilities under Indiana's property tax laws or rules. Such presentations include the following:

(A) Preparing and filing necessary documents, except personal property returns.

(B) Corresponding and communicating with the property tax assessment board of appeals or the department.

(C) Representing a client at hearings, on-site inspections, and meetings.

(3) "Property tax assessment board of appeals" is the county property tax assessment board of appeals established under IC 6-1.1-28-1.

(4) "Tax representative" is a person who represents another person at a proceeding before the property tax assessment board of appeals or the department. The term does not include:

(A) the owner of the property (or person liable for the taxes under IC 6-1.1-2-4) that is the subject of the appeal;

(B) a permanent full-time employee of the owner of the property (or person liable for the taxes under IC 6-1.1-2-4) who is the subject of the appeal;

(C) representatives of local units of government appearing on behalf of the unit;

(D) a certified public accountant, when the certified public accountant is representing a client in a matter that relates only to personal property taxation; or

(E) an attorney who is a member in good standing of the Indiana bar or any person who is a member in good standing of any other state bar.

(Department of Local Government Finance; 50 IAC 15-5-1; filed Dec 5, 2000, 2:32 p.m.: 24 IR 947; filed Dec 13, 2002, 3:20 p.m.:

26 IR 1519; filed Jul 11, 2016, 3:36 p.m.: 20160810-IR-050150165FRA)

50 IAC 15-5-2 Practice requirements

Authority: IC 6-1.1-31-1
Affected: IC 6-1.1

Sec. 2. (a) In order to practice before the property tax assessment board of appeals or the department, a tax representative must:

(1) beginning July 1, 2001, be properly certified in writing by the department; and

(2) have a copy of a properly executed power of attorney from the taxpayer.

The power of attorney shall be on the form prescribed by the department and need not be refiled if the form is later revised.

(b) Property tax representatives may not be certified to practice before the property tax assessment board of appeals or the department for:

(1) matters relating to real and personal property exemptions claimed on a Form 132 or 136;

(2) claims that assessments or taxes are "illegal as a matter of law", whether brought on a Form 133 under IC 6-1.1-15-12(a)(6), on a Form 17-T under IC 6-1.1-26-1(4), on a Form 130 under IC 6-1.1-15-1, or otherwise;

(3) claims regarding the constitutionality of an assessment; or

(4) other representation that involves the practice of law.

(c) Individuals who apply for certification or recertification as a tax representative must furnish evidence to the department that they:

(1) are at least eighteen (18) years of age;

(2) hold a high school diploma or equivalent credential;

(3) are a certified Level Two assessor-appraiser, but, after December 31, 2013, they must furnish evidence that they are a certified Level Three assessor-appraiser;

(4) have completed the educational course requirements of all rules adopted by the department related to procedures for practice before the property tax assessment board of appeals or the department; and

(5) have fully complied with all rules adopted by the department regarding:

(A) professional conduct and ethical considerations; and

(B) client solicitation.

(d) A person who fulfills the requirements of subsection (c) shall be granted a written certification that shall be effective upon issuance by the department. *(Department of Local Government Finance; 50 IAC 15-5-2; filed Dec 5, 2000, 2:32 p.m.: 24 IR 947; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1520; filed Dec 14, 2009, 2:34 p.m.: 20100113-IR-050090197FRA)*

50 IAC 15-5-3 Recertification

Authority: IC 6-1.1-31-1
Affected: IC 6-1.1

Sec. 3. Tax representative certifications expire on the same date as the tax representative's certification as a Level Two assessor-appraiser under 50 IAC 15-3-4, but, after December 31, 2013, tax representative certifications expire on the same date as the tax representative's certification as a Level Three assessor-appraiser under 50 IAC 15-3-7. *(Department of Local Government Finance; 50 IAC 15-5-3; filed Dec 5, 2000, 2:32 p.m.: 24 IR 948; filed Dec 14, 2009, 2:34 p.m.: 20100113-IR-050090197FRA)*

50 IAC 15-5-4 Course work

Authority: IC 6-1.1-31-1
Affected: IC 6-1.1

Sec. 4. (a) Beginning January 1, 2002, a tax representative must, within each forty-eight (48) month continuing education certification cycle under 50 IAC 15-3-4, complete twelve (12) hours of course work that has been designated as tax representative practice course work approved by the department. Of the twelve (12) hours of tax representative practice course work, three (3)

hours must relate to:

(1) professional conduct;

(2) ethical considerations; or

(3) client communications.

(b) The course work completed under this section will be credited toward the total continuing education course work required to maintain a Level Two assessor-appraiser certification under 50 IAC 15-3-4, but, after December 31, 2013, the course work completed under this section will be credited toward the total continuing education course work required to maintain a Level Three assessor-appraiser certification under 50 IAC 15-3-7. *(Department of Local Government Finance; 50 IAC 15-5-4; filed Dec 5, 2000, 2:32 p.m.: 24 IR 948; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1520; filed Dec 14, 2009, 2:34 p.m.: 20100113-IR-050090197FRA)*

50 IAC 15-5-5 Communication with client or prospective client

Authority: IC 6-1.1-31-1
Affected: IC 6-1.1-2-4

Sec. 5. (a) A certified property tax representative shall not use or participate in the use of any false, fraudulent, unduly influencing, coercive, unfair, misleading, or deceptive statement or claims with respect to any matter relating to the practice before the property tax assessment board of appeals or the department.

(b) Beginning January 1, 2001, a property tax representative shall advise the client or prospective client in writing, using a typeface of not less than 12-point, either on the power of attorney or in some other form that may be reasonably interpreted by the taxpayer (the property owner, or person liable for the taxes under IC 6-1.1-2-4) to set forth the rights of the taxpayer with regard to his or her appeal, the following:

"I understand that by authorizing _____ to serve as my certified property tax representative, I am aware of and accept the possibility that the property value may increase as a result of filing an administrative appeal with the property tax assessment board of appeals and that I may be compelled to appear at a hearing before the property tax assessment board of appeals or the department of local government finance.

I further understand that the certified property tax representative is not an attorney and may not present arguments of a legal nature on my behalf.".

(c) The disclosure shall be signed by the taxpayer. The certified property tax representative shall provide the taxpayer with a copy of the disclosure and shall be required to provide a copy of the disclosure to the property tax assessment board of appeals. Failure to provide a signed copy of disclosure upon request may be grounds for an action for revocation of the tax representative's certification under 50 IAC 15-5-8. *(Department of Local Government Finance; 50 IAC 15-5-5; filed Dec 5, 2000, 2:32 p.m.: 24 IR 948; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1520)*

50 IAC 15-5-6 Prohibitions; obligations

Authority: IC 6-1.1-31-1
Affected: IC 6-1.1-2-4

Sec. 6. A certified tax representative shall:

(1) not knowingly use or participate in the use of any false, fraudulent, unduly influencing, coercive, unfair, misleading, or deceptive statement or claims with respect to any matter relating to the practice before the property tax assessment board of appeals or the department;

(2) not knowingly misrepresent any information or act in a fraudulent manner;

(3) not prepare documents or provide evidence in a property assessment appeal unless the representative is authorized by the property owner (or person liable for the taxes under IC 6-1.1-2-4) to do so and any required authorization form has been filed;

(4) not knowingly submit false or erroneous information in a property assessment appeal;

(5) not perform his or her duties in a grossly incompetent manner;

(6) not knowingly violate any rule applicable to certification or practice before the department or the property tax assessment

board of appeals;

(7) use the appraisal standards and methods required by rules adopted by the department, Indiana board, or property tax assessment board of appeals when the representative submits appraisal information in a property assessment appeal; and

(8) notify the property owner (or person liable for the taxes under IC 6-1.1-2-4) of all matters relating to the review of the assessment of taxpayers' property before the property tax assessment board of appeals or the department, including, but not limited to, the following:

(A) The tax representative's filing of all necessary documents, correspondence, and communications with the property tax assessment board of appeal or department.

(B) The dates and substance of all hearings, on-site inspections, and meetings.

(Department of Local Government Finance; 50 IAC 15-5-6; filed Dec 5, 2000, 2:32 p.m.: 24 IR 948; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1521; filed Jul 11, 2016, 3:36 p.m.: 20160810-IR-050150165FRA)

50 IAC 15-5-7 Contingent fees

Authority: IC 6-1.1-31-1
Affected: IC 6-1.1

Sec. 7. (a) In the event a tax representative or the entity with which the tax representative is affiliated charges a contingent fee for any matter relating to practice before the property tax assessment board of appeals, the Indiana board or the department, the tax representative must disclose, upon request, the existence of a contingent fee arrangement to the property tax assessment board of appeals, Indiana board, or department.

(b) As used in this section, "contingent fee" includes a fee charged by the tax representative or the entity with which the tax representative is affiliated that is based on:

(1) a percentage of the refund obtained;

(2) a percentage of the taxes saved; or

(3) a percentage of the reduction in property value.

(c) Failure to disclose the existence of a contingent fee arrangement may result in the presumption that a contingent fee arrangement exists, revocation of certification, or other discipline as provided in this article. *(Department of Local Government Finance; 50 IAC 15-5-7; filed Dec 5, 2000, 2:32 p.m.: 24 IR 949; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1521)*

50 IAC 15-5-8 Certification; revocation

Authority: IC 6-1.1-31-1
Affected: IC 6-1.1-35.7-7

Sec. 8. (a) With respect to the grounds by which the department may revoke the certification under IC 6-1.1-35.7-7:

(1) a violation of the standards of ethics or rules of solicitation adopted by the department, as provided in IC 6-1.1-35.7-7(5), refers to a violation of section 2(a) or section 6 of this rule, or both; and

(2) "material deception" means a falsehood, made by word or act, with the intent to mislead or misrepresent.

(b) The revocation procedure shall be initiated by the department's issuance of a notice to the respondent. The notice shall:

(1) be sent by certified mail, return receipt requested;

(2) contain a clear and concise statement detailing the alleged misconduct;

(3) state the time and place for a hearing that is not less than ninety (90) days from the date of mailing the notice; and

(4) inform the respondent:

(A) of the information contained in subsections (d) and (g); and

(B) that the failure to attend the hearing without good cause may constitute grounds for default entered in favor of the state board or the department, as well as the sanction imposed.

(c) The department shall appoint a hearing officer for purposes of these proceedings. The hearing officer may, with prior written notice to the parties:

(1) conduct any prehearing proceedings:

(A) requested by either party; or

(B) that the hearing officer determines may aid in the ultimate resolution of the proceedings; and

(2) allow informal discovery subject to any terms and conditions the hearing officer deems to be appropriate.

(d) The revocation hearing shall be conducted on the record subject to the following:

(1) The respondent:

(A) may be represented by counsel; and

(B) shall have the right to:

(i) present witnesses and evidence on the respondent's own behalf; and

(ii) cross-examine the department's witnesses or evidence.

(2) The burden of proof shall be on the department to prove the violation or violations alleged by a preponderance of the evidence.

(3) No continuance shall be granted except upon a showing of good cause.

(e) The hearing officer may consider any of the following in recommending to the commissioner whether the respondent's tax representative certification should be revoked:

(1) The seriousness of the violation that gave rise to the proceedings.

(2) Whether the violation is likely to recur.

(3) The respondent's character, including remorse, if any.

(4) Whether the respondent's continued status as a tax representative would pose an undue risk to the public.

(5) Any other factor the hearing officer determines to be appropriate under the circumstances.

(f) The hearing officer shall submit a recommendation for final action to the commissioner. The recommendation shall contain the reasons for the hearing officer's determination of the sanction, if any, to be imposed. The commissioner is not bound by the recommendation.

(g) If the commissioner determines that a violation of section 2(a) or section 6 of this rule, or both, has occurred, the commissioner may take any of the following remedies with respect to the respondent:

(1) Decline to issue any sanction.

(2) Issue a written reprimand admonishing the respondent for the violation.

(3) Suspend the respondent's Level One, Level Two, or Level Three assessor-appraiser certification for a period of up to one (1) year, at the conclusion of which the respondent shall be automatically reinstated, provided that respondent meets all educational requirements for a tax representative certification.

(4) Revoke the certification of the respondent for a period of not less than one (1) year, and not more than three (3) years, at the conclusion of which respondent may petition the department for reinstatement provided that respondent meets all of the criteria for certification under this rule.

(h) The commissioner's determination as to which of the actions under subsection (g) to take regarding the respondent shall be based on any of the following factors:

(1) The seriousness of the violation that gave rise to the proceedings.

(2) Whether the violation is likely to recur.

(3) The respondent's character, including remorse, if any, and the respondent's previous compliance with or violation of the rules governing the conduct of a tax representative.

(i) The determination of the commissioner constitutes a final appealable order of the department. *(Department of Local Government Finance; 50 IAC 15-5-8; filed Dec 5, 2000, 2:32 p.m.: 24 IR 949; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1521; filed Dec 14, 2009, 2:34 p.m.: 20100113-IR-050090197FRA; filed Jul 11, 2016, 3:36 p.m.: 20160810-IR-050150165FRA)*

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