TITLE 876 INDIANA REAL ESTATE COMMISSION

ARTICLE 1. GENERAL PROVISIONS

Rule 1. Definitions; Licensing; Miscellaneous Provisions

876 IAC 1-1-1 Authority; purpose

Authority: IC 25-34.1-2-5
Affected: IC 25-34.1

Sec. 1. The fundamental and primary purpose of the real estate commission is to safeguard the public interest through encouraging and requiring high standards of knowledge; through encouraging ethical practices; through disciplining of licensees who engage in dishonest, fraudulent, or criminal activities in the conduct of real estate transactions; and through causing the prosecution of any person who violates IC 25-34.1 and the rules of the commission. *(Indiana Real Estate Commission; Rule 2; filed Sep 28, 1977, 4:30 p.m.: Rules and Regs. 1978, p. 794; filed Dec 9, 1988, 1:25 p.m.: 12 IR 925, eff Jan 8, 1989; errata filed Dec 21, 1988, 3:45 p.m.: 12 IR 1209; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824; readopted filed Jul 19, 2007, 12:57 p.m.: 20070808-IR-876070067RFA)*

876 IAC 1-1-2 Effective date (Repealed)

Sec. 2. *(Repealed by Indiana Real Estate Commission; filed Dec 11, 1986, 10:40 pm: 10 IR 881)*

876 IAC 1-1-3 Definitions

Authority: IC 25-34.1-2-5; IC 25-34.1-2-5.1
Affected: IC 25-34.1-3-2; IC 25-34.1-5

Sec. 3. (a) The definitions in this section apply throughout this title.

(b) "Person" means an individual, partnership, or corporation.

(c) "Commission" means the Indiana real estate commission.

(d) "Real estate" means any right, title, or interest in real property.

(e) "License" means a right to perform, for compensation, any of the acts provided in IC 25-34.1-3-2, as evidenced by a valid pocket card issued by the Indiana real estate commission.

(f) "Licensee" means one who holds a valid salesperson or broker license issued by the commission.

(g) "Course approval" means approval of a broker or a salesperson course granted under IC 25-34.1-5 and 876 IAC 2, which is not expired, suspended, or revoked.

(h) "Licensing agency" means the Indiana professional licensing agency.

(i) "Principal broker" means the individual broker, including the broker designated as representative of a corporation or partnership whom the commission shall hold responsible for the actions of licensees who are assigned to the principal broker.

(j) "Listing principal broker" means a principal broker who has a written contract with an owner, allowing him to sell, buy, trade, exchange, option, lease, rent, manage, list, or appraise real estate.

(k) "Selling principal broker" means a principal broker who is acting on behalf of the buyer and who provides an accepted offer to purchase to the seller.

(l) "Managing broker" means a broker who manages a branch office.

(m) "Branch office" means a real estate broker's office other than his principal place of business.

(n) "Broker" means any person, partnership, or corporation, who holds a valid broker's license issued by the commission. A person who, for consideration:

(1) sells;
(2) buys;
(3) trades;
(4) exchanges;
(5) options;
(6) leases;
(7) rents;

(8) manages;
(9) lists;
(10) refers; or
(11) appraises;
real estate or negotiates or offers to perform any of those acts.

(o) "Salesperson" means any person holding a valid salesperson's license issued by the commission. An individual, other than a broker, who, for consideration and in association with and under the auspices of a principal broker:
(1) sells;
(2) buys;
(3) trades;
(4) exchanges;
(5) options;
(6) leases;
(7) rents;
(8) manages; or
(9) lists;
real estate or negotiates or offers to perform any of those acts.

(p) "Broker-salesperson" means an individual who meets all the legal requirements of a broker but elects to operate in association with and under the auspices of a principal broker to whom his license is assigned. The broker-salesperson is subject to all rules and regulations applying to salespersons in association with a principal broker.

(q) "He" shall also mean she.

(r) "Owner/seller" means that person or persons of record in titled to having an interest in the property or their duly authorized representative.

(s) "Referral" means the act of recommending or referring a sales lead that develops a client or customer.

(t) "Referral service" means a company or part of a company or franchise system established for the purpose of recommending or referring client or customer leads to other brokers. *(Indiana Real Estate Commission; Rule 4; filed Sep 28, 1977, 4:30 p.m.: Rules and Regs. 1978, p. 794; filed Mar 13, 1980, 2:30 p.m.: 3 IR 646; filed Dec 11, 1986, 10:40 a.m.: 10 IR 874; filed Dec 9, 1988, 1:25 p.m.: 12 IR 925, eff Jan 8, 1989; errata filed Dec 21, 1988, 3:45 p.m.: 12 IR 1209; errata filed May 15, 1989, 2:20 p.m.: 12 IR 1907; filed Jun 14, 1995, 11:00 a.m.: 18 IR 2785; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824; filed Aug 15, 2001, 9:50 a.m.: 25 IR 101; readopted filed Jul 19, 2007, 12:57 p.m.: 20070808-IR-876070067RFA)*

876 IAC 1-1-4 Licensing requirements (Repealed)

Sec. 4. *(Repealed by Indiana Real Estate Commission; filed Mar 13, 1980, 2:50 pm: 3 IR 649)*

876 IAC 1-1-5 Approval of courses of study; application; criteria (Repealed)

Sec. 5. *(Repealed by Indiana Real Estate Commission; filed Dec 9, 1988, 1:25 p.m.: 12 IR 936, eff Jan 8, 1989; errata filed Dec 21, 1988, 3:45 p.m.: 12 IR 1209)*

876 IAC 1-1-6 Examinations (Repealed)

Sec. 6. *(Repealed by Indiana Real Estate Commission; filed Mar 13, 1980, 2:50 pm: 3 IR 649)*

876 IAC 1-1-6.5 Examinations; passing score (Repealed)

Sec. 6.5. *(Repealed by Indiana Real Estate Commission; filed Dec 9, 1988, 1:25 p.m.: 12 IR 936, eff Jan 8, 1989; errata filed Dec 21, 1988, 3:45 p.m.: 12 IR 1209)*

876 IAC 1-1-7 Application for examination; fee; instructors (Repealed)

Sec. 7. *(Repealed by Indiana Real Estate Commission; filed Dec 9, 1988, 1:25 p.m.: 12 IR 936, eff Jan 8, 1989; errata filed Dec 21, 1988, 3:45 p.m.: 12 IR 1209)*

876 IAC 1-1-7.5 Extension of application deadline for subsequent application (Repealed)

Sec. 7.5. *(Repealed by Indiana Real Estate Commission; filed Dec 30, 1981, 3:25 pm: 5 IR 399)*

876 IAC 1-1-8 Name included on list of qualified applicants (Repealed)

Sec. 8. *(Repealed by Indiana Real Estate Commission; filed Mar 13, 1980, 2:50 pm: 3 IR 649)*

876 IAC 1-1-9 Payment of fees and submission of documents after passing (Repealed)

Sec. 9. *(Repealed by Indiana Real Estate Commission; filed Mar 13, 1980, 2:50 pm: 3 IR 649)*

876 IAC 1-1-10 Application of salesperson for broker's license (Repealed)

Sec. 10. *(Repealed by Indiana Real Estate Commission; filed Mar 13, 1980, 2:50 pm: 3 IR 649)*

876 IAC 1-1-11 Application for corporation or partnership license

Authority: IC 25-34.1-2-5
Affected: IC 25-34.1-3-3.1

Sec. 11. Applicants for licensure as a corporation, or partnership must have a sponsoring or responsible individual duly licensed as a real estate broker within the partnership or corporation. All licensees associated with the brokerage firm shall be supervised on site by said responsible broker. All employees, agents, and officers of said corporation who intend to or do engage in the sale of real estate or perform duties of real estate salespersons or brokers must possess an active broker's or salesperson's license. All corporations must provide a copy of the Certificate of Incorporation with the application for licensure. *(Indiana Real Estate Commission; Rule 12; filed Sep 28, 1977, 4:30 pm: Rules and Regs. 1978, p. 798; filed Sep 12, 1978, 3:46 pm: 1 IR 718; filed Dec 11, 1986, 10:40 am: 10 IR 877; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824; readopted filed Jul 19, 2007, 12:57 p.m.: 20070808-IR-876070067RFA)*

876 IAC 1-1-12 Partnership license (Repealed)

Sec. 12. *(Repealed by Indiana Real Estate Commission; filed Dec 11, 1986, 10:40 am: 10 IR 881)*

876 IAC 1-1-13 Expiration of license; reinstatement (Repealed)

Sec. 13. *(Repealed by Indiana Real Estate Commission; filed Mar 13, 1980, 2:50 pm: 3 IR 649)*

876 IAC 1-1-14 Reinstatement of inactive license (Repealed)

Sec. 14. *(Repealed by Indiana Real Estate Commission; filed Mar 13, 1980, 2:50 pm: 3 IR 649)*

876 IAC 1-1-15 Schedule of fees (Repealed)

Sec. 15. *(Repealed by Indiana Real Estate Commission; filed Mar 13, 1980, 2:50 pm: 3 IR 649)*

876 IAC 1-1-16 Insufficiency of fee payment; opportunity to make proper payment (Repealed)

Sec. 16. *(Repealed by Indiana Real Estate Commission; filed Mar 13, 1980, 2:50 pm: 3 IR 649)*

876 IAC 1-1-17 Evidence of current licensure

Authority: IC 25-34.1-2-5
Affected: IC 25-34.1-3-3.1

Sec. 17. Every real estate office shall maintain evidence of current licensure for all licensees associated with said office. Principal broker shall provide upon request of the commission or its investigators evidence of current licensure and a complete list of all licensees associated with said broker. *(Indiana Real Estate Commission; Rule 18; filed Sep 28, 1977, 4:30 pm: Rules and Regs. 1978, p. 799; filed Dec 11, 1986, 10:40 am: 10 IR 877; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824; readopted filed Jul 19, 2007, 12:57 p.m.: 20070808-IR-876070067RFA)*

876 IAC 1-1-18 Supervision of office by licensed broker; branch offices; notice by principal broker

Authority: IC 25-34.1-2-5
Affected: IC 25-34.1-3-3.1; IC 25-34.1-3-4.1

Sec. 18. Every real estate office or real estate branch office whether operated as a corporation, partnership, or sole proprietorship, shall be directed, supervised, and managed by a licensed real estate broker. The office or branch office shall constitute the managing broker's principal and sole place of real estate business. Said managing broker may be the principal broker in cases where there is only one office. The principal broker must submit to the commission a Branch Office Registration Form prior to the opening of any branch office. Said principal broker shall notify the commission when any licensee associated with said principal broker transfers from one branch office to another branch office within the same association. *(Indiana Real Estate Commission; Rule 19; filed Sep 28, 1977, 4:30 pm: Rules and Regs. 1978, p. 799; filed Mar 13, 1980, 2:30 pm: 3 IR 647; filed Dec 11, 1986, 10:40 am: 10 IR 877; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824; readopted filed Jul 19, 2007, 12:57 p.m.: 20070808-IR-876070067RFA)*

876 IAC 1-1-19 Termination of association with principal broker; duties of parties

Authority: IC 25-1-8-2; IC 25-34.1-2-5
Affected: IC 25-34.1-3-3.1; IC 25-34.1-3-4.1

Sec. 19. Any licensee, upon termination of his or her association with a principal broker, shall turn over to the principal broker any and all listings obtained during his association unless otherwise stipulated by a written contract. The listings shall remain the property of the principal broker whether originally given to the licensee by the principal broker or copied from the records of the broker. The principal broker of a terminated salesperson is responsible for submitting to the commission within five (5) business days of the termination, a notification form provided by the commission and signed by the terminating broker and attesting to the termination. In the event the terminated licensee is transferring to a new principal broker, it shall be the responsibility of the licensee to provide the commission with a transfer application signed by the licensee and the new principal broker and pay a ten dollar ($10) transfer fee. The licensee is responsible for submitting to the commission the transfer application at the time of this association with another principal broker. The broker-salesperson's or salesperson's license will remain in the commission's unassigned file of licensees who are currently not associated with a principal broker until a transfer application is timely received. A licensee who terminates his association with a principal broker must immediately notify the commission of his or her change of address. *(Indiana Real Estate Commission; Rule 20; filed Sep 28, 1977, 4:30 p.m.: Rules and Regs. 1978, p. 799; filed Jan 16, 1979, 11:55 a.m.: 2 IR 315; filed Mar 13, 1980, 2:40 p.m.: 3 IR 648; filed Dec 11, 1986, 10:40 a.m.: 10 IR 877; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824; filed Oct 23, 2003, 4:00 p.m.: 27 IR 877; readopted filed Jul 19, 2007, 12:57 p.m.: 20070808-IR-876070067RFA)*

876 IAC 1-1-20 Splitting commissions

Authority: IC 25-34.1-2-5
Affected: IC 25-34.1-3-4.1

Sec. 20. A listing principal broker may offer a portion of his commission as an inducement to selling principal brokers to sell a particular property. Such commission must be paid to the selling principal broker and in no case shall it be paid directly to a licensee associated with the selling principal broker. *(Indiana Real Estate Commission; Rule 21; filed Sep 28, 1977, 4:30 pm: Rules and Regs. 1978, p. 800; filed Dec 11, 1986, 10:40 am: 10 IR 878; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824; readopted filed Jul 19,*

2007, 12:57 p.m.: 20070808-IR-876070067RFA)

876 IAC 1-1-21 Associating with unlicensed person; penalty

Authority: IC 25-34.1-2-5
Affected: IC 25-34.1-6-1.1

Sec. 21. Any principal broker found guilty of associating with any person and allowing said person to perform any of the acts set forth in the definition of a licensee, whether an initial applicant or a transfer, before the said person is properly licensed, shall be, after notice and hearing, subject to suspension or revocation of his license. *(Indiana Real Estate Commission; Rule 22; filed Sep 28, 1977, 4:30 pm: Rules and Regs. 1978, p. 800; filed Dec 11, 1986, 10:40 am: 10 IR 878; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824; readopted filed Jul 19, 2007, 12:57 p.m.: 20070808-IR-876070067RFA)*

876 IAC 1-1-22 Listing agreements; prohibition

Authority: IC 25-34.1-2-5
Affected: IC 25-34.1-2-5

Sec. 22. All listing agreements or any authority to sell shall show a definite date of expiration and shall be in writing, made in duplicate, one copy to go to the owner at the time of signing, and the original to be retained in the office of the principal broker. No listing agreements shall be accepted by a principal broker or by an associated broker or salesperson on the principal broker's behalf which provides for a "net" return to the seller, unless said listing agreement provides for a maximum commission to be paid by the seller to the principal broker. *(Indiana Real Estate Commission; Rule 23; filed Sep 28, 1977, 4:30 pm: Rules and Regs. 1978, p. 800; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824; readopted filed Jul 19, 2007, 12:57 p.m.: 20070808-IR-876070067RFA)*

876 IAC 1-1-23 Written offers to purchase; disposition of money received

Authority: IC 25-34.1-2-5
Affected: IC 25-34.1-2-5

Sec. 23. (a) Any and all written offers to purchase or authorization to purchase shall be communicated to the seller for his or her formal acceptance or rejection immediately upon receipt of the offer, and the offers or authorizations shall be made in quadruplicate, 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 listing principal broker shall, on or before the next two (2) banking days after acceptance of the offer to purchase by the seller, do one (1) of the following:

(1) Deposit all money received in connection with a transaction in his or her escrow/trust account.

(2) Delegate the responsibility to the selling principal broker to deposit the money in the selling broker's escrow/trust account. In any event, the commission shall hold the listing principal broker responsible for the money. In the event the earnest money deposit is other than cash, this fact shall be communicated to the seller before his or her acceptance of the offer to purchase, and the fact shall be shown in the earnest money receipt. All money shall be retained in the escrow/trust account so designated until disbursement thereof is properly authorized. Provided the beneficiary agrees in writing, the listing or selling principal broker holding the earnest money may voluntarily transfer any interest earned on the broker's escrow/trust account to a fund established for the sole purpose of providing affordable housing opportunities in Indiana that meets the requirements of Internal Revenue Service Code 501C3. The listing or selling principal brokers holding any earnest money are not required to make payment to the purchasers or sellers when a real estate transaction is not consummated unless the parties enter into a mutual release of the funds or a court issues an order for payment, except as permitted in subsection (b).

(b) Upon being notified that one (1) or more parties to an offer to purchase intend not to perform, the listing or selling principal broker, holding the earnest money, may release the earnest money deposit as provided in the offer to purchase or, if no provision is made in the offer to purchase, the selling or listing principal, holding the earnest money, may initiate the release process. The release process shall require the selling or listing principal broker to notify all parties at their last known address by certified mail that the earnest money deposit shall be distributed to the parties specified in the letter unless:

(1) all parties enter into a mutual release; or

(2) one (1) or more of the parties initiate litigation;

within sixty (60) days of the mailing date of the certified letter. If neither the buyer nor the seller initiates litigation or enters into a

written release within sixty (60) days of the mailing date of the certified letter, the broker may release the earnest money deposit to the party identified in the certified letter. *(Indiana Real Estate Commission; Rule 24; filed Sep 28, 1977, 4:30 p.m.: Rules and Regs. 1978, p. 800; filed Dec 11, 1986, 10:40 a.m.: 10 IR 878; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824; filed Aug 15, 2001, 9:50 a.m.: 25 IR 102; filed Oct 28, 2002, 12:01 p.m.: 26 IR 789; filed Jan 27, 2006, 10:45 a.m.: 29 IR 1931; readopted filed Jul 19, 2007, 12:57 p.m.: 20070808-IR-876070067RFA)*

876 IAC 1-1-24 Closing statements

Authority: IC 25-34.1-2-5; IC 25-34.1-2-5.1
Affected: IC 25-34.1-2-5

Sec. 24. Every listing and selling principal broker shall deliver to their client in every real estate transaction wherein he or she acts as real estate broker, at the time such transaction is consummated, a complete detailed closing statement showing all of the receipts and disbursements handled by such principal broker. The listing and selling principal broker shall retain true copies of such statements in his or her files for at least five (5) years. The listing and selling principal broker or his or her licensed associate acting on his or her behalf, shall attend all closings. *(Indiana Real Estate Commission; Rule 25; filed Sep 28, 1977, 4:30 p.m.: Rules and Regs. 1978, p. 801; filed Jan 16, 1979, 11:55 a.m.: 2 IR 315; filed Dec 11, 1986, 10:40 a.m.: 10 IR 878; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824; filed Aug 15, 2001, 9:50 a.m.: 25 IR 102; readopted filed Jul 19, 2007, 12:57 p.m.: 20070808-IR-876070067RFA)*

876 IAC 1-1-25 Investigation of escrow or trust accounts

Authority: IC 25-34.1-2-5
Affected: IC 25-34.1-2-5

Sec. 25. A principal broker shall provide a detailed summary of his escrow/trust account upon request by the Indiana Real Estate Commission or the Office of the Attorney General for investigative purposes. A principal broker or firm which holds an active Indiana real estate license and engages in activities constituting acts as prescribed in the Indiana license laws involving monies being collected in the performance of such activities, shall establish an escrow/trust account with an Indiana financial institution as set forth in the Commission Rules and Regulations and the Real Estate License Laws of the state of Indiana. *(Indiana Real Estate Commission; Rule 26; filed Sep 28, 1977, 4:30 pm: Rules and Regs. 1978, p. 801; filed Dec 11, 1986, 10:40 am: 10 IR 879; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824; readopted filed Jul 19, 2007, 12:57 p.m.: 20070808-IR-876070067RFA)*

876 IAC 1-1-26 Advertising requirements; name of principal broker; prohibitions

Authority: IC 25-34.1-2-5; IC 25-34.1-2-5.1
Affected: IC 25-34.1-3-3.1; IC 25-34.1-3-4.1

Sec. 26. Any display, classified advertising, signs, Internet advertising, or business cards, which carries *[sic., carry]* a licensee's name must contain the name of the principal broker or firm with whom the licensee is associated, and, except for business cards, said principal broker or firm's name must be in letters larger than those used in advertising the licensee's name. All advertising shall be under the direct supervision and in the name of the principal broker or firm; a salesperson's name may not be a part of the firm name. Any advertising by a principal broker must reveal the surname of said broker as it appears on the broker's license issued by the commission. Any television or radio advertising that carries the name of any licensee associated with a principal broker must carry the name of the principal broker or firm, as licensed by the commission. A licensee shall not advertise in a manner indicating that the property is being offered by a private party not engaged in the real estate business and shall use no advertising where only a post office box number, telephone number, or street address appears. No licensee shall place a sign on any property, advertise or offer any property for sale, lease, or rent without the written consent of the seller or the seller's authorized agent. *(Indiana Real Estate Commission; Rule 27; filed Sep 28, 1977, 4:30 p.m.: Rules and Regs. 1978, p. 801; filed Mar 13, 1980, 2:30 p.m.: 3 IR 648; filed Dec 11, 1986, 10:40 a.m.: 10 IR 879; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824; filed Aug 15, 2001, 9:50 a.m.: 25 IR 102; readopted filed Jul 19, 2007, 12:57 p.m.: 20070808-IR-876070067RFA)*

876 IAC 1-1-27 Operation of business under different name (Repealed)

Sec. 27. *(Repealed by Indiana Real Estate Commission; filed Mar 13, 1980, 2:50 pm: 3 IR 649)*

876 IAC 1-1-28 Death of broker; effect (Repealed)

Sec. 28. *(Repealed by Indiana Real Estate Commission; filed Mar 13, 1980, 2:50 pm: 3 IR 649)*

876 IAC 1-1-29 Duplicate licenses

Authority: IC 25-34.1-2-5
Affected: IC 25-34.1

Sec. 29. A duplicate real estate license may be issued to any active licensee only after a sworn affidavit has been submitted to the Commission attesting that the original real estate license was either mutilated, lost, or destroyed. *(Indiana Real Estate Commission; Rule 30; filed Sep 28, 1977, 4:30 pm: Rules and Regs. 1978, p. 802; filed Mar 13, 1980, 2:45 pm: 3 IR 649; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824; readopted filed Jul 19, 2007, 12:57 p.m.: 20070808-IR-876070067RFA)*

876 IAC 1-1-30 Change of address; failure to notify commission; effect (Repealed)

Sec. 30. *(Repealed by Indiana Real Estate Commission; filed Mar 13, 1980, 2:50 pm: 3 IR 649)*

876 IAC 1-1-30.1 Residential address of licensees

Authority: IC 25-34.1-2-5
Affected: IC 25-34.1-3-4.1; IC 25-34.1-3-6

Sec. 30.1. In addition to complying with IC 25-34.1-3-6, each licensee shall immediately notify the commission of any change in the licensee's residential address. *(Indiana Real Estate Commission; 876 IAC 1-1-30.1; filed May 27, 2003, 11:00 a.m.: 26 IR 3342; readopted filed Jul 19, 2007, 12:57 p.m.: 20070808-IR-876070067RFA)*

876 IAC 1-1-31 Complaints (Repealed)

Sec. 31. *(Repealed by Indiana Real Estate Commission; filed Apr 12, 1983, 10:55 am: 6 IR 1091)*

876 IAC 1-1-32 Administrative Adjudication Act followed in handling complaints (Repealed)

Sec. 32. *(Repealed by Indiana Real Estate Commission; filed Mar 13, 1980, 2:50 pm: 3 IR 649)*

876 IAC 1-1-33 Conviction of crime; effect; denial of license

Authority: IC 25-34.1-2-5
Affected: IC 25-34.1-2-5

Sec. 33. Upon conviction of a licensee in any court of competent jurisdiction of any crime involving dishonesty or false statement, obtaining money under false pretenses, conspiracy to defraud, or any other like offense in this state or any other state, the Real Estate Commission, after notice and hearing, shall determine if the acts from which such conviction resulted have a direct bearing on whether the licensee should be entrusted to serve the public in the capacity of a real estate broker or salesperson. Any application for licensing as a broker or salesperson, however, shall not be denied solely on the basis of such conviction. *(Indiana Real Estate Commission; Rule 34; filed Sep 28, 1977, 4:30 pm: Rules and Regs. 1978, p. 802; filed Dec 11, 1986, 10:40 am: 10 IR 879; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824; readopted filed Jul 19, 2007, 12:57 p.m.: 20070808-IR-876070067RFA)*

876 IAC 1-1-34 Licensing of nonresidents; association with Indiana broker (Repealed)

Sec. 34. *(Repealed by Indiana Real Estate Commission; filed Mar 13, 1980, 2:50 pm: 3 IR 649)*

876 IAC 1-1-35 Reciprocal agreements (Repealed)

Sec. 35. *(Repealed by Indiana Real Estate Commission; filed Mar 13, 1980, 2:50 pm: 3 IR 649)*

876 IAC 1-1-36 Restriction on licensee acquiring interest in property

Authority: IC 25-34.1-2-5
Affected: IC 25-34.1-2-5

Sec. 36. A licensee shall not directly or indirectly buy, offer to buy, sell, offer to sell, for himself property listed with said licensee or the broker with whom he is associated, nor shall the licensee acquire any interest therein without first making his true position clearly known to the listing owner(s). *(Indiana Real Estate Commission; Rule 37; filed Sep 28, 1977, 4:30 pm: Rules and Regs. 1978, p. 803; filed Dec 11, 1986, 10:40 am: 10 IR 879; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824; readopted filed Jul 19, 2007, 12:57 p.m.: 20070808-IR-876070067RFA)*

876 IAC 1-1-37 Disclosure of interest by licensee

Authority: IC 25-34.1-2-5
Affected: IC 25-34.1-2-5

Sec. 37. A licensee shall not directly or indirectly buy, offer to buy, sell, offer to sell or receive compensation for property in which he owns an interest, unless he shall disclose in writing his interest to all parties to the transaction and the fact that he holds a valid real estate license. *(Indiana Real Estate Commission; Rule 38; filed Sep 28, 1977, 4:30 pm: Rules and Regs. 1978, p. 803; filed Dec 11, 1986, 10:40 am: 10 IR 879; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824; readopted filed Jul 19, 2007, 12:57 p.m.: 20070808-IR-876070067RFA)*

876 IAC 1-1-38 Prohibition where exclusive contract exists (Repealed)

Sec. 38. *(Repealed by Indiana Real Estate Commission; filed Dec 11, 1986, 10:40 am: 10 IR 881)*

876 IAC 1-1-39 Referral service participation; written agreement

Authority: IC 25-34.1-2-5
Affected: IC 25-34.1-3-4.1

Sec. 39. A principal broker may participate in a referral service, or a franchise which provides a referral service, provided said participating broker possesses a written agreement with his client. Said broker shall also have a written agreement with the cooperating broker(s) as to the fees to be paid. *(Indiana Real Estate Commission; Rule 40; filed Sep 28, 1977, 4:30 pm: Rules and Regs. 1978, p. 803; filed Dec 11, 1986, 10:40 am: 10 IR 880; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824; readopted filed Jul 19, 2007, 12:57 p.m.: 20070808-IR-876070067RFA)*

876 IAC 1-1-40 Incompetent practice

Authority: IC 25-34.1-2-5
Affected: IC 22-9; IC 25-34.1

Sec. 40. Incompetent practice of real estate includes the following:

(1) Failing to account for and remit any funds or documents belonging to others that come into the licensee's possession.

(2) Accepting or offering any inducement or rebate for the purpose of obtaining a listing or inducing a sale, where full disclosure in writing has not been given to all parties to the transaction at the time of the offer or acceptance.

(3) Receiving, accepting, or giving an undisclosed direct profit on expenditures made in conjunction with a real estate transaction.

(4) Acting in dual capacity of licensee and undisclosed client in any transaction.

(5) Guaranteeing, authorizing, or permitting any person to guarantee future profits that may result from the resale of real property.

(6) Listing or offering real property for sale, exchange, option, rent, or lease without the written consent of, or on any terms other than those authorized by, the owner or the owner's authorized agent.
(7) Inducing any party to a listing contract or a contract of sale to breach such contract for the purpose of substituting a new contract with another person.
(8) Accepting employment or compensation that is contingent upon the issuance of an appraisal report on real estate at a predetermined value.
(9) Issuing an appraisal report on real property in which the licensee fails to disclose his interest in that property in writing to all parties.
(10) Soliciting and/or negotiating a listing contract, a sale, exchange, or lease of real property directly with an owner or lessor if the licensee knows that the owner has a written contract in connection with the property that guarantees an exclusive agency to another licensee unless the owner initiates the action in writing prior to expiration of the listing.
(11) As a licensee representing, or attempting to represent, a principal broker other than the principal broker with whom the licensee is associated.
(12) Paying a commission to or otherwise compensating a person who is not licensed for performing the services that, by law, require a license.
(13) Requesting a license by a principal broker if that principal broker does not intend to be associated with that licensee.
(14) Committing any act of fraud or misrepresentation while engaged in acts that, by law, require a license.
(15) Otherwise violating IC 25-34.1 or this title.
(16) Having been convicted of a felony or misdemeanor if the acts on which that conviction are based have a direct bearing on whether or not the person should be entrusted to serve the public as a licensee.
(17) Having been finally determined to have engaged in an unlawful discriminatory practice under the Indiana Civil Rights Act, IC 22-9.
(18) A broker, knowingly allowing any of its employees or representatives to utilize the premises of a real estate school for recruiting purposes in violation of 876 IAC 2-5-1.

(Indiana Real Estate Commission; Rule 40; filed Dec 13, 1982, 9:00 a.m.: 6 IR 122; filed Mar 15, 1984, 3:00 p.m.: 7 IR 1252; filed Dec 11, 1986, 10:40 a.m.: 10 IR 880; filed Dec 9, 1988, 1:25 p.m.: 12 IR 926, eff Jan 8, 1989; errata filed Dec 21, 1988, 3:45 p.m.: 12 IR 1209; errata filed May 15, 1989, 2:20 p.m.: 12 IR 1907; filed Jun 14, 1995, 11:00 a.m.: 18 IR 2786; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824; readopted filed Jul 19, 2007, 12:57 p.m.: 20070808-IR-876070067RFA)

876 IAC 1-1-41 Participation of licensees with securities brokers; sale of securities involving real estate

Authority: IC 25-34.1-2-5
Affected: IC 25-34.1-3-2

Sec. 41. Notwithstanding any rule contained within this Title 876 to the contrary, a broker may participate or associate with a person registered to act as a broker-dealer, agent or investment advisor under the Indiana and federal securities laws in the sale of, or offer to sell, real estate where such real estate is a necessary element of a "security", as that term is defined by the Securities Act of 1933 and the Securities Exchange Act of 1934. Any fee for services received by a registered securities broker-dealer, agent or investment advisor in connection with the above-described activities shall not be construed to constitute the receipt or payment of a commission from a broker in contravention of 876 IAC 1-1-40(12). *(Indiana Real Estate Commission; 876 IAC 1-1-41; filed Mar 5, 1985, 8:23 am: 8 IR 805; filed Dec 11, 1986, 10:40 am: 10 IR 881; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824; readopted filed Jul 19, 2007, 12:57 p.m.: 20070808-IR-876070067RFA)*

876 IAC 1-1-42 Unlicensed assistants; functions; responsibility of licensee

Authority: IC 25-34.1-2-5
Affected: IC 25-34.1-3-2

Sec. 42. Licensees may not allow an unlicensed assistant to perform any act that would require licensure under IC 25-34.1-3-2, including the following functions:
(1) Prepare promotional materials or advertisements without the review and approval of the supervising licensee.
(2) Show real property.
(3) Answer questions about listings other than those concerning list price, address, or geographic directions.

(4) Discuss or explain a contract, listing, lease, agreement, or other real estate document with any broker or salesperson outside the licensee's firm or with any potential client or customer.
(5) Conduct open houses.
(6) Conduct telemarketing or telephone canvassing to schedule appointments in order to seek listings.
(7) Negotiate or agree to any commission, commission split, management fee, or referral fee on behalf of a licensee.

(Indiana Real Estate Commission; 876 IAC 1-1-42; filed Jun 14, 1995, 11:00 a.m.: 18 IR 2783; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824; readopted filed Jul 19, 2007, 12:57 p.m.: 20070808-IR-876070067RFA)

876 IAC 1-1-43 Fee appraisals conducted by licensed brokers

Authority: IC 25-34.1-2-5.1
Affected: IC 25-34.1

Sec. 43. Any broker who appraises real estate in Indiana must comply with the Uniform Standards of Professional Appraisal Practice as adopted in 876 IAC 3-6-2 and 876 IAC 3-6-3. *(Indiana Real Estate Commission; 876 IAC 1-1-43; filed Dec 24, 1997, 11:00 a.m.: 21 IR 1757, eff Jan 1, 1999; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824; readopted filed Jul 19, 2007, 12:57 p.m.: 20070808-IR-876070067RFA)*

Rule 2. Out-of-State Developments (Repealed)

(Repealed by Indiana Real Estate Commission; filed Mar 13, 1980, 2:50 pm: 3 IR 649)

Rule 3. Condominiums and Time Sharing Plans (Repealed)

(Repealed by Indiana Real Estate Commission; filed Mar 13, 1980, 2:50 pm: 3 IR 649)

Rule 4. Residential Real Estate Sales Disclosure

876 IAC 1-4-1 Residential real estate sales disclosure

Authority: IC 32-21-5-7
Affected: IC 32-21-5-7

Sec. 1. (a) This rule establishes the seller's residential real estate sales disclosure form provided for in IC 32-21-5-7.
(b) The form appears in section 2 of this rule. *(Indiana Real Estate Commission; 876 IAC 1-4-1; filed Jun 1, 1994, 5:00 p.m.: 17 IR 2352; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824; filed Aug 6, 2003, 12:00 p.m.: 27 IR 186; readopted filed Dec 1, 2009, 9:14 a.m.: 20091223-IR-876090785RFA)*

876 IAC 1-4-2 Residential sales disclosure; form

Authority: IC 32-21-5-7
Affected: IC 32-21-5

Sec. 2. The following is the seller's residential real estate sales disclosure form:

SELLER'S RESIDENTIAL REAL ESTATE SALES DISCLOSURE
State Form 46234 (R/1293)

Date (*month, day, year*)

Seller states that the information contained in this Disclosure is correct to the best of Seller's CURRENT ACTUAL KNOWLEDGE as of the above date. The prospective buyer and the owner may wish to obtain professional advice or inspections of the property and provide for appropriate provisions in a contract between them concerning any advice, inspections, defects, or warranties obtained on the property. The representations in this form are the representations of the owner and are not the representations of the agent, if any. This information is for disclosure only and is not intended to be a part of any contract between the buyer and the owner. Indiana law (IC 32-21-5) generally requires sellers of 1–4 unit residential property to complete this form regarding the known physical condition of the property. An owner must complete and sign the disclosure form and submit the form to a prospective buyer before an offer is accepted for the sale of the real estate.

Property address (*number and street, city, state, ZIP code*)

1. The following are in the conditions indicated:

A. APPLIANCES	None/Not Included	Defective	Not Defective	Do Not Know
Built-in Vacuum System				
Clothes Dryer				
Clothes Washer				
Dishwasher				
Disposal				
Freezer				
Gas Grill				
Hood				
Microwave Oven				
Oven				
Range				
Refrigerator				
Room Air Conditioner(s)				
Trash Compactor				
TV Antenna/Dish				
Other:				

B. ELECTRICAL SYSTEM	None/Not Included	Defective	Not Defective	Do Not Know
Air Purifier				
Burglar Alarm				
Ceiling Fan(s)				
Garage Door Opener Controls				
Inside Telephone Wiring and Blocks/Jacks				
Intercom				
Light Fixtures				
Sauna				

C. WATER & SEWER SYSTEM	None/Not Included	Defective	Not Defective	Do Not Know
Cistern				
Septic Field/Bed				
Hot Tub				
Plumbing				
Aerator System				
Sump Pump				
Irrigation Systems				
Water Heater/Electric				
Water Heater/Gas				
Water Heater/Solar				
Water Purifier				
Water Softener				
Well				
Septic and Holding Tank/Septic Mound				
Geothermal and Heat Pump				
Other Sewer System (Explain)				

	Yes	No	Do Not Know
Are the improvements connected to a public water system?			
Are the improvements connected to a public sewer system?			
Are there any additions that may require improvements to the sewage disposal system?			
If yes, have the improvements been completed on the sewage disposal system?			
Are the improvements connected to a private/community water system?			
Are the improvements connected to a private/community sewer system?			

D. HEATING & COOLING SYSTEM	None/Not Included	Defective	Not Defective	Do Not Know
Attic Fan				
Central Air Conditioning				
Hot Water Heat				
Furnace Heat/Gas				
Furnace Heat/Electric				
Solar House-Heating				
Woodburning Stove				
Fireplace				
Fireplace Insert				

Smoke/Fire Alarm(s)					Air Cleaner				
Switches and Outlets					Humidifier				
Vent Fan(s)					Propane Tank				
60/100/200 Amp Service (Circle one)					Other Heating Source				

NOTE: "Defect" means a condition that would have a significant adverse effect on the value of the property that would significantly impair the health or safety of future occupants of the property or that, if not repaired, removed, or replaced, would significantly shorten or adversely affect the expected normal life of the premises.

The information contained in this Disclosure has been furnished by the Seller, who certifies to the truth thereof, based on the Seller's CURRENT ACTUAL KNOWLEDGE. A disclosure form is not a warranty by the owner or the owner's agent, if any, and the disclosure form may not be used as a substitute for any inspections or warranties that the prospective buyer or owner may later obtain. At or before settlement, the owner is required to disclose any material change in the physical condition of the property or certify to the purchaser at settlement that the condition of the property is substantially the same as it was when the disclosure form was provided. Seller and Purchaser hereby acknowledge receipt of this Disclosure by signing below:

Signature of Seller:	Date:	Signature of Buyer:	Date:
Signature of Seller:	Date:	Signature of Buyer:	Date:

The Seller hereby certifies that the condition of the property is substantially the same as it was when the Seller's Disclosure form was originally provided to the Buyer.

Signature of Seller:	Date:	Signature of Buyer:	Date:

Property Address (*number and street, city, state, ZIP code*)

2. ROOF	YES	NO	DO NOT KNOW
Age, if known: _____ Years			
Does the roof leak?			
Is there present damage to the roof?			
Is there more than one roof on the house? If so, how many layers? _____			

3. HAZARDOUS CONDITIONS	YES	NO	DO NOT KNOW
Have there been or are there any hazardous conditions on the property, such as methane gas, lead paint, radon gas in house or well, radioactive material, landfill, mineshaft, expansive soil, toxic materials, mold, other biological contaminants, asbestos insulation, or PCB's? Explain:			

4. OTHER DISCLOSURES	YES	NO	DO NOT KNOW
Do improvements have aluminum wiring?			
Are there any foundation problems with the improvements?			
Are there any encroachments?			
Are there any violations of zoning, building codes, or restrictive covenants?			
Is the present use a nonconforming use? Explain:			
Is the access to your property via a private road?			
Is the access to your property via a public road?			
Is access to your property via an easement?			
Have you received any notices by any governmental or quasi-governmental agencies affecting this property? Are there any structural problems with the building?			
Have any substantial additions or alterations been made without a required building permit?			

				Are there moisture and/or water problems in the basement, crawl space area, or any other area?			
				Is there any damage due to wind, flood, termites, or rodents?			
				Have any improvements been treated for wood destroying insects?			
				Are the furnace/woodstove/chimney/flue all in working order?			
				Is the property in a flood plain?			
				Do you currently pay flood insurance?			
				Does the property contain underground storage tank(s)?			
				Is the homeowner a licensed real estate salesperson or broker?			
				Is there any threatened or existing litigation regarding the property?			
				Is the property subject to covenants, conditions, and/or restrictions of a homeowner's association?			
				Is the property located within one (1) mile of an airport?			

E. ADDITIONAL COMMENTS AND/OR EXPLANATIONS: (Use additional pages if necessary).

The information contained in this Disclosure has been furnished by the Seller, who certifies to the truth thereof, based on the Seller's CURRENT ACTUAL KNOWLEDGE. A disclosure form is not a warranty by the owner or the owner's agent, if any, and the disclosure form may not be used as a substitute for any inspections or warranties that the prospective buyer or owner may later obtain. At or before settlement, the owner is required to disclose any material change in the physical condition of the property or certify to the purchaser at settlement that the condition of the property is substantially the same as it was when the disclosure form was provided. Seller and Purchaser hereby acknowledge receipt of this Disclosure by signing below:

Signature of Seller:	Date:	Signature of Buyer:	Date:
Signature of Seller:	Date:	Signature of Buyer:	Date:

The seller hereby certifies that the condition of the property is substantially the same as it was when the Seller's Disclosure form was originally provided to the Buyer.

Signature of Seller:	Date:	Signature of Seller:	Date:

(Indiana Real Estate Commission; 876 IAC 1-4-2; filed Jun 1, 1994, 5:00 p.m.: 17 IR 2352; filed Jun 14, 1995, 11:00 a.m.: 18 IR 2787; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824; filed Oct 28, 2002, 12:01 p.m.: 26 IR 789; filed Aug 6, 2003, 12:00 p.m.: 27 IR 186, eff Jan 1, 2004; filed Jan 27, 2006, 10:30 a.m.: 29 IR 1932, eff Jan 1, 2006 [IC 4-22-2-36 suspends the effectiveness of a rule document for 30 days after filing with the Secretary of State. LSA Document #05-101(F) was filed Jan 27, 2006.])

*