

ARTICLE 2. REAL ESTATE COURSES AND LICENSING REQUIREMENTS FOR BROKERS AND SALESPERSONS

Rule 1. Definitions; General Provisions

876 IAC 2-1-1 Scope

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

Sec. 1. (a) This article establishes requirements for the education and examination of applicants for licensure as salespersons and brokers and establishes requirements for salesperson and broker courses pursuant to IC 25-34.1-5.

(b) The definitions in this rule apply throughout this article. (*Indiana Real Estate Commission; 876 IAC 2-1-1; filed Dec 9, 1988, 1:25 p.m.: 12 IR 927, 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 2-1-2 "Course session" defined

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

Sec. 2. "Course session" means a particular broker course or salesperson course conducted by a real estate school. (*Indiana Real Estate Commission; 876 IAC 2-1-2; filed Dec 9, 1988, 1:25 p.m.: 12 IR 927, 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 2-1-3 "Real estate school" defined

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

Sec. 3. "Real estate school" means any person that has, or is seeking to have, broker course or salesperson course approval from the commission pursuant to IC 25-34.1-5 and this article. (*Indiana Real Estate Commission; 876 IAC 2-1-3; filed Dec 9, 1988, 1:25 p.m.: 12 IR 927, 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 2-1-4 "School" defined

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

Sec. 4. "School" means real estate school. (*Indiana Real Estate Commission; 876 IAC 2-1-4; filed Dec 9, 1988, 1:25 p.m.: 12 IR 927, 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 2-1-5 "School director" defined

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

Sec. 5. "School director" means the individual responsible for real estate school administrative matters such as program development, scheduling of classes, advertising, maintaining facilities and equipment, recordkeeping, and general supervision of the instructional program. (*Indiana Real Estate Commission; 876 IAC 2-1-5; filed Dec 9, 1988, 1:25 p.m.: 12 IR 927, 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 2-1-6 Violations of statute and rules

Authority: IC 25-34.1-2-5

Affected: IC 4-21.5-3; IC 4-21.5-4; IC 25-34.1-5

Sec. 6. (a) Failure of a real estate school to comply with the provisions of IC 25-34.1-5 and this article, shall subject it to denial of course approval or revocation or suspension of course approval as appropriate.

(b) If a real estate school fails to meet the requirements for course approval renewal established in IC 25-34.1-5-7 and 876 IAC 2-2-9, the renewal shall be denied.

(c) Under subsections (a) through (b), real estate schools shall be responsible for the actions of their employees and other agents.

(d) Notices of denials of course approval or renewals and administrative review of such denials are governed by IC 4-21.5-3-4 and IC 4-21.5-3-7.

(e) Institution of proceedings to revoke or suspend course approval is governed by IC 4-21.5-3-8. Emergency suspensions may be issued, where appropriate, under IC 4-21.5-4. (*Indiana Real Estate Commission; 876 IAC 2-1-6; filed Dec 9, 1988, 1:25 p.m.: 12 IR 927, 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 2-1-7 Revocation, suspension, or denial of renewal of course approval; completion of courses

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 7. In the event it suspends, revokes, or denies renewal of course approval, the commission may, at its discretion, allow any course already in progress to be completed. (*Indiana Real Estate Commission; 876 IAC 2-1-7; filed Dec 9, 1988, 1:25 p.m.: 12 IR 928, eff Jan 8, 1989; errata filed Dec 21, 1988, 3:45 p.m.: 12 IR 1209; filed Jul 25, 1991, 3:30 p.m.: 14 IR 2255; 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 2-1-7.5 Payments of bond proceeds

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 7.5. (a) If the commission does not allow completion of a course under section 7 of this rule or if a course cannot be completed by the school for any other reason, each student enrolled in the course, who has a valid legal cause of action against the school, would be entitled to reimbursement for the enrollment fee and the cost of any required text or material if not included in the enrollment fee (provided the student presents proof of payment in connection with the uncompleted course) from the school's bond proceeds if said money cannot be recovered from the school.

(b) Because the commission is obligee under the bonds of schools, payments from the proceeds of the bond shall be distributed to qualifying students by direction of the commission. (*Indiana Real Estate Commission; 876 IAC 2-1-7.5; filed Jul 25, 1991, 3:30 p.m.: 14 IR 2256; 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 2-1-8 Application for course approval; content

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 8. (a) Any real estate school seeking approval of a broker or salesperson course shall make written application for approval and shall submit such documents, statements, and forms as required by IC 25-34.1-5-2 and this article, and as may be reasonably necessary to establish whether the school complies with the requirements of IC 25-34.1-5 and this article.

(b) The application shall state the name and address of the school's owner.

(c) The application shall list all instructors who will be teaching the course and include evidence that they comply with the qualifications established in 876 IAC 2-3. (*Indiana Real Estate Commission; 876 IAC 2-1-8; filed Dec 9, 1988, 1:25 p.m.: 12 IR 928, 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)

Rule 2. Real Estate Schools; General Requirements

876 IAC 2-2-1 Facilities

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5-4

Sec. 1. (a) Pursuant to IC 25-34.1-5-4(b), real estate courses shall not be conducted in a facility which is also used as a broker or salesperson office. As used in this subsection [section], "facility" shall mean any space which is used by a real estate broker or salesperson in the broker or salesperson's day to day operation.

(b) Real estate schools shall use classroom facilities and shall be conducive to classroom environment.

(c) There shall be at all times adequate space, seating, equipment, and instructional material to accommodate the number of students enrolled.

(d) The premises, equipment, and facilities of the school shall comply with all local, city, county, and state regulations, such as fire, building, and sanitation codes.

(e) Real estate schools shall prohibit the serving or obtaining of alcoholic beverages in the classroom and any other area that the student would have access to during the time class is in session, including breaks, such as the restroom and hallways.

(f) Subsection (e) shall not be interpreted to prohibit the use of facilities (such as hotels, motels, and convention centers) where alcoholic beverages are sold in separate rooms. (*Indiana Real Estate Commission; 876 IAC 2-2-1; filed Dec 9, 1988, 1:25 p.m.: 12 IR 928, 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 2-2-2 Course location and times; notice to commission

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5-8

Sec. 2. A list of course locations (which have been approved by the commission under IC 25-34.1-5-8 and section 12 of this rule) and meeting times must be submitted to the commission prior to commencement of each course session. (*Indiana Real Estate Commission; 876 IAC 2-2-2; filed Dec 9, 1988, 1:25 p.m.: 12 IR 928, 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 2-2-3 Bonding

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 3. If a real estate school offers both a broker course and a salesperson course, it shall submit a bond meeting the requirements of IC 25-34.1-5, for each course. (*Indiana Real Estate Commission; 876 IAC 2-2-3; filed Dec 9, 1988, 1:25 p.m.: 12 IR 929, 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 2-2-4 School directors

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 4. (a) Each school shall designate one (1) individual as its school director.

(b) A real estate school is prohibited from hiring, or retaining in its employ, a school director who:

(1) has had his or her real estate license revoked or suspended by any jurisdiction;

(2) has obtained or used, or attempted to obtain or use, in any manner, Indiana real estate licensing examination questions to be used on future examinations, unless authorized by law;

(3) has been convicted of a crime which has a direct bearing on the individual's ability to competently be a school director

including, but not necessarily limited to, violations of real estate laws and abuse of fiduciary responsibilities;

(4) has falsely certified hours of attendance or grades for any student;

(5) has violated 876 IAC 2-5-1 concerning recruiting during the educational process; or

(6) unless authorized by law, has refused to appear and/or testify under oath at any hearing held by the commission.

(c) The school director must satisfy one (1) of the following qualification standards:

(1) Hold a bachelor's degree in education, real estate, or business.

(2) Have at least two (2) years experience within the past ten (10) years as an instructor or school administrator.

(d) School directors employed before January 1, 1989, are exempt from the requirements of subsection (c). (*Indiana Real Estate Commission; 876 IAC 2-2-4; filed Dec 9, 1988, 1:25 p.m.: 12 IR 929, 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; 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 2-2-5 Course approval; school directors

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 5. (a) The school director shall be identified in an application for course approval.

(b) The school director for a school which has applied for course approval shall be required to meet with the commission or its designee prior to approval of the course. (*Indiana Real Estate Commission; 876 IAC 2-2-5; filed Dec 9, 1988, 1:25 p.m.: 12 IR 929, 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 2-2-6 Unavailability of school director

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5-8

Sec. 6. If a school director:

(1) dies;

(2) becomes incapacitated; or

(3) leaves the employ of the school;

all course sessions then in session may be completed. However, further course sessions may not be commenced until there is a new school director (who has been approved by the commission under IC 25-34.1-5-8 and section 12 of this rule). (*Indiana Real Estate Commission; 876 IAC 2-2-6; filed Dec 9, 1988, 1:25 p.m.: 12 IR 929, 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 2-2-7 Student fees; cancellation of course sessions

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 7. (a) Students shall not be charged any fees beyond the course fee. An approved course shall not charge a fee to students for seminars or other courses offered in preparation for the state licensing examination. This applies to students who are currently enrolled in a course or have completed a course within the past thirty (30) days.

(b) The cost of textbooks, supplemental texts, and required materials shall be included in the course fee. However, colleges or universities of learning (institutions offering two (2) or four (4) year courses of study culminating in the issuance of an associate's or bachelor's degree) offering the salesperson or broker course for undergraduate or graduate credit may follow their normal institutional procedures and charge separately for tuition and books and required materials. Disclosure of the full cost of the course (including tuition and books and required materials) must be made to the student before enrollment.

(c) Each approved course shall establish a refund policy which is included in all printed material related to the offering of the course. The refund policy shall be available for review and acceptance by the student at the time of enrollment.

(d) If a course session is cancelled, the school must notify all individuals who have enrolled in it at least three (3) days in advance of the first scheduled class. (*Indiana Real Estate Commission; 876 IAC 2-2-7; filed Dec 9, 1988, 1:25 p.m.: 12 IR 929, eff*

Jan 8, 1989; errata filed Dec 21, 1988, 3:45 p.m.: 12 IR 1209; filed Jul 25, 1991, 3:30 p.m.: 14 IR 2256; 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 2-2-8 Course records

Authority: IC 25-34.1-2-5
Affected: IC 25-34.1-5-4

Sec. 8. As specified in IC 25-34.1-5-4(a)(7), each school offering approved courses must maintain records of students who successfully complete and pass the course of study for a minimum of five (5) years. The records must include attendance records, examination score records, and duplicate copies of completion certificates or the ability to reproduce duplicate completion certificates. *(Indiana Real Estate Commission; 876 IAC 2-2-8; filed Dec 9, 1988, 1:25 p.m.: 12 IR 930, 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 2-2-9 Course renewal

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

Sec. 9. The approval of courses expires on December 31 of each calendar year. To obtain renewal of course approval, the school must submit to the commission by November 30 of the current year:

- (1) a letter requesting renewal;
- (2) a bond that is in the amount of twenty percent (20%) of the preceding year's gross tuition but not less than ten thousand dollars (\$10,000) or more than fifty thousand dollars (\$50,000); and
- (3) an annual report.

(Indiana Real Estate Commission; 876 IAC 2-2-9; filed Dec 9, 1988, 1:25 p.m.: 12 IR 930, 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 2-2-10 Annual report

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

Sec. 10. (a) The annual report shall include the following:

- (1) A notarized report attesting to income received from course tuitions submitted on a form provided by the commission which must be signed by the school director.
- (2) A written list of the current textbooks and other resource and study materials utilized in the course.
- (3) A list of all approved course locations.
- (4) A list of all instructors teaching the course and a certification that the instructors meet the qualifications established in 876 IAC 2-3.

(b) As part of its annual report to the commission, a school may be required to provide specific information, answer questions, and/or appear before the commission or its designee for the purpose of determining compliance with IC 25-34.1-5 and this article. *(Indiana Real Estate Commission; 876 IAC 2-2-10; filed Dec 9, 1988, 1:25 p.m.: 12 IR 930, eff Jan 8, 1989; errata filed Dec 21, 1988, 3:45 p.m.: 12 IR 1209; filed Dec 1, 1989, 5:00 p.m.: 13 IR 635; 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 2-2-11 Review and investigation of real estate schools

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

Sec. 11. (a) In addition to its review and/or investigation of a school for annual renewal of its course(s) approval, the commission or its designee may, at any time, review and/or investigate any matter concerning an approved course, or applicant for

course approval to determine compliance with IC 25-34.1-5 and this article.

- (b) The method of review shall be determined by the commission in each case and will generally consist of the following:
 - (1) Consideration of information available from federal, state, and/or local agencies, private organizations or agencies, or interested persons.
 - (2) Conferences with the school director and other representatives of the school involved, or with former students of the school.
- (c) The commission may require a background check on school personnel, including a criminal history check. (*Indiana Real Estate Commission; 876 IAC 2-2-11; filed Dec 9, 1988, 1:25 p.m.: 12 IR 930, 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 2-2-12 Significant changes in courses

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

Sec. 12. (a) The following shall be deemed significant changes under IC 25-34.1-5-8:

- (1) Any change in the ownership of a real estate school including changes in the ownership of the stock of a corporation.
- (2) Any change in the location, including classroom location, of an approved real estate course.
- (3) A new school director.
- (4) Any new instructor.

(b) Significant proposed changes shall be submitted in writing for commission approval and shall include such information which may be necessary to establish whether the proposed change will be in compliance with IC 25-34.1-5 and this article. (*Indiana Real Estate Commission; 876 IAC 2-2-12; filed Dec 9, 1988, 1:25 p.m.: 12 IR 930, 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*)

Rule 3. Instructors

876 IAC 2-3-1 Instructors; compliance with rule required

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

Sec. 1. (a) All instructors employed by real estate schools must meet the requirements of this rule.

(b) The commission does not license instructors or directly approve them although it does evaluate them in approving courses and significant changes in courses.

(c) In the process of evaluating courses for original approval and significant changes relating to instructors, the commission or its designee may conduct a personal interview with proposed instructors. (*Indiana Real Estate Commission; 876 IAC 2-3-1; filed Dec 9, 1988, 1:25 p.m.: 12 IR 931, 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 2-3-2 Instructors; examinations

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

Sec. 2. (a) Each instructor shall be:

- (1) a licensed Indiana real estate broker or have passed the real estate broker examination; and
- (2) have passed an instructor assessment program examination as specified by the commission with a score of seventy-five percent (75%) or higher.

(b) The real estate school shall keep records establishing that its instructors comply with this section. (*Indiana Real Estate Commission; 876 IAC 2-3-2; filed Dec 9, 1988, 1:25 p.m.: 12 IR 931, 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 2-3-3 Instructors; qualifications

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 3. (a) Each instructor shall possess at least one (1) of the following minimum requirements:

- (1) Has a bachelor's degree with a major or minor in real estate from an accredited college or university.
- (2) Has a bachelor's degree from an accredited college or university and has a minimum of two (2) years experience in real estate.
- (3) Has an Indiana real estate broker license and has a minimum of five (5) years experience as a real estate broker in real estate practice as defined in 876 IAC 1-1-3(n) and (p).
- (4) Has a juris doctor or equivalent from an accredited law school and has a minimum of two (2) years experience in the subject matter to be taught in the course.
- (5) Has two (2) years experience as a qualified instructor or professor in the business, finance, or economics department of an accredited college or university.

(b) An individual who:

- (1) was an instructor in an approved salesperson or broker course before January 1, 1989; and
- (2) does not meet the requirements of subsection (a);

may continue to be an instructor with the same school or another school after December 31, 1989. (*Indiana Real Estate Commission; 876 IAC 2-3-3; filed Dec 9, 1988, 1:25 p.m.: 12 IR 931, 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 2-3-4 Instructors; prohibitions

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 4. A real estate school is prohibited from hiring, or retaining in its employ, an instructor who:

- (1) has had his or her real estate license revoked or suspended by any jurisdiction;
- (2) has obtained or used, or attempted to obtain or use, in any manner, Indiana real estate licensing examination questions to be used on future examinations, unless authorized by law;
- (3) has been convicted of a crime which has a direct bearing on the individual's ability to competently instruct including, but not necessarily limited to, violations of real estate laws and abuse of fiduciary responsibilities;
- (4) has falsely certified hours of attendance or grades for any student;
- (5) has violated 876 IAC 2-5-1 concerning recruiting during the educational process; or
- (6) unless allowed by law, has refused to appear and/or testify under oath at any hearing held by the commission.

(*Indiana Real Estate Commission; 876 IAC 2-3-4; filed Dec 9, 1988, 1:25 p.m.: 12 IR 931, 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*)

Rule 4. Conduct of Courses

876 IAC 2-4-1 Broker and salesperson courses; separate instruction

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 1. Schools offering both approved broker and salesperson courses must teach each course separately from the other. Joint instruction of both courses in any form is not permitted. (*Indiana Real Estate Commission; 876 IAC 2-4-1; filed Dec 9, 1988, 1:25 p.m.: 12 IR 932, 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 2-4-2 Broker courses; hours of classroom instruction

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

Sec. 2. (a) A broker course shall consist of at least fifty-four (54) hours of classroom instruction.

(b) Each broker course shall be conducted on at least nine (9) different days with a maximum of six (6) hours of instruction per day.

(c) The examinations required under section 6(b) of this rule may count toward the hours required by subsection (a). (*Indiana Real Estate Commission; 876 IAC 2-4-2; filed Dec 9, 1988, 1:25 p.m.: 12 IR 932, eff Jan 8, 1989; errata filed Dec 21, 1988, 3:45 p.m.: 12 IR 1209; filed Jul 25, 1991, 3:30 p.m.: 14 IR 2256; 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 2-4-3 Salesperson course; hours of classroom instruction

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

Sec. 3. (a) A salesperson course shall consist of at least fifty-four (54) hours of classroom instruction.

(b) Each salesperson course shall be conducted on at least nine (9) different days with a maximum of six (6) hours of instruction per day.

(c) The time spent taking the examinations required under section 6(a) of this rule may count toward the hours required by subsection (a). (*Indiana Real Estate Commission; 876 IAC 2-4-3; filed Dec 9, 1988, 1:25 p.m.: 12 IR 932, eff Jan 8, 1989; errata filed Dec 21, 1988, 3:45 p.m.: 12 IR 1209; filed Jul 25, 1991, 3:30 p.m.: 14 IR 2256; 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 2-4-4 Breaks

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

Sec. 4. (a) In both broker and salesperson courses, there shall be at least a five (5) minute break after two (2) hours of instruction.

(b) In broker courses, there shall be at least a one (1) hour break after three (3) hours of instruction. (*Indiana Real Estate Commission; 876 IAC 2-4-4; filed Dec 9, 1988, 1:25 p.m.: 12 IR 932, 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 2-4-5 Attendance

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

Sec. 5. (a) A student in a broker or salesperson course session who is not in attendance for at least seventy-five percent (75%) of the required hours shall not be permitted to complete the course.

(b) Each instructor shall maintain accurate attendance records and report to the school director when any student has exceeded the maximum number of absences.

(c) A student may not receive attendance credit for attending more than one (1) class meeting of a class other than a class in the course session to which the student is assigned. The one (1) class must cover the same material as the class missed, the make up class must be completed during the regular class session, and must be sponsored by the school in which the student is enrolled.

(d) All attendance shall be in the same course session and may not be cumulative. (*Indiana Real Estate Commission; 876 IAC 2-4-5; filed Dec 9, 1988, 1:25 p.m.: 12 IR 932, 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 2-4-6 Examinations

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 6. (a) Each salesperson course shall be required to have three (3) written examinations with each examination consisting of one hundred (100) questions. A total of two hundred twenty-five (225) points from the three (3) examinations is required to pass the salesperson course.

(b) Each broker course shall be required to have two (2) written examinations with each examination consisting of one hundred (100) questions. A total of one hundred fifty (150) points from the two (2) examinations is required to pass the broker course.

(c) Dates of all examinations must be announced to the students at least one (1) day in advance, and examinations shall be evenly spaced throughout the course.

(d) All examinations must be administered in the scheduled class session under the supervision of the course instructor. Take home examinations may not be credited toward the required passing score in the course.

(e) The total score to pass a course can be based only on scores earned on the required in-class examinations. Class recitations and quizzes cannot be used to supplement or take the place of examination grades.

(f) Total security shall be provided for all examinations prior to, during, and after administration. Questions may not be distributed to students or discussed in class in advance. Students shall be prohibited from copying an examination after it has been administered.

(g) An examination booklet and all answer sheets shall be retained by the sponsoring school for at least one (1) year. Examinations may be made available to students only for personal review in a supervised situation after the examinations have been graded and scores recorded.

(h) Examinations administered in the broker and salesperson courses shall not be taken from the school premises under any circumstances.

(i) Administration of make up examinations shall be at the discretion of the course instructor. If make up examinations are permitted, and the student is taking the examination prior to other students in the class, the same examination that will be used for the class shall be administered. If the student will be taking a make up examination after other students in the class, a different examination shall be used; however, the examination must cover the same subject content.

(j) Each real estate school shall establish a written policy against cheating in its approved courses. (*Indiana Real Estate Commission; 876 IAC 2-4-6; filed Dec 9, 1988, 1:25 p.m.: 12 IR 933, 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 2-4-7 Course evaluations

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 7. (a) Schools are required to survey their students at the end of each course session and/or after the students have taken the state licensing examination.

(b) The survey should include information regarding the quality of instruction, appropriateness of materials, and other information which will properly evaluate the course.

(c) Evaluations must be made available for inspection by the commission upon request. (*Indiana Real Estate Commission; 876 IAC 2-4-7; filed Dec 9, 1988, 1:25 p.m.: 12 IR 933, 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*)

Rule 5. Real Estate Schools; Miscellaneous Prohibitions

876 IAC 2-5-1 Recruiting; prohibitions

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 1. (a) No licensee, or representative of a licensee, partnership, or corporation, and no school or representative of a school, or instructor shall engage in recruiting within the classroom and any other area that the student would have access to during the time

class is in session, including breaks, such as the restroom and hallway. Recruiting is defined as any solicitation of a licensee or prospective licensee for employment or association by any licensed individual, partnership, or corporation, or the promotion of such an entity to induce employment or association.

(b) The distribution of any material or the wearing of any apparel which would identify a broker constitutes a violation of subsection (a).

(c) Responding to an inquiry from a student does not constitute a violation of subsection (a).

(d) If any individual violates subsection (a), schools and instructors shall be required to order violators to stop recruiting and report the activity to the commission for possible action against the violator. (*Indiana Real Estate Commission; 876 IAC 2-5-1; filed Dec 9, 1988, 1:25 p.m.: 12 IR 933, 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 2-5-2 Requirements concerning recruiting

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 2. (a) The school shall distribute the following statement in writing, to each student at the beginning session of the course: "No recruiting for employment or association opportunities for any real estate broker is allowed in this class. You may report any effort to recruit to (name of school director) at (telephone number and/or office address) or the Indiana real estate commission at (317) 232-2980".

(b) Before beginning any duties on behalf of the school, all employees, including instructors, shall be required to sign a nonrecruiting agreement, on a form obtained from the commission, agreeing not to violate section 1 of this rule. The nonrecruitment agreement shall be retained by the school, and available to the commission upon request. (*Indiana Real Estate Commission; 876 IAC 2-5-2; filed Dec 9, 1988, 1:25 p.m.: 12 IR 934, 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 2-5-3 Student lists

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 3. Unless required by law, no school may provide any name or list of names of any potential licensee(s) or student(s) whether potential or enrolled in any real estate school to anyone other than the commission, without the individual's written consent. (*Indiana Real Estate Commission; 876 IAC 2-5-3; filed Dec 9, 1988, 1:25 p.m.: 12 IR 934, 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 2-5-4 Advertising

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 4. (a) No school conducting an approved course of study shall advertise or make any reference in its advertising, promotional material, brochures, and/or registration forms that it is endorsed, recommended, or accredited by, or affiliated with, the commission or any other person, organization, university, or college.

(b) A school may indicate that a course of study has been approved by the commission, but may not indicate that any review course or supplemental course of instruction has the approval of the commission or any other person, organization, university, or college.

(c) To the extent a school is endorsed, recommended, approved, or accredited by, or affiliated with, another person, organization, university, or college, the restrictions of subsections (a) through (b) shall not apply. (*Indiana Real Estate Commission; 876 IAC 2-5-4; filed Dec 9, 1988, 1:25 p.m.: 12 IR 934, 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; 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 2-5-5 Advertising; requirements

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

Sec. 5. (a) Schools are prohibited from engaging in false or misleading advertising.

(b) If a school's advertisement contains representations concerning the number or percentage of its students who pass the commission's broker or salesperson examination, the school shall retain information including the raw data and the calculation substantiating the accuracy of the representations and make it available to the commission upon request.

(c) The method of calculation of passing percentage under subsection (b) shall be as follows:

(1) Advertisement must state the period for which passing percentages are reported.

(2) Percentages must be based on first-time candidates taking the state licensing examinations for the period reported.

(Indiana Real Estate Commission; 876 IAC 2-5-5; filed Dec 9, 1988, 1:25 p.m.: 12 IR 934, 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 2-5-6 Real estate schools; prohibitions

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

Sec. 6. Real estate schools are prohibited from the following:

(1) Giving materially inaccurate or misleading information in an application for course approval or annual report.

(2) Deliberately falsifying or misrepresenting any information supplied to the commission or public.

(3) Possessing, claiming to possess, revealing, or distributing any questions used in the commission's broker or salesperson examinations.

(4) Having substantially failed to comply with the provisions of any contract or agreement entered into with a student.

(5) Failing to allow the commission or its designee to inspect the school or its records or failing to make available such information as required by IC 25-34.1-5 and this article.

(6) Having been convicted, or one (1) of its owners having been convicted, of a crime which has a direct bearing on the school's ability to conduct a real estate course including, but not necessarily limited to, violation of real estate laws and abuse of fiduciary responsibilities.

(7) Violating IC 25-34.1 or this title.

(8) Failing to notify the commission within thirty (30) days of the termination of its relationship with an instructor for cause.

(9) Paying or receiving a rebate or referral fee to any broker to recruit students.

(Indiana Real Estate Commission; 876 IAC 2-5-6; filed Dec 9, 1988, 1:25 p.m.: 12 IR 935, 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; 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 2-5-7 Real estate schools; performance standard

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

Sec. 7. (a) For any approved course, a school shall not have a percentage of its students in any year who pass the broker or salesperson course in their first attempt at a rate of less than fifty percent (50%) of the performance record of all first-time examinees.

(b) The method of calculation of a passing percentage under subsection (a), shall be the percentage of first-time candidates taking the state licensing examination for the year reported.

(c) If a school is in violation of subsection (a), it shall be given notice of the discovered violation and shall have six (6) months to come into compliance with subsection (a), before any action is taken under IC 25-34.1-5-9. *(Indiana Real Estate Commission; 876 IAC 2-5-7; filed Dec 9, 1988, 1:25 p.m.: 12 IR 935, 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)*

Rule 6. Fundamentals of Real Estate Salesperson Course; General

876 IAC 2-6-1 Course description

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

Sec. 1. The salesperson course consists of instruction in basic real estate principles and practices, including real estate law, financing, brokerage, closing, valuation, management, taxation, and mathematics. Also included is instruction in construction, land use, property insurance, and the Indiana real estate license statute, and the rules of the Indiana real estate commission *[this title]*. (Indiana Real Estate Commission; 876 IAC 2-6-1; filed Dec 1, 1989, 5:00 p.m.: 13 IR 635; 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 2-6-2 Course objective

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

Sec. 2. The primary objectives of the salesperson course are:

- (1) to provide students with the basic knowledge and skills necessary to act as a real estate salesperson; and
- (2) to prepare students for the real estate salesperson license examination.

(Indiana Real Estate Commission; 876 IAC 2-6-2; filed Dec 1, 1989, 5:00 p.m.: 13 IR 635; 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 2-6-3 Syllabus

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

Sec. 3. The course syllabus in 876 IAC 2-7 through 876 IAC 2-8 is established by the Indiana real estate commission to establish minimum content level for the salesperson course. (Indiana Real Estate Commission; 876 IAC 2-6-3; filed Dec 1, 1989, 5:00 p.m.: 13 IR 635; 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 2-6-4 Textbooks and other instructional materials

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

Sec. 4. The required instructional materials and approved textbooks for the salesperson course are found in 876 IAC 2-9-1. (Indiana Real Estate Commission; 876 IAC 2-6-4; filed Dec 1, 1989, 5:00 p.m.: 13 IR 636; errata, 13 IR 1862; filed Jun 30, 1999, 2:41 p.m.: 22 IR 3418; 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 2-6-5 Instructors

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

Sec. 5. Although instructors who meet the requirements of 876 IAC 2-3 may teach all subject areas included in this course, it should be noted that very few instructors actually possess the desired level of competency in each and every subject area. For this reason, schools are encouraged to utilize guest lecturers with specialized knowledge and skills in specific areas in addition to the primary instructor. (Indiana Real Estate Commission; 876 IAC 2-6-5; filed Dec 1, 1989, 5:00 p.m.: 13 IR 636; 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 2-6-6 Order of subject area presentation

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

Sec. 6. The order in which subject areas are presented in 876 IAC 2-1 and 876 IAC 2-8 is the recommended order. Instructors may make reasonable adjustments in the order of presentation, but should retain a logical order of presentation in any event. (*Indiana Real Estate Commission; 876 IAC 2-6-6; filed Dec 1, 1989, 5:00 p.m.: 13 IR 636; 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 2-6-7 Major subject area emphasis

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 7. Subject area emphasis by major subject area are the topics listed in 876 IAC 2-7-1 in the form of a specific number of classroom hours to be devoted to each major subject area. Instructors may make reasonable adjustments in subject area emphasis to suit their class schedules and individual preference; however, instructors are cautioned against undue overemphasis or underemphasis of topics. (*Indiana Real Estate Commission; 876 IAC 2-6-7; filed Dec 1, 1989, 5:00 p.m.: 13 IR 636; 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 2-6-8 Competency and instructional levels

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 8. (a) Each major topic established in 876 IAC 2-8-1 through 876 IAC 2-8-15 has been assigned a "competency and instructional level" in order to assist the instructor in determining the appropriate relative emphasis and instructional methods for such topics. In some instances where subtopic should be afforded significantly greater or lesser emphasis than that indicated by the level assigned to the major topic under which it is listed, such subtopic has been assigned a different level which applies to that subtopic only.

(b) Competency and instructional levels have been assigned based on the relative importance of the topic and the degree of knowledge or skill needed by real estate salespersons with regard to the topic. Instructors are REQUIRED to comply with the assigned competency and instructional levels (and special notes to instructors) when teaching this course.

(c) As used in this section, "competency" refers to the knowledge/ability level expected of students with regard to a particular topic, while the term "instruction" refers to the depth of instruction and the instructional methods which should be utilized.

(d) Shown below are the four (4) competency and instructional levels used in 876 IAC 2-8 and the meaning of each. Level 1 is the lowest level and Level 4 is the highest.

Level 1

Competency: Student should have a general familiarity with topic.

Instruction: Instructor should discuss topic generally; do not cover in depth.

Level 2

Competency: Student should have a good basic knowledge and understanding of topic.

Instruction: Instructor should cover topic in some moderate depth, using examples (as appropriate) to reinforce ideas, principles, and practices. Coverage should be sufficient to assure that students have a firm grasp of the basic facts, principles, and practices associated with the topic.

Level 3

Competency: Student should have a good working knowledge of topic. Student should not only have a good understanding of the basic facts, principles, and practices associated with the topic, but also should be able to apply his/her knowledge to common fact situations which will likely be encountered in real estate practice.

Instruction: Instructor should cover topic in depth, using examples (as appropriate) to reinforce ideas, principles, and practices and requiring students to complete practical work assignments (as appropriate) to demonstrate both their understanding of the topic and their ability to apply their knowledge to common fact situations which will be encountered in real estate practice.

Level 4

Competency: Student should have a thorough and complete working knowledge of topic. Student should not only have a thorough, in-depth understanding of the facts, principles, and practices associated with the topic, but should also be able to apply his/her knowledge to a wide variety of fact situations which may be encountered in real estate practice.

Instruction: Instructor should cover in depth, using examples (as appropriate) to reinforce ideas, principles, and practices and requiring students to complete extensive practical work assignments (as appropriate) to demonstrate both their understanding of the topic and their ability to apply their knowledge to a wide variety of fact situations which may be encountered in real estate practice.

(Indiana Real Estate Commission; 876 IAC 2-6-8; filed Dec 1, 1989, 5:00 p.m.: 13 IR 636; 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 2-6-9 Mathematics instruction

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 9. 876 IAC 2-7 through 876 IAC 2-8 establish instruction on mathematical functions relating to real estate practice to be provided under the various subject areas involving such mathematical functions rather than as a separate subject area. Consideration was given to the amount of mathematics involved in each subject area when establishing the number of classroom hours for subject areas. This integrated approach is required because it helps assure that students understand how various mathematical functions relate to the various areas of real estate practice. Instruction in basic mathematics concepts such as decimals, fractions, percentages, multiplication, division, etc., is not included in 876 IAC 2-7 through 876 IAC 2-8. If such basic mathematics instruction is to be included in any real estate course, additional time above the minimum required for such course must be provided for such instruction.

(Indiana Real Estate Commission; 876 IAC 2-6-9; filed Dec 1, 1989, 5:00 p.m.: 13 IR 637; 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 2-6-10 Syllabus copies

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 10. (a) Copies of this rule and 876 IAC 2-7 through 876 IAC 2-9 will be provided free of charge by the Indiana real estate commission to approved schools and instructors. School officials and instructors are asked however, to limit requests for copies to that number which is actually needed for use by schools and instructors. Schools and instructors may be asked to justify any request for an unusually large number of copies.

(b) The Indiana real estate commission will not provide copies of this rule and 876 IAC 2-7 through 876 IAC 2-9 for student use, although schools and instructors may reproduce all or part of this rule and 876 IAC 2-7 through 876 IAC 2-9 for student use at their own expense, and may charge students for the cost of reproduction. *(Indiana Real Estate Commission; 876 IAC 2-6-10; filed Dec 1, 1989, 5:00 p.m.: 13 IR 637; 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 7. Real Estate Salesperson Course; Major Subject Area Emphasis

876 IAC 2-7-1 Major subject area; number of course hours

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 1. The fundamentals of the real estate salesperson course are as follows:

FUNDAMENTALS OF REAL ESTATE SALESPERSON PRELICENSING COURSE

MAJOR SUBJECT AREA EMPHASIS

Subject Area	Number of Course Hours
Basic real estate concepts and course overview	4.0
Property ownership and interests	3.0

REAL ESTATE COURSES AND LICENSING REQUIREMENTS FOR BROKERS AND SALESPERSONS

Transfer of title to real property	2.0
Land use controls	1.0
Real estate brokerage and law of agency	3.0
Fair housing	1.0
Real estate contracts	6.0
Landlord and tenant (including leases)	1.0
Real estate financing	10.0
Closing real estate transactions	5.0
Basic house construction	1.0
Property valuation	7.0
Real estate management	1.0
Property insurance	1.0
Federal income taxation of home ownership	1.0
License law, commission rules, and trust account guidelines	7.0
Total course hours	54.0

(Indiana Real Estate Commission; 876 IAC 2-7-1; filed Dec 1, 1989, 5:00 p.m.: 13 IR 637; 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 8. Real Estate Salesperson Course; Outline

876 IAC 2-8-1 Basic real estate concepts

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 1. (a) The competency and instructional level for subdivisions (1) through (4) is Level 1. The following are general characteristics of real estate:

- (1) Terminology.
- (2) Classes of property. (Cover in greater depth under section 2 of this rule.)
- (3) The following characteristics of land:
 - (A) Immobility.
 - (B) Permanence.
 - (C) Uniqueness.
- (4) The following characteristics of land:
 - (A) Scarcity.
 - (B) Permanence of investment.
 - (C) Location.

(b) The competency and instructional level for subdivisions (1) through (4) is Level 1. The following are general concepts of land use and investment:

- (1) The highest and best use concept.
- (2) Public and private land use restrictions. (Cover in greater depth under section 4 of this rule.)
- (3) Real estate investment objectives.
- (4) The real estate market.

(Indiana Real Estate Commission; 876 IAC 2-8-1; filed Dec 1, 1989, 5:00 p.m.: 13 IR 638; 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 2-8-2 Property ownership and interest

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 2. (a) The competency and instructional level for subdivisions (1) through (4) is Level 2. The competency and instructional level for subdivision (5) is Level 3. The following are concepts of property:

- (1) The "bundle of rights" concept.
- (2) Real property.
- (3) Personal property.
- (4) Lands, minerals, fruits of the soil.
- (5) The following fixtures:
 - (A) Definition.
 - (B) Criteria for determining if item is a fixture. (Students should be able to apply these criteria to common fact situations.)
 - (C) Trade and agricultural fixtures.
 - (D) Effect of Uniform Commercial Code concerning security interests in fixtures.
- (b) The competency and instructional level for subdivisions (1), (2)(A)(ii)(AA), and (2)(B) is Level 2. The competency and instructional level for subdivisions (2)(A)(i)(BB) and (2)(A)(ii)(BB) is Level 1. The following are concepts of estates in real property:
 - (1) Definition of "estate".
 - (2) The following types of estates (characteristics of each):
 - (A) Freehold estates as follows:
 - (i) The following estates of inheritance:
 - (AA) Fee simple.
 - (BB) Determinable, base, or qualified fee.
 - (CC) Estate for life of another.
 - (ii) Estates not of inheritance (life estates).
 - (AA) Estate for tenant's own life (conventional life estate).
 - (BB) Marital life estates.
 - (B) Nonfreehold (leasehold) estates. (Mention only; cover in greater depth under section 8 of this rule.)
 - (c) The competency and instructional level for subdivisions (1) and (2)(B) through (2)(D) is Level 2. The competency and instructional level for subdivision (2)(A) is Level 1. The following are concepts of ownership of real property:
 - (1) Severalty (sole) ownership.
 - (2) The following concurrent (joint) ownership (characteristics of each method):
 - (A) Joint tenancy.
 - (B) Tenancy in common.
 - (C) Tenancy by entirety.
 - (D) The following hybrid forms of ownership:
 - (i) Condominium ownership (characteristics, creation, and consumer protection).
 - (ii) Cooperative ownership.
 - (iii) Townhouse ownership.
 - (iv) Time share ownership.
 - (v) Planned unit development (PUD).
 - (d) The competency and instructional level for subdivisions (1)(A), (1)(C), and (2) through (5) is Level 2. The competency and instructional level for subdivision (1)(B) is Level 1. The following are concepts of encumbrances to real property:
 - (1) The following liens:
 - (A) The following specific liens:
 - (i) Mortgages (deeds of trust). (Mention only; cover in depth under section 9 of this rule.)
 - (ii) Real estate tax and assessment liens.
 - (iii) Mechanics' liens (statutory liens).
 - (B) The following general liens:
 - (i) Judgment liens.
 - (ii) Personal property tax liens.
 - (iii) State tax liens.
 - (iv) Federal tax liens.
 - (C) Lien priority.
 - (2) Restrictive covenants. (Mention only; cover in depth under section 4 of this rule.)
 - (3) Lis pendens (notice of pending litigation).

- (4) The following easements and licenses:
 - (A) The following classifications of easements:
 - (i) Appurtenant easements.
 - (ii) Easements in gross.
 - (B) The following creations of easements (types by method of creation):
 - (i) Express.
 - (ii) Implied.
 - (iii) Arising by operation of law.
 - (C) Termination of easements.
 - (D) Party wall (cross easements).

(5) Encroachments.

(e) The competency and instructional level for subdivisions (1) through (3) is Level 2. The following are concepts of appurtenances:

- (1) Easements and land restrictive covenants. (Mention only.)
- (2) Riparian rights.
- (3) Air and subsurface rights.

(f) The competency and instructional level for subdivisions (1) through (2) is Level 3. The following are concepts of property taxation:

- (1) The following topics concerning property tax:
 - (A) Tax rate and calculations.
 - (B) Property subject to taxation.
 - (C) Listing property for taxation.
 - (D) Appraisal and assessment.
 - (E) Timetable for listing and tax collection.
 - (F) Property tax liens.
 - (G) Special priority of tax liens.
 - (H) Exemptions.
 - (I) Records.
 - (J) Payment.

- (2) The following special assessments:
 - (A) By counties.
 - (B) By cities and towns.
 - (C) Special assessment liens.

(Indiana Real Estate Commission; 876 IAC 2-8-2; filed Dec 1, 1989, 5:00 p.m.: 13 IR 638; errata, 13 IR 1188; 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 2-8-3 Transfer of title to real property

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 3. (a) The competency and instructional level for subdivisions (1) through (4) is Level 1. The following are concepts of methods of transferring title:

- (1) By descent (interstate succession).
- (2) By will.
- (3) By voluntary alienation (deed). (Cover in greater depth under subsection (b).)
- (4) By involuntary alienation as follows:
 - (A) Lien foreclosure sale.
 - (B) Adverse possession.
 - (C) Escheat.
 - (D) Eminent domain (condemnation).

(b) The competency and instructional level for subdivisions (1) through (2) is Level 2. The competency and instructional level

for subdivision (2)(B) is Level 1. The following are concepts of deeds:

- (1) Essential elements of a valid deed.
- (2) The following types of deeds (purpose and characteristics of each):
 - (A) The following types most commonly used in Indiana (Use sample deed form for illustration.):
 - (i) General warranty deed.
 - (ii) Special warranty deed.
 - (iii) Quit claim deed.
 - (B) Special purpose deeds.

(c) The competency and instructional level for subdivisions (1) through (3) and subdivision (5) is Level 1. The competency and instructional level for subdivision (4) is Level 2. The following are concepts of title assurance:

- (1) Title examination procedures. (If possible, take students on tour of courthouse to view records.)
- (2) Title insurance including the following:
 - (A) Purpose.
 - (B) The following types of policies:
 - (i) Owner's policies.
 - (ii) Mortgagee's (lender's) policy.
 - (C) Policy coverage.
 - (D) Cost and procurement.
- (3) Abstract of title.
- (4) Title recordation including the following:
 - (A) Purpose.
 - (B) Documents required to be recorded.
 - (C) Recording contracts.
 - (D) Requirements for recordation.
 - (E) Procedures.
- (5) Covenants of title in deeds.

(d) The competency and instructional level for subdivisions (1) through (2) is Level 2. The following are concepts of property description:

- (1) Adequacy of description.
- (2) The following methods of describing real estate:
 - (A) Metes and bounds.
 - (B) Government (rectangular) survey system.
 - (C) Reference to recorded plan (lot and block).
 - (D) Informal reference, e.g., street and address.
 - (E) Reference to publicly recorded documents.

(Indiana Real Estate Commission; 876 IAC 2-8-3; filed Dec 1, 1989, 5:00 p.m.: 13 IR 639; 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 2-8-4 Land use controls

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 4. (a) The competency and instructional level for the historical development of land use controls is Level 1.

(b) The competency and instructional level for land use control importance to real estate agents is Level 1.

(c) The competency and instructional level for subdivision (1) is Level 2. The competency and instructional level for subdivisions (2) through (7) is Level 1. The following are concepts of land use controls:

(1) The following zoning classifications (Use actual local zoning ordinances, zoning maps, classification charts and tables of permitted uses; students should know how to determine the zoning classification and permitted uses for property subject to a zoning ordinance.):

- (A) Basis for governmental zoning authority.
- (B) Purpose of zoning regulations.

- (C) Zoning districts.
- (D) Zoning ordinances.
- (E) The following zoning concepts and terms:
 - (i) Nonconforming use.
 - (ii) Illegal use.
 - (iii) Zoning amendments.
 - (iv) Variance.
 - (v) Special use permit (or special exception).
 - (vi) Overlay districts.
 - (vii) Historic preservation zoning.
 - (viii) Aesthetic zoning.
 - (ix) Spot zoning.

- (2) Urban and regional planning.
- (3) Subdivision regulations.
- (4) Building codes.
- (5) Highway access controls.
- (6) Federal regulation of interstate sales of subdivided land.
- (7) Environmental protection legislation (and regulation).

(d) The competency and instructional level for subdivisions (1) through (3) is Level 2. (Restrictive covenants) (Use typical set of subdivision covenants for illustration.) The following are concepts of privately imposed land use controls:

- (1) Purpose.
- (2) Typical matters addressed.
- (3) Enforcement.

(e) The competency and instructional level for "government ownership" is Level 1. (*Indiana Real Estate Commission; 876 IAC 2-8-4; filed Dec 1, 1989, 5:00 p.m.: 13 IR 640; 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 2-8-5 Real estate brokerage; law of agency

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 5. (a) The competency and instructional level for general agency concepts and definitions for real estate brokerage and law of agency is Level 2.

(b) The competency and instructional level for subdivisions (1) through (3) is Level 2. The following are concepts of the classification of agency relationships:

- (1) Universal.
- (2) General.
- (3) Special.

(c) The competency and instructional level for subdivisions (1) through (2) is Level 3. The following are concepts of employment and authority of the real estate agent:

- (1) Brokerage contracts (as source of authority). (Cover listing contracts and property management contracts in detail where subsequently addressed.)
- (2) Extent (scope) of agent's authority.

(d) The competency and instructional level for subdivisions (1) through (4) is Level 3. The following are general concepts of agency and subagency situations:

- (1) Listing with independent broker, e.g., a single broker working alone.
- (2) Listing with brokerage firm.
- (3) Multiple listing service (or cooperating broker).
- (4) Buyer-broker relationship.

(e) The competency and instructional level for subdivisions (1) through (3) is Level 3. The following are duties and liabilities of agents:

- (1) Agent's duties to principal including the following:
 - (A) Loyalty and obedience. (Note potential problems involved with "self-dealing" and "conflict of interest" situations.)
 - (B) Skill, care, and diligence.
 - (C) Disclosure (and nondisclosure) of information.
 - (D) Accounting.
 - (E) Competency in the particular activity.
 - (F) Fiduciary responsibilities.
 - (G) "Prudent Man" rule.
 - (2) Agent's duties to third persons (buyers and tenants) including the following:
 - (A) Difference between "client" and "customer" in real estate practice.
 - (B) General duty of "honesty and fairness".
 - (C) The following prohibited conduct:
 - (i) Willful misrepresentation.
 - (ii) Negligent misrepresentation.
 - (iii) Willful omission.
 - (iv) Negligent omission.
 - (v) Misrepresentation.
 - (vi) Fraud.
 - (3) The following liabilities and consequences of agent's breach of duties:
 - (A) Disciplinary action by real estate commission against agent.
 - (B) Civil liability of agent.
 - (C) Criminal liability of agent.
 - (D) Civil liability of principal (for agent's misconduct).
- (f) The competency and instructional level for subdivisions (1) through (3) is Level 3. The following are duties and liabilities of principals:
- (1) The following principal's duties to agent:
 - (A) Good faith.
 - (B) Compensation.
 - (2) Principal's duties to third persons. (Note doctrine of caveat emptor and limitations to such doctrine established by consumer protection laws and judicial decisions.)
 - (3) The following are liabilities and consequences of principal's breach of duties:
 - (A) Criminal liability in some cases.
 - (B) Civil liability.

(Indiana Real Estate Commission; 876 IAC 2-8-5; filed Dec 1, 1989, 5:00 p.m.: 13 IR 640; 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 2-8-6 Fair housing

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 6. (a) The competency and instructional level for subdivisions (1) through (3) is Level 2. The following are concepts of the Fair Housing Act of 1968 (Title VIII of 1968 Civil Rights Act):

- (1) Discrimination in the sale or rental of housing based on race, color, religion, sex, or national origin as follows:
 - (A) Blockbusting (or "panic peddling").
 - (B) Steering.
 - (C) Discriminatory advertising.
 - (D) Refusing to sell, rent, or negotiate based on race, etc.
 - (E) Discrimination in terms, conditions, or privileges.
 - (F) Discrimination in the financing of housing ("redlining" and related practices).
 - (G) Discrimination in provision of brokerage services.
- (2) Exemptions.

(3) The following enforcement and penalties:

- (A) By administrative procedure through the Office of Equal Opportunity (OEO) of the Department of Housing and Urban Development (HUD).
- (B) By private lawsuit in federal court.
- (C) Procedures for initiating a complaint.

(Indiana Real Estate Commission; 876 IAC 2-8-6; filed Dec 1, 1989, 5:00 p.m.: 13 IR 641; 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 2-8-7 Real estate contracts

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 7. (a) The competency and instructional level for subdivisions (1) through (6) and (10) is Level 2. The competency and instructional level for subdivisions (7) through (9) is Level 1. The following are concepts of basic contract law:

(1) The following basic contract terms and classifications:

- (A) Definition of a contract.
- (B) Express/implied.
- (C) Bilateral/unilateral.
- (D) Executed/executory.
- (E) Valid (enforceable)/void (unenforceable) /voidable.

(2) The following essential elements of a contract:

- (A) The following requirements for mutual assent (offer and acceptance):
 - (i) The offer.
 - (ii) Acceptance.
 - (iii) Counteroffers.
 - (iv) Termination of offers.
- (B) Consideration.
- (C) Capacity of the parties.
- (D) Lawful objective.

(3) The following requirements for reality of consent:

- (A) Mistake.
- (B) Fraud and misrepresentation.
- (C) Duress.
- (D) Undue influence.

(4) Contract law and auction sales as follows:

- (A) Basic procedures.
- (B) "With reserve" versus "without reserve".

(5) Statute of frauds (applied to real estate contracts) as follows:

- (A) Contracts to sell or convey any interest in real property.
- (B) Leases of real property exceeding three (3) years in duration.

(6) The following discharge of contracts:

- (A) Agreement of the parties.
- (B) Full performance.
- (C) Impossibility of performance.
- (D) Operation of law.

(7) Assignment of contracts.

(8) General rules for interpretation of contracts.

(9) The following contract remedies:

- (A) Money damages.
- (B) Specific performance.
- (C) Rescission.

(10) Other considerations as follows:

- (A) The following authority to sign:
 - (i) Competency.
 - (ii) Age.
 - (iii) Power of attorney.
 - (iv) Need for signature of all parties.
- (B) Notary public.
- (C) Changing a contract.
- (D) "Time is of the essence".
- (E) Abbreviations in contracts.
- (F) Blanks in contracts.
- (G) Who may write contracts.

(b) The competency and instructional level for subdivisions (1) through (6) and (8) is Level 3. The competency and instructional level for subdivision (7) is Level 2. The following are concepts of listing contracts and practices:

(1) Definition and purpose of listing contracts.

(2) Broker's entitlement to a commission as follows:

- (A) The following requisites for establishing claim to a commission:
 - (i) Broker must be licensed.
 - (ii) Broker must have a valid employment (listing) contract.
- (B) Ready, willing, and able buyer rule.
- (C) Procuring cause of sale rule.

(3) The following basic types of listing contracts (characteristics of each):

- (A) Open.
- (B) Exclusive agency.
- (C) Exclusive right to sell.
- (D) Protection agreement.

(4) Multiple listing service arrangements. (Use sample pages from local MLS book for illustration of how the MLS lists properties.)

(5) The following listing contract provisions (Introduce listing agreement used on state examination.):

- (A) Property description.
- (B) Listing price and terms of sale.
- (C) Broker's duties.
- (D) Brokerage fee (including computations) as follows:
 - (i) Percentage of sale price (commission).
 - (ii) Flat fee.
 - (iii) Net listing.
 - (iv) Splitting the fee.
- (E) Duration of listing.
- (F) "Override" (or "extender") clause.

(6) Property data sheet as follows:

- (A) Purpose and use.
- (B) Listing agent's responsibilities.
- (C) Determining square footage.
- (D) Seller's disclosure of defects.

(7) Termination of listing contracts.

(8) Practice preparation of listing contracts and property data sheets. (Students should be afforded supervised practice in completing listing contracts and property data sheets. Note the consequences of inadequate or improper preparation of listing contracts and property data sheets.)

(c) The competency and instructional level for subdivision (1) is Level 3. The competency and instructional level for subdivision (2) is Level 1. The competency and instructional level for subdivision (3) is Level 2. The following are concepts of sales contracts and practices:

- (1) The offer to purchase. (Student should be afforded supervised practice in completing an offer to purchase as used on the state examination, including special provisions and modifications by counteroffer, for a variety of fact situations.)
- (A) The following major contract provisions:
 - (i) Description of the property (including personal property to be included in the sale).
 - (ii) Sale price and payment terms.
 - (iii) Earnest money, and possible forfeiture thereof as follows:
 - (AA) Forms of earnest money and disclosure thereof.
 - (BB) Post dated checks.
 - (CC) Importance of explaining to buyer and seller the handling of an earnest money deposit.
 - (iv) Type of conveyance and quality of title.
 - (v) Closing and possession dates.
 - (vi) Closing expenses and prorations.
 - (vii) Condition of utilities.
 - (viii) Condition of property in general.
 - (ix) Risk of loss.
 - (x) Wood destroying insects.
 - (xi) Contingency provisions as follows:
 - (AA) Buyer financing.
 - (BB) Sale of buyer's present home.
 - (xii) Signature and dates.
 - (B) Offer, acceptance, and delivery (review of legal requirements as applied to this type of contract) as follows:
 - (i) Handling by telephone.
 - (ii) Handling by mail.
 - (iii) Withdrawal of offer.
 - (C) Submitting the following offers to seller:
 - (i) Other competitive offer.
 - (ii) Conditional "back up" offer.
 - (D) Handling contract modification.
 - (E) Furnishing copies of offers and contracts to buyer and seller.
 - (F) Specific performance.
 - (G) Disclosure by agent that he represents the buyer, the seller, or both.
- (2) Installment land contracts (Use sample for illustration.) as follows:
- (A) Definition and purpose.
 - (B) Typical provisions.
 - (C) Advantages and disadvantages (from viewpoint of both buyer and seller).
 - (D) Preparation.
 - (E) Default and foreclosure.
 - (F) Voluntary information.
 - (G) Recording.
- (3) The following options to purchase real estate (Use sample form for illustration.):
- (A) Definition and purpose.
 - (B) Rights of parties.
 - (C) Requirements of options.
 - (D) Right of first refusal. (Distinguish from "option".)

(Indiana Real Estate Commission; 876 IAC 2-8-7; filed Dec 1, 1989, 5:00 p.m.: 13 IR 641; 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 2-8-8 Landlord and tenant

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 8. (a) The competency and instructional level for subdivisions (1) through (2) is Level 2. The following are concepts of landlord and tenant relationship:

- (1) Definitions: landlord (lessor), tenant (lessee), lease.
- (2) Privity of estate and privity of contract concepts.

(b) The competency and instructional level for subdivisions (1) through (8) is Level 2. The following are concepts of the Residential Rental Agreements Act:

- (1) Obligations of landlord and tenant are mutually dependent.
- (2) Landlord's statutory duties.
- (3) Relationship of the law of negligence.
- (4) Tenant's statutory duties.
- (5) Retaliatory eviction doctrine.
- (6) Tenant prohibited from unilaterally withholding rent.
- (7) Residential eviction remedies.
- (8) Constitutional rights of tenants in public housing.

(c) The competency and instructional level for subdivisions (1) through (4) is Level 2. The following are concepts of nonfreehold estates (characteristics of each):

- (1) Estates for years.
- (2) Estates from period to period (periodic tenancies).
- (3) Estates at will.
- (4) Estates at sufferance.

(d) The competency and instructional level for subdivisions (1) through (2) and (4) through (6) is Level 2. The competency and instructional level for subdivision (3) is Level 3. The following are general concepts of leases:

(1) The following types of leases (uses and characteristics of each):

- (A) Fixed rental (flat); gross.
- (B) Percentage.
- (C) Net.
- (D) Graduated.
- (E) Index.
- (F) Reappraisal.
- (G) Ground.
- (H) Mineral.

(2) Lease forms and preparation.

(3) The following lease provisions:

- (A) Essential provisions (basically the same as for any contract).
- (B) Other common provisions (relating to matters listed as follows and similar matters):
 - (i) Tenant's use of premises.
 - (ii) Fixtures.
 - (iii) Repairs (nonresidential property).
 - (iv) Assignments and subleases.
 - (v) Renewal.
 - (vi) Option to purchase/right of first refusal.
 - (vii) Landlord's right to enter during lease term.
 - (viii) Termination.
- (C) Landlord's implied covenant of quiet enjoyment.

(4) Application of leases.

(5) Recordation of leases.

(6) Effect of lease upon sale of property.

(Indiana Real Estate Commission; 876 IAC 2-8-8; filed Dec 1, 1989, 5:00 p.m.: 13 IR 643; 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 2-8-9 Real estate financing

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 9. (a) The competency and instructional level for subdivisions (1), (2)(A) through (2)(B), (2)(E), and (3) through (5) is Level 2. The competency and instructional level for subdivisions (2)(C) through (2)(D) is Level 3. The following are concepts of mortgages:

- (1) The following are basic mortgage terms and concepts:
 - (A) Definitions: mortgage, mortgagor/mortgagee; trustee, beneficiary, grantor.
 - (B) Right (equity) of redemption.
 - (C) Foreclosure and statutory redemption period.
 - (2) The mortgage note provisions as follows:
 - (A) Essential elements of a valid note.
 - (B) Special note provisions as follows:
 - (i) Acceleration clause.
 - (ii) Prepayment penalty clause.
 - (iii) Due-on-sale clause.
 - (C) Principal and interest (debt service) provisions as follows:
 - (i) Definitions.
 - (ii) Basic computations of simple interest.
 - (iii) Determining monthly principal and interest payment.
 - (iv) Usury laws.
 - (D) Payment (amortization) plans as follows:
 - (i) Fixed rate.
 - (ii) Adjustable (or variable) interest rate plans.
 - (iii) Graduated payment plans.
 - (iv) Buydown loan.
 - (v) Term loan.
 - (vi) Balloon payment plans.
 - (vii) Shared appreciation plans.
 - (E) Negotiability of note.
 - (3) The mortgage instrument provisions as follows (Use sample form for illustration.):
 - (A) Essential elements.
 - (B) Parties to mortgages.
 - (4) The following rights of mortgage lenders:
 - (A) Right to foreclosure provisions as follows:
 - (i) Foreclosure methods as follows:
 - (AA) Judicial.
 - (BB) Power of sale (nonjudicial).
 - (CC) Strict.
 - (ii) Deficiency judgment.
 - (B) Right to transfer (assign) the mortgage.
 - (5) The following rights of borrowers:
 - (A) Right to possession.
 - (B) Right (equity) of redemption.
- (b) The competency and instructional level for subdivisions (1) through (3) is Level 3. The following are concepts of sales of mortgaged property:
- (1) Cash sale.
 - (2) Assumption of existing mortgage. (Release of liability and restoration of benefits on VA mortgage.)
 - (3) Purchase subject to existing mortgage.
- (c) The competency and instructional level for subdivisions (1)(A) through (1)(B) is Level 3. The competency and instructional

level for subdivisions (1)(C) through (1)(E) is Level 2. The competency and instructional level for subdivision (2) is Level 1. The following are concepts of types of mortgages:

- (1) The following major types (by lending source):
 - (A) Conventional mortgage loans including the following:
 - (i) Definition and availability.
 - (ii) Insured versus noninsured.
 - (iii) General characteristics and interest rates.
 - (B) FHA mortgage loans including the following:
 - (i) Historical and present role of the FHA.
 - (ii) Definition and availability.
 - (iii) General characteristics (including maximum loan amount).
 - (iv) FHA loan programs including the following:
 - (AA) Section 203(b), home mortgages.
 - (BB) Section 234(c), condominium mortgages.
 - (CC) Sections 245(a) through (b), graduated payment mortgages.
 - (v) Interest rates.
 - (vi) Advantages/disadvantages.
 - (C) VA mortgage loans including the following:
 - (i) Historical and current role of the VA.
 - (ii) Eligibility requirements.
 - (iii) Amount of guarantee or entitlement.
 - (iv) Characteristics (including interest rates, discount points, and maximum loan amount).
 - (v) Advantages/disadvantages.
 - (D) FmHA mortgage loans including the following:
 - (i) Historical and current role of FmHA.
 - (ii) Eligibility requirements.
 - (iii) Characteristics (including interest rates).
 - (E) Purchase money mortgages (from buyer to seller).
- (2) Other types as follows (by loan characteristics) (Cover basic definitions, characteristics, and uses.):
 - (A) Construction.
 - (B) Open end.
 - (C) Blanket.
 - (D) Package.
 - (E) Reverse authority.
 - (F) Wraparound.

(d) The competency and instructional level for subdivisions (1) through (2) is Level 2. The following are concepts of mortgage priorities:

- (1) Effect and importance of recordation.
- (2) Subordination of mortgages.

(e) The competency and instructional level for subdivisions (1) through (2) is Level 1. The following are concepts of major sources of real estate financing (the primary mortgage market) (Explain the role of each in providing real estate financing.):

- (1) The following direct sources (primary mortgage market):
 - (A) Savings and loan associations.
 - (B) Commercial banks.
 - (C) Mutual savings bank.
 - (D) Mortgage companies (mortgage bankers).
 - (E) Mortgage brokers.
 - (F) Individuals.
 - (G) Miscellaneous (government agencies, credit unions, and employers).
 - (H) Indiana housing authority.
- (2) Indirect sources.

(f) The competency and instructional level for subdivisions (1) through (4) is Level 1. The competency and instructional level for subdivision (5) is Level 3. The following are concepts of the secondary mortgage market (Explain how the secondary market functions and the role of its major participants.):

- (1) Federal National Mortgage Association (FNMA).
- (2) Government National Mortgage Association (GNMA).
- (3) Federal Home Loan Mortgage Corporation (FHLMC).
- (4) Private mortgage insurers.
- (5) Discount points and yield (including computations).

(g) The competency and instructional level for subdivisions (1), (2)(A)(i) through (2)(A)(iv), and (2)(B) through (2)(D) is Level 2. The competency and instructional level for subdivisions (2)(A)(v) and (3) is Level 3. The following are concepts of residential lending practices and procedures:

(1) Loan application procedures. (Use sample form for illustration.)

(2) Loan underwriting practices as follows:

(A) Borrower analysis ("qualifying a buyer/borrower") including the following:

- (i) Credit characteristics.
- (ii) Adequacy of assets to close the transaction.
- (iii) Stability of income.
- (iv) Types of acceptable income.
- (v) Adequacy of income. (Student should be afforded practice in applying the expense/income ratios for conventional and FHA loans and the residual income standards for VA loans to hypothetical fact situations.)

(B) Property analysis including the following:

- (i) Appraisal.
- (ii) Title opinion and title insurance.

(C) Loan analysis including the following:

- (i) Yield (interest rate and discount points).
- (ii) Loan term.
- (iii) Loan-to-value ratio.
- (iv) Mortgage insurance.

(D) Loan commitment and closing.

(3) Prequalification of buyer by real estate agent. (Student should be afforded practice in prequalifying hypothetical prospective buyers.)

(h) The competency and instructional level for subdivisions (1) through (2) is Level 1. The following are concepts of financing legislation (federal):

(1) Truth-in-Lending Act and the Truth-in-Lending Simplification and Reform Act (TILSRA), as implemented by Regulation Z of the Federal Reserve Board including the following:

- (A) Basic purpose and applicability.
- (B) Disclosure of credit information.
- (C) Applicability to "arrangers of credit".
- (D) Disclosures of credit terms in advertising the sale of real estate.

(2) The Equal Credit Opportunity Act (ECOA) implemented by Regulation B of the Federal Reserve Board including the following:

- (A) Basic purpose.
- (B) Basic provisions and requirements.

(Indiana Real Estate Commission; 876 IAC 2-8-9; filed Dec 1, 1989, 5:00 p.m.: 13 IR 644; 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 2-8-10 Closing real estate sales transactions

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 10. (a) The competency and instructional level for subdivisions (1) through (3) is Level 3. (The prevalent closing method

used in Indiana. Remainder of section on "closing" is based on this method.) The following are concepts of the closing meeting:

- (1) Parties present or represented.
- (2) Location where meeting is conducted.
- (3) Parties responsible for closing.

(b) The competency and instructional level for subdivisions (1) through (10) is Level 3. The following are concepts of the preliminaries to closing:

- (1) Property survey (usually the buyer's responsibility).
- (2) Wood-destroying insect (termite) inspection (usually the seller's responsibility).
- (3) Title examination (including personal property lien search and mechanic's lien inquiry) (buyer's responsibility).
- (4) Abstract of title or title insurance (variations of responsibility).
- (5) Property inspection by buyer.
- (6) Clearing of title defects by seller.
- (7) Homeowner's or hazard insurance (buyer's responsibility).
- (8) Sewage disposal percolation test (usually the seller's responsibility if such a test is required).
- (9) Drafting and review of documents as follows:

- (A) Deed (and any other required documents relating to title) (seller's responsibility).
- (B) Note and mortgage (buyer's responsibility).
- (C) Bill of sale for personal property (if required) (seller's responsibility).
- (D) Closing statement(s) (closing attorney/broker responsibility).

(10) Post-closing title search (buyer's responsibility).

(c) The competency and instructional level for concepts of items required at closing is Level 3. (Cover the items that must be provided at closing by the buyer and seller, either personally or through their attorney(s).)

(d) The competency and instructional level for subdivisions (1) through (2) is Level 3. The following are concepts of prorations at closing:

(1) Methods of calculating prorations as follows:

- (A) Three hundred sixty (360) day year/thirty (30) day month method.
- (B) Three hundred sixty-five (365) day year method.
- (C) Actual days in the month method (combines clauses (A) through (B)).
- (D) Proration tables, programmed calculators, etc.
- (E) Choice of methods (usually determined by local custom and/or agreement of parties).

(2) Items commonly prorated at closing as follows:

- (A) Real estate taxes for current year.
- (B) Homeowner's and/or hazard insurance premiums on assigned policy.
- (C) Rents on leased premises.
- (D) Interest on assumed mortgage.

(e) The competency and instructional level for subdivisions (1) through (5) is Level 3. The following are concepts of the closing statement:

- (1) Purpose and preparation.
- (2) Broker's responsibility for closing statements.
- (3) Closing statement format (HUD-1 form and others).
- (4) Closing statement entries as follows (Students are expected to have a good working knowledge of how to record various closing statement entries that may be required in various situations in accordance with standard practices.):

(A) Explanation of "debit/credit" system.

(B) Double entry items as follows:

- (i) Prorations.
- (ii) Other nonprorated items.

(C) Single entry items as follows:

- (i) Debits (charges) to seller.
- (ii) Credits to seller.
- (iii) Debits (charges) to buyer.
- (iv) Credits to buyer.

- (D) Balance due seller.
- (E) Balance owed buyer.
- (5) Handling funds at closing.
- (f) The competency and instructional level for subdivisions (1) through (2) is Level 2. The following are concepts of the Real Estate Settlement Procedures Act of 1974 (RESPA):
 - (1) Purpose and applicability.
 - (2) Basic provisions as follows:
 - (A) Requires lender to provide prospective borrowers with a copy of the HUD booklet "Settlement Costs and You" and "good faith estimates" of loan closing costs within three (3) business days of the date a loan application is filed.
 - (B) Lender must use HUD-1 form for all "federally related" mortgage loans.
 - (C) Upon demand by borrower, lender must permit borrower to examine the closing statement at least one (1) day prior to closing.
 - (D) Prohibits lenders from paying "kickbacks" for referrals.
 - (E) Regulates reserve (impound or escrow) accounts for payment of property taxes and insurance premiums.
 - (F) Other financing considerations including the following:
 - (i) Use of gift letters, pledged accounts, etc.
 - (ii) Second mortgages.

(Indiana Real Estate Commission; 876 IAC 2-8-10; filed Dec 1, 1989, 5:00 p.m.: 13 IR 646; 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 2-8-11 Basic house construction

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 11. (a) The competency and instructional level for subdivisions (1) through (2) is Level 1. (The purpose of this section is to provide the student with an elementary knowledge of basic house construction principles, techniques, and terminology which will assist the student in listing, showing, and selling such properties. Study is limited to wood frame (including brick veneer) type of construction because of its predominant use in Indiana. Extensive use of handout material is recommended due to limited class time.) The following are concepts of architectural types and styles:

- (1) The following basic types:
 - (A) One (1) story (ranch).
 - (B) One and one-half (1 1/2) story.
 - (C) Two (2) story.
 - (D) Split-level.
- (2) The following styles:
 - (A) Traditional including the following:
 - (i) Colonial.
 - (ii) English tudor.
 - (iii) Victorian.
 - (iv) French provincial.
 - (B) Contemporary.

(b) The competency and instructional level for subdivisions (1) through (6) is Level 1. The following are concepts of foundations:

- (1) Basic components.
- (2) The following major types:
 - (A) Concrete slabs including the following:
 - (i) Monolithic.
 - (ii) Floating.
 - (B) Basement.
 - (C) Crawl space.
- (3) Materials.

- (4) The following termite protection:
 - (A) Chemical treatment of ground near foundation, walls, and piers.
 - (B) Pressure-treated wood.
- (5) Ventilation.
- (6) Waterproofing.
- (c) The competency and instructional level for subdivisions (1) through (3) is Level 1. The following are concepts of framing:
 - (1) Floors, major components.
 - (2) Walls including the following:
 - (A) Basic components.
 - (B) Basic types as follows:
 - (i) Platform (most common type).
 - (ii) Balloon.
 - (iii) Post and beam.
 - (3) Roof and ceiling framing: major roof types (designs) as follows:
 - (A) Gable.
 - (B) Hip.
 - (C) Shed.
 - (D) Flat.
 - (E) Mansard.
 - (F) Gambrel.
- (d) The competency and instructional level for subdivisions (1) through (2) is Level 1. The following are concepts of exterior walls:
 - (1) Sheathing.
 - (2) Siding.
- (e) The competency and instructional level for subdivisions (1) through (2) is Level 1. The following are concepts of windows and exterior doors:
 - (1) Windows including the following:
 - (A) The following types:
 - (i) Sliding windows: double hung and horizontal sliding.
 - (ii) Swinging windows: casement, jalousie, hopper, and awning.
 - (iii) Fixed windows: picture, bay, and bow.
 - (B) Major components.
 - (2) The following door types:
 - (A) Flush.
 - (B) Panel.
 - (C) Sliding.
 - (D) Glass.
 - (E) French.
- (f) The competency and instructional level for subdivisions (1) through (3) is Level 1. The following are concepts of roofing:
 - (1) Roof sheathing (decking).
 - (2) Roofing material.
 - (3) Eaves.
- (g) The competency and instructional level for subdivisions (1) through (4) is Level 1. The following are concepts of insulation:
 - (1) Insulation materials.
 - (2) Required insulation under Indiana and/or local residential building codes including the following:
 - (A) Walls.
 - (B) Ceilings.
 - (C) Floors. (Note electrical utilities recommend higher R values.)
 - (3) Weatherstripping.
 - (4) Moisture control (vapor barriers and attic ventilation).
- (h) The competency and instructional level for interior finish for walls, ceilings, and floors is Level 1.

(i) The competency and instructional level for subdivisions (1) through (3) is Level 1. The following are concepts of heating and air conditioning systems:

- (1) Heating systems including the following:
 - (A) Power sources: sun, gas, oil, electricity, coal, wood, etc.
 - (B) Methods of heating: solar, warm air, hot water, steam, electric wire.
 - (C) Types of heating systems as follows:
 - (i) Gravity warm air.
 - (ii) Forced warm air.
 - (iii) Electric baseboard.
 - (iv) Space heating systems. (Include wood stoves, kerosene heaters, electric heaters, fireplaces, etc.)
 - (v) Solar heating systems as follows:
 - (AA) Active.
 - (BB) Passive.
 - (CC) Components.
 - (DD) Terminology.
- (2) Air conditioning systems including the following:
 - (A) Central forced air (may be powered by electricity, gas, or oil).
 - (B) Room air conditioners.
- (3) Combination systems, the heat pump.

(j) The competency and instructional level for subdivisions (1) through (3) is Level 1. The following are concepts of government regulations:

- (1) Indiana uniform residential building code.
- (2) HUD minimum standards.
- (3) Contractor licensing.

(Indiana Real Estate Commission; 876 IAC 2-8-11; filed Dec 1, 1989, 5:00 p.m.: 13 IR 647; errata filed Jun 2, 1998, 11:33 a.m.: 21 IR 3939; 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 2-8-12 Real property valuation; appraisal

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

Sec. 12. (a) The competency and instructional level for subdivisions (1) through (5) is Level 2. The following are basic appraisal concepts:

- (1) Definition of "appraisal" including the following:
 - (A) Who can perform.
 - (B) Liability.
- (2) Valuation versus evaluation including the following:
 - (A) Valuation, market value estimates.
 - (B) Evaluation as follows:
 - (i) Economic feasibility study.
 - (ii) Land utilization study.
- (3) Concepts of value including the following:
 - (A) Value in use.
 - (B) Value in exchange.
 - (C) "Value" versus "cost" and "price".
 - (D) Definition of "market value".
- (4) Forces and factors influencing property value including the following:
 - (A) Social ideas and standards.
 - (B) Economic forces.
 - (C) Government activities.

- (D) Physical or environmental forces.
- (5) Basic economic principles of value including the following:
 - (A) Supply and demand.
 - (B) Anticipation.
 - (C) Substitution.
 - (D) Conformity.
 - (E) Contribution.
 - (F) Competition.
 - (G) Change.
 - (H) Highest and best use.

(b) The competency and instructional level for subdivision (1) is Level 3. The competency and instructional level for subdivisions (2) through (3) is Level 2. The competency and instructional level for subdivision (4) is Level 1. The following are concepts of approaches to value (appraisal methods):

(1) Market data approach (also called direct sales comparison approach) (Students should be afforded practice in the use of this approach for estimating the value of residential properties.) including the following:

- (A) Definition and general use; terminology.
- (B) The following procedures:
 - (i) Selection of recently sold comparable properties ("comparables").
 - (ii) Collection and analysis of sales and property data.
 - (iii) Adjustment of the sale prices of comparables to reflect differences between them and the subject property.
 - (iv) Correlation of the adjusted sale prices of comparables to derive estimate of value for subject property.

(2) Cost approach including the following:

- (A) Definition and general use; terminology.
- (B) Estimate of land (lot) value (determined by using market data approach).
- (C) Estimating building costs as follows:
 - (i) Reproduction cost versus replacement cost.
 - (ii) Estimating reproduction or replacement cost using the square foot (comparative) method (simplest and most widely used method by appraisers).
 - (iii) Depreciation as follows:
 - (AA) Definition and basic concepts (such as "effective age" and "economic life").
 - (BB) The following depreciation methods:
 - (aa) Age/life (straight-line) method.
 - (bb) Market abstraction method.
 - (cc) The following breakdown method:
 - (1) Physical deterioration (curable and incurable).
 - (2) Functional obsolescence (curable and incurable).
 - (3) Economic obsolescence (curable and incurable).
- (D) Formulating the opinion of value (estimated reproduction/replacement cost less (-) estimated depreciation plus (+) estimated value of land equals (=) indication of value).

(3) Income approach including the following:

- (A) Definition and general use.
- (B) Capitalization of income method as follows:
 - (i) Estimate gross potential income based on "market rent".
 - (ii) Derive net operating income estimate by deducting projected vacancy and collection losses and operating expenses from gross income projection.
 - (iii) Derive capitalization rate by either:
 - (AA) market abstraction (same concept as used with market data approach and GRM method; most commonly used method); or
 - (BB) other methods such as "band of investment method", "build-up method", or "mortgage equity method".

(These are beyond the scope of this course. Mention only, do not cover.)

- (iv) Derive estimate of property value (value equals net operating income divided by capitalization rate).
- (C) Gross rent multiplier (GRM) method as follows:
 - (i) Obtain sale price and gross income (rent) data on recently sold similar (comparable) properties. (Also record property and other sales data for comparative purposes.)
 - (ii) Derive GRM for each comparable (sales price divided by gross income equals GRM).
 - (iii) Correlate data to determine appropriate GRM.
 - (iv) Derive estimate of subject property's value (GRM multiplied by gross income of subject equals indicated value of subject).
- (4) The following reconciliation of the three (3) approaches to value:
 - (A) Assign appropriate "weight" to value indicated by each approach according to the reliability of each approach for the particular subject property.
 - (B) Derive final conclusion (estimate) of value.

(Indiana Real Estate Commission; 876 IAC 2-8-12; filed Dec 1, 1989, 5:00 p.m.: 13 IR 648; 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 2-8-13 Real estate management

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

Sec. 13. (a) The competency and instructional level for subdivisions (1) through (2) is Level 2. The following are concepts of real estate management:

- (1) Purpose of real property management.
- (2) Types of properties requiring management as follows:
 - (A) Residential.
 - (B) Commercial.
 - (C) Industrial.

(b) The competency and instructional level for subdivisions (1) through (3) is Level 2. The following are concepts of the owner/property manager relationship:

- (1) Authority of property manager (agent) including the following:
 - (A) Established by property management contract.
 - (B) Property manager is normally a special agent.
- (2) Duties of property manager (in general, a property manager owes the same duties to his principal and to third persons as those covered under "real estate brokerage and the law of agency").
- (3) Property management fee (including calculations).

(c) The competency and instructional level for subdivisions (1) through (8) is Level 2. The following are concepts of the principal functions of property managers:

- (1) Establishing a rental schedule.
- (2) Preparing a proposed operating budget.
- (3) Marketing (advertising) and renting the property.
- (4) Collecting and accounting for rents and security deposits including the following:
 - (A) Establishing policies.
 - (B) Statutory requirements.
- (5) Instituting legal actions (to recover rents or to evict tenants).
- (6) Maintaining and protecting the property (including supervision of maintenance personnel, paying property insurance, establishing and enforcing rules for tenants, and providing tenant services).
- (7) Performing landlord's duties under leases.
- (8) Maintaining records and reporting to owner (including periodic income and expense reports).

(Indiana Real Estate Commission; 876 IAC 2-8-13; filed Dec 1, 1989, 5:00 p.m.: 13 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 2-8-14 Property insurance

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 14. (a) The competency and instructional level for subdivisions (1) through (4) is Level 1. The following are basic property insurance concepts and terminology:

- (1) Insurer and insured.
- (2) Property (fire and other hazard) insurance.
- (3) Liability insurance.
- (4) Package insurance policy.

(b) The competency and instructional level for subdivisions (1) through (2) is Level 1. The following are concepts of the standardized homeowner's insurance policies:

- (1) Standardized forms including the following:
 - (A) HO-1 (basic form).
 - (B) HO-2 (broad form).
 - (C) HO-3 (all risk form – the most widely used form).
 - (D) HO-4 (tenant's policy – for personal property).
 - (E) HO-5 (comprehensive all risk form – provides broad coverage of both real and personal property).
 - (F) HO-6 (condominium owner's policy).
- (2) Contents of HO-2 (or HO-3) form (Use standard policy form for illustration.) including the following:
 - (A) Agreement to insure (and related provisions).
 - (B) Declaration page including the following:
 - (i) Period of coverage.
 - (ii) Property description and "rating".
 - (iii) Coverage, including liability limits, deductibles (if any), and premiums.
 - (iv) Endorsements (if any).
 - (v) Name of mortgagee, signature of authorized agent, and other similar matters.
 - (C) Standardized policy provisions (all details of the policy, including perils insured against, property covered, conditions, exclusions, and endorsements).
 - (D) Definitions as follows:
 - (i) Conditions.
 - (ii) Exclusions.
 - (iii) Endorsements.

(c) The competency and instructional level for subdivisions (1) through (4) is Level 1. The following are concepts of selected legal issues:

- (1) Insurable interests.
- (2) Coinsurance (including computations).
- (3) Unoccupied building exclusions.
- (4) Interpretation of policies.

(Indiana Real Estate Commission; 876 IAC 2-8-14; filed Dec 1, 1989, 5:00 p.m.: 13 IR 650; 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 2-8-15 Federal income taxation of homeownership

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 15. (a) The competency and instructional level for subdivisions (1) through (2) is Level 3. The following are concepts of deductions from income for homeowners:

- (1) Real property taxes.
- (2) Mortgage interest (limited deductions).

(b) The competency and instructional level for subdivisions (1) through (5) is Level 3. (Students should be afforded practice

in performing the various computations associated with taxation of gain on the sale of personal residence.) The following are concepts of the sale of personal residence:

- (1) Basis and adjusted basis.
- (2) Determination of gain or loss.
- (3) Nature of gain or loss.
- (4) Deferral of taxation on gain ("rollover" provisions).
- (5) Exclusion of gain by taxpayer over age fifty-five (55).

(Indiana Real Estate Commission; 876 IAC 2-8-15; filed Dec 1, 1989, 5:00 p.m.: 13 IR 650; 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 2-8-16 Real estate license law, commission rules and regulations; escrow account guidelines

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

Sec. 16. In-depth knowledge of the Indiana Real Estate License Laws and Rules and Regulations booklet is required. Competency and instructional level is Level 3. *(Indiana Real Estate Commission; 876 IAC 2-8-16; filed Dec 1, 1989, 5:00 p.m.: 13 IR 651; 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 2-8-17 Real estate mathematics

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

Sec. 17. (a) The competency and instructional level for real estate mathematics is Level 1 or Level 2. This section is included only for the purpose of listing in one (1) place the types of applied real estate mathematics calculations which students should master in this course. As a practical matter, it will be necessary to cover most of these various mathematics calculations at various points during the course. It is not feasible to cover all real estate mathematics required in the course as a separate subject area, although instructors may wish to have a "review" on real estate mathematics near the end of the course.

(b) It should be noted that the mathematics listed below is applied real estate mathematics. This course outline does not provide for instruction in basic mathematics such as addition, subtraction, multiplication, division, decimals, fractions, or percentages. It is presumed that entering students possess these elementary mathematical skills. Should it be necessary to provide students with remedial instruction in basic mathematics, schools must include additional time for such instruction over and above the minimum time required for this course.

(c) Instructors will note that competency and instructional levels are not assigned to topics in this section. Since all the topics (types of mathematics calculations) listed should be "mastered" by students, it is considered obvious that a working knowledge of these topics is required. Students are still expected to have a working knowledge of the mathematics associated with such topics.

(d) Types of applied real estate mathematics calculations include the following concepts of brokerage commissions:

- (1) On sales.
- (2) On rentals.
- (3) Commission splits.

(e) Estimating net to seller after brokerage fee and other closing expenses are paid (when setting listing price or considering an offer).

(f) Concepts of profit/loss on sale of real estate (including percentages); equity (including percentages).

(g) The following are concepts of area calculations:

- (1) Conversion of acreage to square footage and vice versa.
- (2) Calculations of square footage of variously shaped buildings and parcels of land with straight-line sides, including irregularly shaped parcels and buildings (involves application of formulas for calculating the area of squares, rectangles, trapezoids, and right triangles).
- (3) Cost and price per square foot, acre, front.

(h) The following are concepts of financial calculations:

- (1) Simple interest (how to compute monthly interest and amount of interest paid over life of a fixed-rate loan).
- (2) Monthly P and I payment (how to compute monthly P and I payment using "factors", given the loan amount, interest rate,

term, and factor).

(3) Debt service and mortgage debt reduction (how to compute principal balance after one (1) monthly payment, given previous principal balance, monthly P and I payment and interest rate, without using amortization tables).

(4) Loan origination fees and discount points.

(5) Loan value (applying loan-to-value ratios).

(6) Yields (on mortgage loans involving discount points using "rule of thumb").

(7) Qualifying a buyer using given maximum expense/income ratios and other relevant data, determining:

(A) the maximum PITI payment buyer can qualify for;

(B) the maximum loan amount buyer can qualify for;

(C) the minimum income required for buyer to qualify for a loan of "X" amount;

(D) the maximum expenses buyer can have to qualify for a loan of "X" amount; or

(E) whether or not buyer is qualified for a particular loan.

Also computing "housing expenses" and "long-term debts" (recurring obligations) using given data.

(i) Prorations at closing. (See section on "Closing Real Estate Transactions" for proration methods and items requiring proration.)

(j) Preparation of closing statements. (Note: Although the salesperson license examination does not require candidates to work an entire closing statement (for both seller and buyer), students in this course should nevertheless be taught closing statement preparation. Salesperson license examination candidates may be required to work closing statement "mini" problems where, based on summarized data, they are asked to calculate the "net proceeds due to seller" or the "balance due from buyer".)

(k) A concept of appraisal math includes the following calculations involved with market data approach:

(1) Adjustments to sale prices of comparables.

(2) Calculating estimate of value.

(l) The following are concepts of income tax calculations related to home ownership:

(1) Calculating "deductions".

(2) Calculating "adjusted basis".

(3) Calculations related to the determination of "gain/loss realized".

(4) Calculations related to the "deferral of gain" in various situations and to the "exclusion of gain" by taxpayers over age fifty-five (55).

(Indiana Real Estate Commission; 876 IAC 2-8-17; filed Dec 1, 1989, 5:00 p.m.: 13 IR 651; errata filed Jun 2, 1998, 11:33 a.m.: 21 IR 3939; 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 9. Real Estate Salesperson Course; Required Instructional Materials

876 IAC 2-9-1 Required instructional materials

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 1. (a) The Indiana real estate license law booklet, which is available without charge from the Indiana real estate commission, is required instructional material for the real estate salesperson course.

(b) Schools may also use such other textbooks and materials for instructional purposes that are appropriate and useful in teaching the salesperson curriculum provided for in 876 IAC 2-6 through 876 IAC 2-8. *(Indiana Real Estate Commission; 876 IAC 2-9-1; filed Dec 1, 1989, 5:00 p.m.: 13 IR 652; filed Jul 25, 1991, 3:30 p.m.: 14 IR 2257; filed Jun 30, 1999, 2:41 p.m.: 22 IR 3418; 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 2-9-2 Approved textbooks (Repealed)

Sec. 2. *(Repealed by Indiana Real Estate Commission; filed Jul 25, 1991, 3:30 p.m.: 14 IR 2257)*

876 IAC 2-9-3 Resource and supplemental course materials (Repealed)

Sec. 3. (Repealed by Indiana Real Estate Commission; filed Jul 25, 1991, 3:30 p.m.: 14 IR 2257)

Rule 10. Fundamentals of Real Estate Broker Course; General

876 IAC 2-10-1 Course description

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 1. (a) The real estate broker course consists of advanced level instruction in real property ownership and interests, transfer of title to real property, land use control, real estate brokerage and the law of agency, real estate contracts, landlord and tenant law, closing real estate transactions, federal income taxation of real estate, the Indiana real estate license statute, rules of the Indiana real estate commission, and basic securities law aspects of real estate transactions; major aspects of financing real estate transactions, including sources of mortgage funds, the secondary mortgage market, financing instruments, types of mortgage laws, underwriting mortgage loans, consumer legislation concerning real estate sales transactions, finance mathematics; and aspects of real estate brokerage operations, including records and bookkeeping and financial operations.

(b) Students should be made aware that in addition to the content of the broker course, they are also responsible for material covered in the salesperson course as it represents basic knowledge necessary to proficient performance as a real estate broker. (Indiana Real Estate Commission; 876 IAC 2-10-1; filed Dec 1, 1989, 5:00 p.m.: 13 IR 653; 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 2-10-2 Course objectives

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 2. The primary objectives of this course are:

(1) to provide students with the knowledge of real estate law necessary to act as real estate brokers; and

(2) to prepare students for the real estate license examination.

(Indiana Real Estate Commission; 876 IAC 2-10-2; filed Dec 1, 1989, 5:00 p.m.: 13 IR 653; 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 2-10-3 Syllabus

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 3. The course syllabus in 876 IAC 2-11 through 876 IAC 2-14 is established by the Indiana real estate commission to establish minimum content level for the broker course. (Indiana Real Estate Commission; 876 IAC 2-10-3; filed Dec 1, 1989, 5:00 p.m.: 13 IR 653; 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 2-10-4 Textbooks and other instructional materials

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 4. The required instructional materials and approved textbooks for the broker course are found in 876 IAC 2-15-1. (Indiana Real Estate Commission; 876 IAC 2-10-4; filed Dec 1, 1989, 5:00 p.m.: 13 IR 654; errata filed Jun 29, 1998, 11:16 a.m.: 21 IR 4215; filed Jun 30, 1999, 2:41 p.m.: 22 IR 3418; 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 2-10-5 Instructors

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 5. Instructors who meet the requirements of 876 IAC 2-3 may teach all subject areas included in this course. It should be noted that very few instructors actually possess the desired level of competency in each and every subject area. For this reason, schools are encouraged to utilize guest lecturers with specialized knowledge and skills in specific areas in addition to the primary instructor. (*Indiana Real Estate Commission; 876 IAC 2-10-5; filed Dec 1, 1989, 5:00 p.m.: 13 IR 654; 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 2-10-6 Order of subject area presentation

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

Sec. 6. The order in which subject areas are presented in 876 IAC 2-11-1 and 876 IAC 2-12 is the recommended order. Instructors may make reasonable adjustments in the order of presentation, but should retain a logical order of presentation in any event. (*Indiana Real Estate Commission; 876 IAC 2-10-6; filed Dec 1, 1989, 5:00 p.m.: 13 IR 654; 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 2-10-7 Major subject area emphasis

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

Sec. 7. Subject area emphasis by major subject area has been provided in 876 IAC 2-11 in the form of a specific number of classroom hours to be devoted to each major subject area. Instructors may make reasonable adjustments in subject area emphasis to suit their class schedules and individual preference; however, instructors are cautioned against undue overemphasis or underemphasis of topics. (*Indiana Real Estate Commission; 876 IAC 2-10-7; filed Dec 1, 1989, 5:00 p.m.: 13 IR 654; 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 2-10-8 Competency and instructional levels

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

Sec. 8. (a) Each major topic established in 876 IAC 2-12 through 876 IAC 2-14 has been assigned a "competency and instructional level" in order to assist the instructor in determining the appropriate relative emphasis and instructional methods for such topics. In some instances where subtopic should be afforded significantly greater or lesser emphasis than that indicated by the level assigned to the major topic under which it is listed, such subtopic has been assigned a different level which applies to that subtopic only.

(b) Competency and instructional levels have been assigned based on the relative importance of the topic and the degree of knowledge or skill needed by real estate brokers with regard to the topic. Instructors are REQUIRED to comply with the assigned competency and instructional levels (and special notes to instructors) when teaching this course.

(c) As used in this section, "competency" refers to the knowledge/ability level expected of students with regard to a particular topic, while the term "instruction" refers to the depth of instruction and the instructional methods which should be utilized.

(d) Shown below are the four (4) competency and instructional levels used in 876 IAC 2-12 through 876 IAC 2-14 and the meaning of each. Level 1 is the lowest level and Level 4 is the highest.

Level 1

Competency: Student should have a general familiarity with topic.

Instruction: Instructor should discuss topic generally; do not cover in depth.

Level 2

Competency: Student should have a good basic knowledge and understanding of topic.

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Instruction: Instructor should cover topic in some moderate depth, using examples (as appropriate) to reinforce ideas, principles, and practices. Coverage should be sufficient to assure that students have a firm grasp of the basic facts, principles, and practices associated with the topic.

Level 3

Competency: Student should have a good working knowledge of topic. Student should not only have a good understanding of the basic facts, principles, and practices associated with the topic, but also should be able to apply his/her knowledge to fact situations which will likely be encountered in real estate practice.

Instruction: Instructor should cover topic in depth, using examples (as appropriate) to reinforce ideas, principles, and practices and requiring students to complete practical work assignments (as appropriate) to demonstrate both their ability to apply their knowledge to common fact situations which will be encountered in real estate practice.

Level 4

Competency: Student should have a thorough and complete working knowledge of topic. Student should not only have a thorough, in-depth understanding of the facts, principles, and practices associated with the topic, but should also be able to apply his/her knowledge to a wide variety of fact situations which may be encountered in real estate practice.

Instruction: Instructor should cover topic in depth, using examples (as appropriate) to reinforce ideas, principles, and practices, and requiring students to complete extensive practical work assignments (as appropriate) to demonstrate both their understanding of the topic and their ability to apply their knowledge to a wide variety of fact situations which may be encountered in real estate practice.

(Indiana Real Estate Commission; 876 IAC 2-10-8; filed Dec 1, 1989, 5:00 p.m.: 13 IR 654; 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 2-10-9 Mathematics instruction

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 9. 876 IAC 2-11 through 876 IAC 2-14 establishes instruction on mathematical functions relating to real estate practice to be provided under the various subject areas involving such mathematical functions rather than as a separate subject area. Consideration was given to the amount of mathematics involved in each subject area when establishing the number of classroom hours for subject areas. This integrated approach is required because it helps assure that students understand how various mathematical functions relate to the various areas of real estate practice. Instruction in basic mathematics concepts such as decimals, fractions, percentages, multiplication, division, etc., is not included in 876 IAC 2-11 through 876 IAC 2-14. If such basic mathematics instruction is to be included in any real estate course, additional time above the minimum required for such course must be provided for such instruction. *(Indiana Real Estate Commission; 876 IAC 2-10-9; filed Dec 1, 1989, 5:00 p.m.: 13 IR 655; 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 2-10-10 Syllabus copies

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 10. (a) Copies of this rule and 876 IAC 2-11 through 876 IAC 2-14 will be provided free of charge by the Indiana real estate commission to approved schools and instructors. School officials and instructors are asked, however, to limit requests for copies to that number which is actually needed for use by schools and instructors. Schools and instructors may be asked to justify any request for an unusually large number of copies.

(b) The Indiana real estate commission will not provide copies of this rule and 876 IAC 2-11 through 876 IAC 2-14 for student use, although schools and instructors may reproduce all or part of this rule and 876 IAC 2-11 through 876 IAC 2-14 for student use at their own expense, and may charge students for the cost of reproduction. *(Indiana Real Estate Commission; 876 IAC 2-10-10; filed Dec 1, 1989, 5:00 p.m.: 13 IR 655; 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 2-10-11 Level of instruction

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

Sec. 11. (a) Although this is a broker course, most of the subject areas covered in this course are also covered in the fundamentals of real estate salesperson course which students will have previously completed. This duplication of material is unavoidable because of the necessity to cover a broad range of real estate topics in the salesperson course. The only subject areas covered in this course which are not covered to some extent in the salesperson course are "Introduction to Real Estate Law", "Securities Law", and the sections of "Federal Income Taxation of Real Estate" relating to investment property. All other subject areas are covered in both courses, although the "competency and instructional levels" assigned to such subject areas in this course are usually higher than the levels assigned in the salesperson course.

(b) In general, instruction in the broker course should be at a more advanced level than instruction in the salesperson course. Emphasis generally should be on providing students with an in-depth, practical working knowledge of the subject material. Remember, this is an advanced course, not an introductory level course. The two (2) major subject areas that should receive the greatest emphasis in this course are "Real Estate Contracts" and "Closing Real Estate Transactions". The Indiana real estate commission has found that many licensed brokers have an inadequate understanding of real estate contracts and are unable to properly complete form contracts in some situations. Also, license examination performance on closing statement problems has historically been very poor. Consequently, instructors should place substantial emphasis on practice preparation of contracts and closing statements. (*Indiana Real Estate Commission; 876 IAC 2-10-11; filed Dec 1, 1989, 5:00 p.m.: 13 IR 655; 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 11. Real Estate Broker Course; Major Subject Area Emphasis

876 IAC 2-11-1 Major subject area; number of course hours

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

Sec. 1. The fundamentals of the real estate broker course are the following:

FUNDAMENTALS OF REAL ESTATE BROKER PRELICENSING COURSE MAJOR
 SUBJECT AREA EMPHASIS

Subject Area	Number of Course Hours
REAL ESTATE LAW	
Introduction to real estate law and course overview	1.0
Property ownership and interests	1.0
Transfer of title to real property	1.0
Land use controls	1.0
Real estate brokerage and the law of agency	3.0
Real estate contracts	8.0
Landlord and tenant	1.0
Closing real estate transactions	9.0
Federal income taxation of real estate	3.0
License law; commission rules and trust account guidelines	5.0
Securities law aspects of real estate transactions	1.0
REAL ESTATE BROKERAGE OPERATION	
Earnest money accounts	4.0
REAL ESTATE FINANCE	
Introduction to real estate finance	2.0
Sources of mortgage funds	1.0
The secondary mortgage market	1.0
Financing instruments	1.0
Types of mortgage loans	2.0

Residential loan underwriting	2.0
Income property loan underwriting	1.0
Consumer legislation affecting real estate financing	1.0
Real property valuation	<u>5.0</u>
Total course hours	54.0

(Indiana Real Estate Commission; 876 IAC 2-11-1; filed Dec 1, 1989, 5:00 p.m.: 13 IR 656; errata filed Jun 2, 1998, 11:33 a.m.: 21 IR 3940; 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 12. Real Estate Broker Course; Outline

876 IAC 2-12-1 Introduction to real estate law

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 1. (a) The competency and instructional level for scope and purpose of course is Level 1.

(b) The competency and instructional level for subdivisions (1) through (3) is Level 1. The following are concepts of types (sources) of real estate law (Use examples relating to real estate in explaining each type (source) of law.):

(1) Statutory law (arising from the political process) including the following:

(A) Constitutions: federal, i.e., Fifth Amendment, which provides that "no person shall be . . . deprived of life, liberty or property without due process of law; nor shall private property be taken for public use without just compensation".

(B) The following statutes:

(i) Federal, i.e., RESPA: National Housing Act (establishing the FHA), Fair Housing Act, and many others.

(ii) State, i.e., Indiana real estate license law.

(C) Ordinances (county and municipal, i.e., zoning ordinances, fire and building codes).

(2) Administrative law (regulation and rulings of federal and state agencies) including the following:

(A) Federal, i.e., Regulation "Z" implementing the Truth-in-Lending Act, HUD regulations on FHA loans, and many others.

(B) State, i.e., Indiana real estate commission rules and regulations *[this title]*.

(3) Common law (judicial law arising from court decisions), i.e., most real property law, including law regarding estates and interests in real property, methods of owning real property, easements and other rights relating to real property also, agency and contract law, much of which applies to real estate brokerage practice.

(Indiana Real Estate Commission; 876 IAC 2-12-1; filed Dec 1, 1989, 5:00 p.m.: 13 IR 656; 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 2-12-2 Property ownership and interests

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 2. (a) The competency and instructional level for subdivisions (1) through (5) is Level 3. The following describes the concept of property:

(1) The "bundle of rights" concept.

(2) Real property.

(3) Personal property.

(4) Lands, minerals, fruits of the soil.

(5) The following fixtures:

(A) Definition.

(B) Criteria for determining if item is a fixture. (Students should be able to apply these criteria to common fact situations.)

(C) Trade and agricultural fixtures.

(D) Effect of Uniform Commercial Code concerning security interests in fixtures.

(b) The competency and instructional level for subdivisions (1), (2)(A)(i)(AA), (2)(A)(i)(CC), (2)(A)(ii)(AA), and (2)(B) is Level 2. The competency and instructional level for subdivisions (2)(A)(i)(BB) and (2)(A)(ii)(BB) is Level 1. The following are concepts of estates in real property:

(1) Definition of "estate".

(2) The following types of estates (characteristics of each):

(A) Freehold estates as follows:

(i) The following estates of inheritance:

(AA) Fee simple.

(BB) Determinable, base, or qualified fee.

(CC) Estate for life of another.

(ii) The following estates not of inheritance (life estates):

(AA) Estate for tenant's own life (conventional life estate).

(BB) Marital life estates.

(B) Nonfreehold (leasehold) estates. (Cover in greater depth in section 7 of this rule.)

(c) The competency and instructional level for subdivisions (1) and (2)(B) through (2)(D) is Level 2. The competency and instructional level for subdivisions (2)(A) and (3) is Level 1. The following are concepts of ownership of real property:

(1) Severalty (sole) ownership.

(2) The following concurrent (joint) ownership (characteristics of each method):

(A) Joint tenancy.

(B) Tenancy in common.

(C) Tenancy by the entirety.

(D) The following hybrid forms of ownership:

(i) Condominium ownership.

(ii) Cooperative ownership.

(iii) Townhouse ownership.

(iv) Time share ownership.

(v) Planned unit development (PUD).

(3) The following ownership by a business organization:

(A) Advantage over ownership by individual(s).

(B) The following types of organizations:

(i) Corporation.

(ii) Partnership (general and limited).

(iii) Syndicate.

(iv) Real estate investment trust (REIT).

(d) The competency and instructional level for subdivisions (1)(A), (1)(C), and (2) through (5) is Level 2. The competency and instructional level for subdivision (1)(B) is Level 1. The following are concepts of encumbrances to real property:

(1) The following liens:

(A) The following specific liens:

(i) Mortgages (deeds of trust). (Mention only, cover in depth under 876 IAC 2-14-3.)

(ii) Real estate tax and assessment liens.

(iii) Mechanics' liens (statutory liens).

(B) The following general liens:

(i) Judgment liens.

(ii) Personal property tax liens.

(iii) State tax liens.

(iv) Federal tax liens.

(C) Lien priority.

(2) Restrictive covenants. (Cover in depth under section 7 of this rule.)

(3) Lis pendens (notice of pending litigation).

(4) The following classifications of easements:

(A) The following classification of easements:

- (i) Appurtenant easements.
- (ii) Easements in gross.
- (B) The following creation of easements (types by method of creation):
 - (i) Express.
 - (ii) Implied.
 - (iii) Arising by operation of law.
- (C) Termination of easements.
- (D) Party wall (cross easements).
- (5) Encroachments.
- (e) The competency and instructional level for subdivisions (1) through (3) is Level 2. The following are concepts of appurtenances:
 - (1) Easements and restrictive covenants.
 - (2) Riparian rights.
 - (3) Air and subsurface rights.
- (f) The competency and instructional level for subdivisions (1) through (2) is Level 4. The following are concepts of property taxation in Indiana:
 - (1) The following topics concerning property tax:
 - (A) Tax rate and calculations.
 - (B) Property subject to taxation.
 - (C) Listing property for taxation.
 - (D) Appraisal and assessment.
 - (E) Timetable for listing and tax collection.
 - (F) Property tax lien.
 - (G) Special priority of tax liens.
 - (H) Exemptions.
 - (I) Records.
 - (J) Payment.
 - (2) The following special assessments:
 - (A) By counties.
 - (B) By cities and towns.
 - (C) Special assessment liens.

(Indiana Real Estate Commission; 876 IAC 2-12-2; filed Dec 1, 1989, 5:00 p.m.: 13 IR 657; errata filed Jun 2, 1998, 11:33 a.m.: 21 IR 3940; 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 2-12-3 Transfer of title to real property

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

- Sec. 3. (a) The competency and instructional level for subdivisions (1) through (4) is Level 1. The following are concepts of methods of transferring title:
- (1) By descent (interstate succession).
 - (2) By will.
 - (3) By voluntary alienation (deed). (Cover in greater depth under subsection (b).)
 - (4) By voluntary alienation as follows:
 - (A) Lien foreclosure sale.
 - (B) Adverse possession.
 - (C) Escheat.
 - (D) Eminent domain (condemnation).
- (b) The competency and instructional level for subdivisions (1) through (2) is Level 2. The competency and instructional level for subdivision (2)(B) is Level 1. The following are concepts of deeds:

- (1) Essential elements of a valid deed.
- (2) The following types of deeds (purpose and characteristics of each):
 - (A) The following types most commonly used in Indiana (Use sample deed form for illustration.):
 - (i) General warranty deed.
 - (ii) Special warranty deed.
 - (iii) Quit claim deed.
 - (B) Special purpose deeds.
- (c) The competency and instructional level for subdivisions (1) through (4) is Level 2. The competency and instructional level for subdivision (5) is Level 1. The following are concepts of title assurance:
 - (1) Title examination procedures. (If possible, take students on tour of courthouse to view records.)
 - (2) Title insurance including the following:
 - (A) Purpose.
 - (B) The following types of policies:
 - (i) Owner's policies.
 - (ii) Mortgagee's (lender's) policy.
 - (C) Policy coverage.
 - (D) Cost and procurement.
 - (3) Abstract of title.
 - (4) Title recordation including the following:
 - (A) Purpose.
 - (B) Documents required to be recorded.
 - (C) Recording contracts.
 - (D) Requirements for recordation.
 - (E) Procedures.
 - (5) Covenants of title in deeds.
- (d) The competency and instructional level for subdivisions (1) through (2) is Level 2. The following are concepts of property description:
 - (1) Adequacy of descriptions.
 - (2) Methods of describing real estate including the following:
 - (A) Metes and bounds.
 - (B) Government (rectangular) survey system.
 - (C) Reference to recorded plat (lot and block).
 - (D) Informal reference, i.e., street address.
 - (E) Reference to publicly recorded documents.

(Indiana Real Estate Commission; 876 IAC 2-12-3; filed Dec 1, 1989, 5:00 p.m.: 13 IR 658; 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 2-12-4 Land use controls

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

- Sec. 4. (a) The competency and instructional level for historical development of land use controls is Level 1.
- (b) The competency and instructional level for land use control importance to real estate agents is Level 1.
- (c) The competency and instructional level for subdivision (1) is Level 3. The competency and instructional level for subdivisions (2) through (7) is Level 1. The following are concepts of public land use controls:
 - (1) The following zoning classifications (Use actual local zoning ordinances, zoning maps, classification charts, and tables of permitted uses; students should know how to determine the zoning classification and permitted uses for property subject to a zoning ordinance.):
 - (A) Basis for governmental zoning authority.
 - (B) Purpose of zoning regulations.
 - (C) Zoning districts (and codes).

- (D) Zoning ordinances.
- (E) The following zoning concepts and terms:
 - (i) Nonconforming use.
 - (ii) Illegal use.
 - (iii) Zoning amendments.
 - (iv) Variance.
 - (v) Special use permit (or special exception).
 - (vi) Overlay districts.
 - (vii) Historic preservation zoning.
 - (viii) Aesthetic zoning.
 - (ix) Spot zoning.

- (2) Urban and regional planning.
- (3) Subdivision regulations.
- (4) Building codes.
- (5) Highway access controls.
- (6) Federal regulation of interstate sales of subdivided lands.
- (7) Environmental protection legislation (and regulation).

(d) The competency and instructional level for subdivisions (1) through (3) is Level 3. The following are concepts of privately imposed land use controls (restrictive covenants) (Use typical set of subdivision covenants for illustration.):

- (1) Purpose.
- (2) Typical matters addressed.
- (3) Enforcement.

(e) The competency and instructional level for concepts of government ownership related to land use is Level 1. (*Indiana Real Estate Commission; 876 IAC 2-12-4; filed Dec 1, 1989, 5:00 p.m.: 13 IR 658; 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 2-12-5 Real estate brokerage and the law of agency

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

Sec. 5. (a) The competency and instructional level for general agency concepts and definitions is Level 2.

(b) The competency and instructional level for subdivisions (1) through (3) is Level 2. The following are concepts of classification of agency relationships:

- (1) Universal.
- (2) General.
- (3) Special.

(c) The competency and instructional level for subdivisions (1) through (2) is Level 4. The following are concepts of employment and authority of real estate agents:

- (1) Brokerage contracts (as source of authority). (Cover listing contracts and property management contracts in detail where subsequently addressed.)
- (2) Extent (scope) of agent's authority.

(d) The competency and instructional level for subdivisions (1) through (4) is Level 4. The following are concepts of agency and subagency situations:

- (1) Listing with independent broker, i.e., a single broker working alone.
- (2) Listing with brokerage firm.
- (3) Multiple listing service (or cooperating broker) arrangement.
- (4) Buyer-broker relationship.

(e) The competency and instructional level for subdivisions (1) through (3) is Level 4. The following are concepts of duties and liabilities of agents:

- (1) Agent's duties to principal including the following:
 - (A) Loyalty and obedience. (Note potential problems involved with "self-dealing" and "conflict of interest" situations.)

- (B) Skill, care, and diligence.
 - (C) Disclosure (and nondisclosure) of information.
 - (D) Accounting.
 - (E) Competence in the particular activity.
 - (F) Fiduciary responsibilities.
 - (G) "Prudent Man" rule.
- (2) Agent's duties to third persons (buyers/tenants) including the following:
- (A) Difference between a "client" and a "customer" in real estate practice.
 - (B) General duty of "honesty and fairness".
 - (C) The following prohibited conduct:
 - (i) Willful misrepresentation.
 - (ii) Negligent misrepresentation.
 - (iii) Willful omission.
 - (iv) Negligent omission.
 - (v) Misrepresentation.
 - (vi) Fraud.
 - (D) Consumer legislation.
 - (E) Purchaser's responsibilities.
 - (F) Tenant's responsibilities.
 - (G) "Puffing".
- (3) Liabilities and consequences of agent's breach of duties including the following:
- (A) Disciplinary action by real estate commission (against agent).
 - (B) Civil liability of agent.
 - (C) Criminal liability of agent.
 - (D) Civil liability of principal (for agent's misconduct).
- (f) The competency and instructional level for subdivisions (1) through (3) is Level 3. The following are concepts of duties and liabilities of principals:
- (1) Principal's duties to agent including the following:
 - (A) Good faith.
 - (B) Compensation.
 - (2) Principal's duties to third persons. (Note doctrine of caveat emptor and limitations to such doctrine established by consumer protection laws and judicial decisions.)
 - (3) Liabilities and consequences of principal's breach of duties including the following:
 - (A) Criminal in some cases.
 - (B) Civil liability.

(Indiana Real Estate Commission; 876 IAC 2-12-5; filed Dec 1, 1989, 5:00 p.m.: 13 IR 659; 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 2-12-6 Real estate contracts

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 6. (a) The competency and instructional level for subdivisions (1) through (6) and (10) is Level 4. The competency and instructional level for subdivisions (7) through (8) is Level 1. The competency and instructional level for subdivision (9) is Level 3. The following are concepts of basic contract law:

- (1) The following basic contract terms and classifications:
 - (A) Definition of a contract.
 - (B) Express/implied.
 - (C) Bilateral/unilateral.
 - (D) Executed/executory.
 - (E) Valid (enforceable)/void (unenforceable)/voidable.

- (2) Essential elements of a contract with the following requirements for mutual assent (offer and acceptance):
 - (A) The offer.
 - (B) Acceptance.
 - (C) Counteroffers.
 - (D) Termination of offers.
 - (3) The following requirements for reality of consent:
 - (A) Mistake.
 - (B) Fraud and misrepresentation.
 - (C) Duress.
 - (D) Undue influence.
 - (4) Contract law and auction sales as follows:
 - (A) Basic procedures.
 - (B) "With reserve" versus "without reserve".
 - (5) The following statute of frauds (applied to real estate contracts):
 - (A) Contracts to sell or convey any interest in real property.
 - (B) Leases of real property exceeding three (3) years in duration.
 - (6) The following discharge of contracts:
 - (A) Agreement of the parties.
 - (B) Full performance.
 - (C) Impossibility of performance.
 - (D) Operation of law.
 - (7) Assignment of contracts.
 - (8) General rules for interpretation of contracts.
 - (9) The following contract remedies:
 - (A) Money damages.
 - (B) Specific performance.
 - (C) Rescission.
 - (10) The following other considerations:
 - (A) Authority to sign as follows:
 - (i) Competency.
 - (ii) Age.
 - (iii) Power of attorney.
 - (iv) Need for signatures of all parties.
 - (B) Notary public.
 - (C) Changing a contract.
 - (D) "Time is of the essence".
 - (E) Abbreviations in contracts.
 - (F) Blanks in contracts.
 - (G) Who may write contracts.
- (b) The competency and instructional level for subdivisions (1) through (8) is Level 4. The following are concepts of listing contracts and practices:
- (1) Definition and purpose of listing contracts.
 - (2) Broker's entitlement to a commission including the following:
 - (A) Requisites for establishing claim to a commission as follows:
 - (i) Broker must be licensed.
 - (ii) Broker must have a valid employment (listing) contract.
 - (iii) Broker must (with certain exceptions) qualify under either:
 - (AA) the "ready, willing, and able" buyer rule; or
 - (BB) the "procuring cause of sale" rule.
 - (B) Ready, willing, and able buyer rule.
 - (C) Procuring cause of sale rule.

- (3) The following basic types of listing contracts (characteristics of each):
- (A) Open.
 - (B) Exclusive agency.
 - (C) Exclusive right to sell.
 - (D) Protection agreement.
- (4) Multiple listing service arrangement. (Use sample pages from local MLS book for illustration of how the MLS lists properties.)
- (5) Listing contract provisions including the following (Introduce listing agreement used on state examination.):
- (A) Property description.
 - (B) Listing price and terms of sale.
 - (C) Broker's duties.
 - (D) Brokerage fee including the following (including computations):
 - (i) Percentage of sale price (commission).
 - (ii) Flat fee.
 - (iii) Net listing.
 - (iv) Splitting the fee.
 - (E) Duration of listing.
 - (F) "Override" (or "extender") clause.
- (6) Property data sheet including the following:
- (A) Purpose and use.
 - (B) Listing agent's responsibilities.
 - (C) Determining square footage.
 - (D) Seller's disclosure of defects.
- (7) Termination of listing contracts.
- (8) Practice preparation of listing contracts and property data sheets. (Students should be afforded extensive supervised practice in completing form listing contracts and property data sheets. Note the consequences of inadequate or improper preparation of listing contracts and property data sheets.)
- (c) The competency and instructional level for subdivision (1) is Level 4. The competency and instructional level for subdivision (2) is Level 2. The competency and instructional level for subdivision (3) is Level 3. The following are concepts of sales contracts and practices:
- (1) The offer to purchase including the following (Students should be afforded extensive supervised practice in completing an offer to purchase as used on the state examination including special provisions and modifications by counteroffer, for a variety of fact situations.):
- (A) Major contract provisions as follows:
 - (i) Description of the property (including personal property to be included in the sale).
 - (ii) Sale price and payment terms.
 - (iii) Earnest money and possible forfeiture thereof as follows:
 - (AA) Forms of earnest money.
 - (BB) Post-dated checks.
 - (CC) Importance of explaining to buyer and seller the handling of an earnest deposit.
 - (iv) Type of conveyance and quality of title.
 - (v) Closing and possession dates.
 - (vi) Closing expenses and prorations.
 - (vii) Condition of utilities.
 - (viii) Condition of property in general.
 - (ix) Risk of loss.
 - (x) Wood-destroying insects.
 - (xi) Contingency provisions as follows:
 - (AA) Buyer financing.
 - (BB) Sale of buyer's present home.
 - (xii) Signature and dates.

- (B) Offer, acceptance, and delivery as follows (review of legal requirements as applied to this type of contract):
 - (i) Handling by telephone.
 - (ii) Handling by mail.
 - (iii) Withdrawal of offer.
 - (C) Submitting offers to sellers; conditional "back-up" offers.
 - (D) Handling contract modifications and counteroffers.
 - (E) Furnishing copies of offers and contracts to buyer and seller.
 - (F) Specific performance.
 - (G) Disclosure by agent that he represents the buyer, the seller, or both.
- (2) Installment land contracts including the following (Use sample form for illustration.):
- (A) Definition and purpose.
 - (B) Typical provisions.
 - (C) Advantages and disadvantages (from viewpoint of both buyer and seller).
 - (D) Preparation.
 - (E) Default and foreclosure.
 - (F) Voluntary termination.
 - (G) Recording.
- (3) Options to purchase real estate including the following (Use sample form for illustration.):
- (A) Definition and purpose.
 - (B) Rights of parties.
 - (C) Requirements of options.
 - (D) Right of first refusal. (Distinguish from "option".)
- (d) The competency and instructional level for subdivisions (1) through (6) is Level 3. The following are concepts of property management:
- (1) Property description.
 - (2) Contract period.
 - (3) Agent's, property manager's fee (including computations).
 - (4) Agent's authority (powers).
 - (5) Agent's responsibilities (specific duties).
 - (6) Handling of security deposits and rents. (Note the handling of security deposits and rents should be covered in depth when covering the real estate commission's "Trust Account Guidelines".)
- (Indiana Real Estate Commission; 876 IAC 2-12-6; filed Dec 1, 1989, 5:00 p.m.: 13 IR 660; errata, 13 IR 1188; errata filed Jun 2, 1998, 11:33 a.m.: 21 IR 3940; 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 2-12-7 Landlord and tenant

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

- Sec. 7. (a) The competency and instructional level for subdivisions (1) through (2) is Level 2. The following are concepts of relationship of landlord and tenant:
- (1) Definitions: landlord (lessor), tenant (lessee), lease.
 - (2) Privity of estate and privity of contract concepts.
- (b) The competency and instructional level for subdivisions (1) through (9) is Level 3. The following are concepts of the Residential Rental Agreements Act:
- (1) Obligations of landlord and tenant are mutually dependent.
 - (2) Landlord's statutory duties.
 - (3) Relationship of the law of negligence.
 - (4) Tenant's statutory duties.
 - (5) Retaliatory eviction doctrine.
 - (6) Tenant prohibited from unilaterally withholding rent.

- (7) Tenant security deposit.
- (8) Residential eviction remedies.
- (9) Constitutional rights of tenants in public housing.

(c) The competency and instructional level for subdivisions (1) through (4) is Level 2. The following are concepts of nonfreehold estates:

- (1) Estates for years.
- (2) Estates for period to period (periodic tenancies).
- (3) Estates at will.
- (4) Estates at sufferance.

(d) The competency and instructional level for subdivisions (1) and (4) through (6) is Level 2. The competency and instructional level for subdivisions (2) through (3) is Level 4. The following are concepts of leases:

(1) Types of leases including the following (uses and characteristics of each):

- (A) Fixed rental (flat); gross.
- (B) Percentage.
- (C) Net.
- (D) Graduated.
- (E) Index.
- (F) Reappraisal.
- (G) Ground.
- (H) Mineral.

(2) Lease forms and preparation.

(3) Common lease provisions including the following (Use the realtor's residential rental contract form for illustration.):

- (A) Essential provisions (basically the same as for any contract).
- (B) Other common provisions including the following (relating to matters listed below and similar matters):
 - (i) Tenant's use of premises.
 - (ii) Fixtures.
 - (iii) Repairs (nonresidential property).
 - (iv) Assignments and subleases.
 - (v) Renewal.
 - (vi) Option to purchase and right of first refusal.
 - (vii) Landlord's right to enter during lease term.
 - (viii) Termination.

(4) Application of statute of frauds and common law.

(5) Recordation of leases.

(6) Effect of lease upon sale of property.

(Indiana Real Estate Commission; 876 IAC 2-12-7; filed Dec 1, 1989, 5:00 p.m.: 13 IR 662; 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 2-12-8 Closing real estate (sales) transactions

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 8. (a) The competency and instructional level for subdivisions (1) through (3) is Level 4. (The prevalent closing method used in Indiana. Remainder of section on "closing" is based on this method.) The following are concepts of the closing meeting:

- (1) Parties present or represented.
- (2) Location where meeting is conducted.
- (3) Parties responsible for closing.

(b) The competency and instructional level for subdivisions (1) through (10) is Level 4. The following are concepts of preliminaries to closing:

- (1) Property survey (usually the buyer's responsibility).
- (2) Wood-destroying insect (termite) inspection (usually the seller's responsibility).

- (3) Title examination (including personal property lien search and mechanic's lien inquiry) (buyer's responsibility).
 - (4) Abstract of title or title insurance (variations of responsibility).
 - (5) Property inspection by buyer.
 - (6) Clearing of title defects by seller.
 - (7) Homeowner's or hazard insurance (buyer's responsibility).
 - (8) Sewage disposal or percolation test (usually the seller's responsibility if such a test is required).
 - (9) Drafting and review of documents including the following:
 - (A) Deed (and any other required documents relating to title) (seller's responsibility).
 - (B) Note and mortgage (deed of trust) (buyer's responsibility).
 - (C) Bill of sale for personal property (if required) (seller's responsibility).
 - (D) Closing statement(s) (closing attorney/broker).
 - (10) Post-closing title search (buyer's responsibility).
- (c) The competency and instructional level for items required at closing is Level 4. (Cover the items that must be provided at closing by the buyer and seller, either personally or through their attorney(s).)
- (d) The competency and instructional level for subdivisions (1) through (2) is Level 4. The following are concepts of prorations at closing:
- (1) The following methods of calculating prorations:
 - (A) Three hundred sixty (360) day year/thirty (30) day month method.
 - (B) Three hundred sixty-five (365) day year method.
 - (C) Actual days in the month method (combines clauses (A) through (B)).
 - (D) Proration tables, programmed calculators, etc.
 - (E) Choice of methods (usually determined by local custom and/or agreement of parties).
 - (2) The following items commonly prorated at closing:
 - (A) Real estate taxes for current year.
 - (B) Homeowner's/hazard insurance premiums on assigned policy.
 - (C) Rents on leased premises.
 - (D) Interest on assumed mortgage.
- (e) The competency and instructional level for subdivisions (1) through (7) is Level 4. The following are concepts of the closing statement:
- (1) Purpose and preparation.
 - (2) Broker's responsibility for closing statements.
 - (3) Closing statement format (HUD-1 form and others).
 - (4) Closing statement entries as follows (Students are expected to have a good working knowledge of how to record various closing statement entries that may be required in various situations in accordance with standard practices.):
 - (A) Explanation of "debit/credit" system.
 - (B) Double entry items as follows:
 - (i) Prorations.
 - (ii) Other nonprorated items.
 - (C) Single entry items as follows:
 - (i) Debits (charges) to seller.
 - (ii) Credits to seller.
 - (iii) Debits (charges) to buyer.
 - (iv) Credits to buyer.
 - (D) Balance due seller.
 - (E) Balance owed by buyer.
 - (5) Handling funds at closing.
 - (6) Practice preparation of closing statements. (Students should be afforded extensive practice in the preparation of closing statements for various hypothetical situations involving varied circumstances. Students should be able to prepare closing statements using the HUD-1 form and other forms which may be commonly used in the local area.)
 - (7) Requirement for settlement agent to report certain information on residential real estate sales transactions to the Internal Revenue Service (IRS).

(f) The competency and instructional level for subdivisions (1) through (2) is Level 2. The following are concepts of the Real Estate Settlement Act of 1974 (RESPA):

- (1) Purpose and applicability.
- (2) Basic provisions including the following:
 - (A) Requires lender to provide prospective borrowers with a copy of the HUD booklet "Settlement Costs and You" and "good faith estimates" of loan closing costs within three (3) business days of the date a loan application is filed.
 - (B) Lender must use HUD-1 form for all "federally related" mortgage loans.
 - (C) Upon demand by borrower, lender must permit borrower to examine the closing statement at least one (1) business day prior to closing.
 - (D) Prohibits lenders from paying "kickbacks" for referrals.
 - (E) Regulates reserve (impound or escrow) accounts for payment of property taxes and insurance premiums.
 - (F) Other financing considerations including the following:
 - (i) Use of gift letters, pledged accounts, etc.
 - (ii) Second mortgage.

(Indiana Real Estate Commission; 876 IAC 2-12-8; filed Dec 1, 1989, 5:00 p.m.: 13 IR 662; 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 2-12-9 Federal income taxation of real estate

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

Sec. 9. (a) The competency and instructional level for subdivisions (1) through (2) is Level 3. The following are concepts of homeownership:

- (1) Deductions from income for homeowners including the following:
 - (A) Real property taxes.
 - (B) Mortgage interest (limited deduction).
- (2) Sale of personal residence including the following (Students should be afforded practice in performing the various computations associated with taxation of gain on the sale of a personal residence.):
 - (A) Basis and adjusted basis.
 - (B) Determination of gain or loss.
 - (C) Nature of gain or loss.
 - (D) Deferral of taxation on gain ("rollover" provisions).
 - (E) Exclusion of gain by taxpayers over age fifty-five (55).

(b) The competency and instructional level for subdivisions (1) through (2) is Level 2. The following are concepts of real estate investments (Students should be afforded practice in performing the basic tax computations associated with operating or selling investment real estate, but fact situations should be simple and uncomplicated.):

- (1) Real estate operations including the following:
 - (A) Accounting methods.
 - (B) Determination of net (taxable) income as follows:
 - (i) Gross rental income received.
 - (ii) Deductions for collection losses and operating expenses.
 - (iii) Deduction for depreciation.
 - (iv) Losses.
- (2) Sale of investment real estate including the following:
 - (A) Determination of gain or loss.
 - (B) Taxation of gain or loss.

(c) The competency and instructional level for subdivisions (1) through (4) is Level 1. The following are concepts of special rules:

- (1) Installment sales (basic concept).
- (2) Like-kind exchange (basic concept).
- (3) Vacation homes (basic rules).

(4) Office in home (basic rules).

(Indiana Real Estate Commission; 876 IAC 2-12-9; filed Dec 1, 1989, 5:00 p.m.: 13 IR 664; 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 2-12-10 Real estate license law, commission rules; trust account guidelines

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 10. In-depth knowledge of the Indiana Real Estate License Laws and Rules booklet is required. The competency and instructional level is Level 4. *(Indiana Real Estate Commission; 876 IAC 2-12-10; filed Dec 1, 1989, 5:00 p.m.: 13 IR 664; 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 2-12-11 Securities law aspects of real estate transactions

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 11. The competency and instructional level for subdivisions (1) through (5) is Level 1. The following are concepts of federal laws relating to the Securities Act of 1933 and the Securities Exchange Act of 1934:

(1) Basic purpose.

(2) Definition of "security" including the following:

(A) Investment contracts.

(B) Interests in real estate limited partnerships.

(C) Other interests in real estate ownership entities involving "profit sharing arrangements".

(3) Requirements of the Securities Act of 1933 including the following:

(A) Registration of all "securities" with Securities Exchange Commission (SEC) (unless exempt for some reason).

(B) Truthful and complete disclosure of all pertinent facts about the property and transaction.

(C) Right of rescision.

(D) Civil liabilities and criminal penalties.

(4) Requirements of the Securities Exchange Act of 1934 including the following:

(A) Persons selling "securities" must have a federal securities license (with certain exemptions).

(B) Most licensing handled by National Association of Securities Dealers (NASD) under authority of the federal law.

(5) Applicability and enforcement of federal securities laws, generally applicable except for certain securities transactions which are wholly "intrastate"; enforced by Securities and Exchange Commission (SEC).

(Indiana Real Estate Commission; 876 IAC 2-12-11; filed Dec 1, 1989, 5:00 p.m.: 13 IR 664; 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 2-12-12 Real estate mathematics

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 12. (a) The competency and instructional level for real estate mathematics is Level 1 or Level 2. This section is included only for the purpose of listing in one (1) place the types of applied real estate mathematics calculations which students should master in this course. As a practical matter, it will be necessary to cover most of these various mathematics calculations at various points during the course. It is not feasible to cover all real estate mathematics required in the course as a separate subject area, although instructors may wish to have a "review" on real estate mathematics near the end of the course.

(b) It should be noted that the mathematics listed below *[subsections (c) through (d)]* is applied real estate mathematics. This course outline *[this rule]* does not provide for instruction in basic mathematics such as addition, subtraction, multiplication, division, decimals, fractions, or percentages. It is presumed that entering students possess these elementary mathematics skills. Should it be necessary to provide students with remedial instruction in basic mathematics, schools must include additional time for such instruction over and above the minimum time required for this course.

(c) Instructors will note that competency and instructional levels are not assigned to topics in this section. Since all the topics

(types of mathematics calculations) listed should be "mastered" by students, it is considered obvious that a working knowledge of these topics is required. Students are still expected to have a working knowledge of the mathematics associated with such topics.

(d) The following are concepts of mathematics calculations:

(1) Brokerage commissions. (Do not devote class time to this topic since it is covered adequately in the salesperson course.)

(2) Estimating net to seller after brokerage fee and other closing expenses are paid (when setting listing price or considering an offer).

(3) Area calculations including the following:

(A) Conversion of acreage to square footage and vice versa.

(B) Calculation of square footage of variously shaped buildings and parcels of land with straight-line sides, including irregularly shaped parcels and buildings (involves application of formulas for calculating the area of squares, rectangles, trapezoids, and right triangles).

(4) Property taxes.

(5) Prorations at closing. (See section on "Closing Real Estate Transactions" [section 8 of this rule] for proration methods and items requiring proration.)

(6) Preparation of closing statements. (Note: broker license examination candidates will be required to work an entire closing statement (for both buyer and seller) based on a fact situation and also may be required to work closing statement "mini" problems where, based on summarized data, they are asked to calculate the "net proceeds due seller" or the "balance due from buyer".)

(7) Income tax calculations including the following:

(A) Homeownership as follows:

(i) Calculating "deductions".

(ii) Calculating "adjusted basis".

(iii) Calculations related to the determination of "gain/loss realized".

(iv) Calculations related to the "deferral of gain" in various situations and to the "exclusion of gain" by taxpayers over age fifty-five (55)".

(B) Real estate investments as follows:

(i) Calculating net taxable income/loss on real estate operations.

(ii) Calculating gain/loss on sale of investment real estate.

(Indiana Real Estate Commission; 876 IAC 2-12-12; filed Dec 1, 1989, 5:00 p.m.: 13 IR 665; errata filed Jun 2, 1998, 11:33 a.m.: 21 IR 3940; 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 13. Real Estate Brokerage Operation

876 IAC 2-13-1 Earnest money accounts

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 1. (a) The competency and instructional level for introduction and definition of earnest money accounts is Level 4.

(b) The competency and instructional level for legal requirements of earnest money accounts is Level 4. The following are concepts of legal requirements of earnest money accounts:

(1) Statutory provisions.

(2) Rule provisions.

(c) The competency and instructional level for trust funds is Level 4. The following are concepts of trust funds:

(1) Definition.

(2) Examples including the following:

(A) Earnest money deposits.

(B) Tenant security deposits.

(C) Rents.

(D) Down payments.

(E) Money received as part of final settlement.

- (3) Funds that are not trust funds (not to be deposited in escrow account); money from nonreal estate transactions.
- (4) Money from transactions in which the broker is not acting as an agent.
- (d) The competency and instructional level for trust accounts is Level 4. The following are concepts of trust accounts:
 - (1) Definition.
 - (2) Must be a "demand" account.
 - (3) Purposes of requiring trust accounts.
 - (4) Opening a trust account including the following:
 - (A) Must be with an insured bank or savings and loan association in Indiana.
 - (B) Only one (1) trust account is required, although separate accounts for sales and rentals may be a good idea.
 - (C) Account must be designated as "trust" or "escrow" account.
 - (D) Account may be subject to service charges which must be paid by broker. Broker may maintain one hundred dollars (\$100) (or amount required) of personal funds in account to cover such charges.
 - (5) Interest bearing trust accounts including the following:
 - (A) Note specific requirements which broker must meet.
 - (B) Investment of trust funds in securities, certificates of deposit, bonds, etc. is prohibited.
 - (C) Treatment of interest earned.
- (e) The competency and instructional level for depositing trust funds is Level 4. The following are concepts related to the deposit of trust funds:
 - (1) Broker (firm) is the trustee or escrow agent and should be named as such in the appropriate transaction document.
 - (2) The listing broker in a cobrokered transaction is responsible for the earnest money.
 - (3) Funds received by a salesperson must be immediately delivered to his/her broker.
 - (4) Principal broker is strictly responsible for trust accounts and trust funds, regardless of who actually performs the day-to-day work.
 - (5) Earnest money deposits must be deposited within two (2) banking days following acceptance of the offer to purchase or lease.
- (f) The competency and instructional level for disbursing trust funds is Level 4. The following are concepts related to disbursement of trust funds:
 - (1) Transaction document should state how and when funds will be disbursed. Trust funds may not be used to pay for credit reports, surveys, appraisal fees, or other transaction expenses without the consent of all parties.
 - (2) Access to trust funds should be limited and carefully controlled.
 - (3) Disbursement in connection with "sales" transactions including the following:
 - (A) Upon revocation or rejection of an offer. (Note: a counteroffer is a rejection of the offer.)
 - (B) The following upon termination (other than closing) of a transaction:
 - (i) Where there is no dispute between the parties (seller and buyer).
 - (ii) Where there is a dispute between the parties (seller and buyer).
 - (C) The following upon closing of a transaction:
 - (i) Where attorney or lending officer conducts the closing.
 - (ii) Where broker conducts the closing.
 - (D) Disbursement of earned brokerage fees.
 - (4) Disbursement in connection with "rental" ("lease") transactions including the following:
 - (A) Rents should be promptly disbursed to property owner.
 - (B) If so authorized by the property management agreement, broker-property managers may pay property operating expenses (utilities, repairs, maintenance, etc.) from rents received.
 - (5) Earned brokerage fees should be promptly disbursed from the trust account to the broker's business or general operating account. Disbursement should be made within thirty (30) days of closing (in sales transactions) or receipt of rent (in rental transactions).
 - (6) Trust account record keeping (bookkeeping) system must show (as a minimum) the following:
 - (A) Date funds received.
 - (B) Amount, nature, and purpose of funds and from whom received.
 - (C) Date funds deposited.
 - (D) Amount, date, and purpose of each withdrawal and to whom paid.

- (E) Current running balance.
- (7) Use of a record keeping system involving a general journal and individual ledgers is recommended.
- (8) Review records retention requirements of federal and state agencies with the following sources:
 - (A) Indiana real estate commission.
 - (B) Internal Revenue Service.
 - (C) Indiana secretary of state.
 - (D) Attorney.
 - (E) Accountant.

(g) Student should be required to work practice trust account record keeping problems during the course as well as on the final course examination. (*Indiana Real Estate Commission; 876 IAC 2-13-1; filed Dec 1, 1989, 5:00 p.m.: 13 IR 665; 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 14. Real Estate Finance

876 IAC 2-14-1 Introduction to real estate finance

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 1. (a) The competency and instructional level for scope and purpose of real estate financing is Level 1.

(b) The competency and instructional level for subdivision (1) is Level 2. The competency and instructional level for subdivisions (2) through (3) is Level 1. The following are concepts of historical development of real estate financing (an overview):

- (1) English and American mortgage concepts and practices including the following:
 - (A) Definitions of basic terms: mortgage, mortgagor/mortgagee, deed of trust, trustee, beneficiary, pledge, security, collateral, etc.
 - (B) Title theory versus lien theory.
 - (C) Right (equity) of redemption.
 - (D) Foreclosure and statutory redemption period.
- (2) Predepression real estate financing.
- (3) The Depression era including the following:
 - (A) General economic conditions and effect on real estate market (especially the housing market).
 - (B) Government intervention as follows:
 - (i) Federal Home Loan Bank.
 - (ii) Home Owner's Loan Corporation.
 - (iii) Federal Housing Administration (FHA).
 - (iv) Federal Deposit Insurance Corporation (FDIC) and Federal Savings and Loan Insurance Corporation (FSLIC).
 - (v) Federal National Mortgage Association (FNMA).
- (4) The post World War II period including the following:
 - (A) Growth of the real estate market.
 - (B) Role of the FHA and the Veterans Administration (VA).
- (5) The real estate boom of the 1970s:
 - (A) Effect of the post World War II "baby boom" on demand for housing.
 - (B) Effect of increase in the number of two (2) income families and the Equal Credit Opportunity Act (ECOA) on housing demand and ability to borrow.
 - (C) Effect of inflation on the housing market.
 - (D) Effect of disintermediation, savings and interest rate problems.
- (6) The early 1980s, current practices and trends including the following:
 - (A) A period of instability and change.
 - (B) New financing practices.

(c) The competency and instructional level for subdivisions (1) through (2) is Level 1. The following are concepts of real estate financing and the monetary system (an overview):

- (1) Financial markets, basic operation including the following:
 - (A) The money market (short-term funds market).
 - (B) The capital market (long-term funds market) as follows:
 - (i) The mortgage market. (Note: covered in more depth under section 2 of this rule.)
 - (ii) The bond and securities markets.
- (2) The role of the Federal Reserve System including the following:
 - (A) Purpose.
 - (B) Basic operation.
 - (C) Effect of Federal Reserve policies on availability of mortgage funds and mortgage interest rates.
- (3) The role of the Federal Home Loan Bank board.

(Indiana Real Estate Commission; 876 IAC 2-14-1; filed Dec 1, 1989, 5:00 p.m.: 13 IR 667; 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 2-14-2 Sources of mortgage funds; primary mortgage market

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

Sec. 2. (a) The competency and instructional level for subdivisions (1) through (10) is Level 2. The following are concepts of direct sources, mortgage lenders (Explain the role of each in providing various types of mortgage loans on various types of properties.):

- (1) Savings and loan associations. (S&L's are the largest single source of mortgage funds, especially for residential loans.)
- (2) Commercial banks.
- (3) Mutual savings banks.
- (4) Mortgage companies (mortgage bankers) (usually originate loans with funds provided by other institutions, such as life insurance companies or parent banks, but some also originate loans with own funds).
- (5) Real estate investment trusts (REIT's).
- (6) Credit unions (federal and state).
- (7) Federal government agencies including the following:
 - (A) Federal Land Bank (originally a government agency, but now owned by the system of local Federal Land Bank Associations, which are cooperative credit organizations).
 - (B) Farmers Home Administration (FmHA).
- (8) State housing finance agencies.
- (9) Mortgage brokers. (Actually, mortgage bankers are not "lenders", but merely "intermediaries" who bring borrowers and lenders together and thus are involved in originating mortgage loans.)
- (10) Individual lenders, i.e., sellers.

(b) The competency and instructional level for subdivisions (1) through (6) is Level 2. The following are concepts of indirect sources (mortgage investors) (Explain the role of each in providing funds for mortgage loans on various types of properties.):

- (1) Life insurance companies. (Some direct loans made, but most are originated through mortgage companies, mortgage brokers, or other lenders using life insurance company funds. The lender "sells" mortgages to the life insurance company.)
- (2) Pension, trust, and endowment funds.
- (3) Charitable foundations.
- (4) Participants in the secondary mortgage market. (Covered in detail in section 3 of this rule.)
- (5) State and municipal bonds.
- (6) Individual investors (through purchase of mortgage-backed securities).

(Indiana Real Estate Commission; 876 IAC 2-14-2; filed Dec 1, 1989, 5:00 p.m.: 13 IR 667; 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 2-14-3 Secondary mortgage market

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

Sec. 3. (a) The competency and instructional level for subdivisions (1) through (4) is Level 2. The following are basic concepts of the secondary mortgage market operation:

- (1) Purposes.
- (2) Procedures (in general).
- (3) "Discounting" to adjust yield; "points".
- (4) Advantages to investors, lenders, and borrowers.

(b) The competency and instructional level for subdivisions (1) through (3) is Level 2. The following are concepts of major participants in the secondary mortgage market (Explain the role of each and how each operates.):

- (1) Federal National Mortgage Association (FNMA or "Fannie Mae").
- (2) Government National Mortgage Association (GNMA or "Ginnie Mae").
- (3) Federal Home Loan Mortgages Corporation (FHLMC or "Freddie Mac").

(c) The competency and instructional level for subdivisions (1) through (3) is Level 3. The following are concepts of private mortgage insurance:

- (1) Purposes.
- (2) Typical coverages and conditions.
- (3) Mortgage Guaranty Insurance Corporation (MGIC).

(Indiana Real Estate Commission; 876 IAC 2-14-3; filed Dec 1, 1989, 5:00 p.m.: 13 IR 668; errata filed Jun 2, 1998, 11:33 a.m.: 21 IR 3940; 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 2-14-4 Financing instruments

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 4. (a) The competency and instructional level for subdivisions (1) through (4) and (6) is Level 2. The competency and instructional level for subdivision (5) is Level 3. The following are concepts of the mortgage note:

- (1) Definition.
- (2) Essential elements including the following:
 - (A) Promise to pay a fixed sum.
 - (B) Terms of payment.
 - (C) Signature of obligor (borrower).
- (3) Special note provisions including the following:
 - (A) Acceleration clause.
 - (B) Prepayment (penalty) clause.
 - (C) Due-on-sale clause.
- (4) Negotiability of note.
- (5) Principal and interest (debt service) including the following:
 - (A) Definitions.
 - (B) Basic computations.
 - (C) Use of amortization tables. (Note: students should be afforded considerable practice using amortization tables.)
 - (D) Usury laws.
- (6) Payment (amortization) plans including the following:
 - (A) Constant or level payment plan.
 - (B) Variable (or adjustable) interest rate plan.
 - (C) Graduated payment plan.
 - (D) Balloon payment plan.
 - (E) Term loan.
 - (F) "Budget" plan.

(b) The competency and instructional level for subdivisions (1) through (3) is Level 2. (Use sample form for illustration.) The following are concepts of the mortgage instrument:

- (1) Distinction between a mortgage and deed of trust.

- (2) Parties to mortgages.
- (3) Essential elements including the following:
 - (A) Must be in writing (statute of frauds).
 - (B) Mortgagor-owner must have contractual capacity.
 - (C) Mortgagor-owner must have a valid interest in the property.
 - (D) A valid debt (to be secured by the mortgage) must exist.
 - (E) Valid legal description of property.
 - (F) Mortgaging clause.
 - (G) Mortgagor's/owner's signature.
 - (H) Delivery and acceptance.

(c) The competency and instructional level for subdivisions (1) through (2) is Level 2. The following are concepts of rights of mortgage lenders:

- (1) Right to foreclosure including the following:
 - (A) Foreclosure methods.
 - (B) Power of sale (nonjudicial).
 - (C) Strict.

(2) Right to transfer (assign) the mortgage.

(d) The competency and instructional level for subdivisions (1) through (2) is Level 2. The following are concepts of rights of borrowers:

- (1) Right to possession.
- (2) Right (equity) of redemption.

(e) The competency and instructional level for subdivisions (1) through (3) is Level 3. The following are concepts of sales of mortgaged property (Explain procedures and legal effect of each of the sales below.):

- (1) Cash sale (existing mortgage paid off and new mortgage obtained, if necessary).
- (2) Sale with assumption of existing mortgage; release of liability and restoration of benefits on VA mortgage.
- (3) Sale subject to existing mortgage.

(f) The competency and instructional level for subdivisions (1) through (2) is Level 2. The following are concepts of mortgage priorities:

- (1) Effect and importance of recordation.
- (2) Subordination of mortgages.

(Indiana Real Estate Commission; 876 IAC 2-14-4; filed Dec 1, 1989, 5:00 p.m.: 13 IR 668; 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 2-14-5 Types of mortgage loans; financing methods

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 5. (a) The competency and instructional level for subdivisions (1) through (3) is Level 3. The following are concepts of major types of mortgage loans (Cover basic definitions; characteristics and uses; the major types of payment plans in common use; the major loan programs (for FHA and VA mortgages); and basic qualification requirements for various types of loans. Use examples extensively.):

- (1) Conventional.
- (2) Federal Housing Administration (FHA).
- (3) Veterans Administration.

(b) The competency and instructional level for subdivisions (1) through (12) is Level 3. The following are concepts of other types of financing methods (Cover basic definitions, characteristics, and uses. Use examples.):

- (1) Purchase money.
- (2) Farmers Home Administration (FmHA).
- (3) Development.
- (4) Construction.
- (5) Bridge or interim.

- (6) Open end.
- (7) Blanket.
- (8) Package.
- (9) Equity participation (shared appreciation).
- (10) Reverse annuity.
- (11) Leasehold.
- (12) Wraparound.

(c) The competency and instructional level for subdivisions (1) through (4) is Level 2. The following are concepts of special financing methods:

- (1) Installment land contract.
- (2) Sale; leaseback.
- (3) Ground lease.
- (4) Syndication.

(Indiana Real Estate Commission; 876 IAC 2-14-5; filed Dec 1, 1989, 5:00 p.m.: 13 IR 669; errata filed Jun 2, 1998, 11:33 a.m.: 21 IR 3940; 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 2-14-6 Residential loan underwriting

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

Sec. 6. (a) The competency and instructional level for initial interview and loan application is Level 3. (Note: the applicability of the underwriting procedures listed below to all three (3) major types of residential loans (conventional, FHA, and VA) should be discussed in some depth.)

(b) The competency and instructional level for subdivisions (1) through (4) is Level 3. The following are concepts of borrower analysis:

- (1) Credit characteristics (history).
- (2) Adequacy of assets (to close the transaction).
- (3) Stability of income (employment).
- (4) Adequacy of income. (Students should be afforded extensive practice in applying these ratios. Acceptable income/expense ratios.)

(c) The competency and instructional level for subdivisions (1) through (2) is Level 3. The following are concepts of property analysis:

- (1) Appraisal (determination of market value). (Note: The subject of property valuation (appraisal) is covered separately in section 10 of this rule.)
- (2) Status of title (title examination).

(d) The competency and instructional level for subdivisions (1) through (4) is Level 3. The following are concepts of loan analysis:

- (1) Loan-to-value ratio. (Students should be able to perform basic calculations.)
- (2) Interest rate/discount points. (Students should be able to compute "yield" and dollar amount of points.)
- (3) Loan term.
- (4) Availability of mortgage insurance (or guaranty).

(e) The competency and instructional level for underwriting decision and loan commitment is Level 3 (including firm, conditional, and takeout commitments). *(Indiana Real Estate Commission; 876 IAC 2-14-6; filed Dec 1, 1989, 5:00 p.m.: 13 IR 669; errata filed Jun 2, 1998, 11:33 a.m.: 21 IR 3940; 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 2-14-7 Income property loan underwriting

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

Sec. 7. (a) The competency and instructional level for subdivisions (1) through (4) is Level 1. The following are concepts of income loan underwriting for existing property (project); factors examined:

- (1) Borrower's credit history.
- (2) Financial statements of the property (project); profitability.
- (3) Property type, characteristics, and value.
- (4) Loan terms.

(b) The competency and instructional level for new or proposed property (project) is Level 1. (Generally the same factors are examined as for an existing property except that financial statements are not available; thus, lenders rely on information obtained through a comprehensive market/economic feasibility study in making their decision.) (*Indiana Real Estate Commission; 876 IAC 2-14-7; filed Dec 1, 1989, 5:00 p.m.: 13 IR 670; 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 2-14-8 Consumer legislation affecting real estate financing

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 8. (a) The competency and instructional level for subdivisions (1) through (4) is Level 2. The following are concepts of the Truth-in-Lending Act and Truth-in-Lending Simplification and Reform Act of 1980 (effective October 1, 1982); also "Regulation Z" of the Federal Reserve Board which implements truth-in-lending laws:

- (1) Basic purpose.
- (2) Disclosure of credit information including the following:
 - (A) Chief disclosures: annual percentage rate (APR), finance charge, amount financed, and total of payments.
 - (B) Other disclosures: payment schedule, "demand feature" (if any), variable interest rate (if applicable), prepayment penalties, late payment charges, credit insurance, loan assumption policy, and required escrow deposits (for taxes and insurance).
 - (C) Timing of disclosures.
- (3) Applicability to "arrangers of credit". (Note: Real estate brokers in arranging seller financing are not considered "arrangers of credit" under the current federal regulations.)
- (4) Disclosure of credit terms in advertising the sale of real estate. (General rule: If any specific credit terms are included in the advertisement, then all credit terms, i.e., APR, down payment, repayment terms, must also be included. This requirement applies to real estate brokers as well as others advertising real estate for sale.)

(b) The competency and instructional level for subdivisions (1) through (2) is Level 1. The following are concepts of the Equal Credit Opportunity Act (implemented by Regulation B of the Federal Reserve Board):

- (1) Basic purpose.
- (2) Basic provisions and requirements: prohibits creditors from discriminating against credit applicants based on the applicant's race, color, religion, national origin, sex, marital status, age, or certain other secondary characteristics.

(*Indiana Real Estate Commission; 876 IAC 2-14-8; filed Dec 1, 1989, 5:00 p.m.: 13 IR 670; 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 2-14-9 Real property valuation; appraisal

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 9. (a) The competency and instructional level for subdivisions (1) through (5) is Level 3. The following are basic appraisal concepts:

- (1) Definition of "appraisal" including the following:
 - (A) Who can perform?
 - (B) Liability.
- (2) Valuation versus evaluation including the following:
 - (A) Valuation-market value estimate.
 - (B) Evaluation as follows:

- (i) Economic feasibility study.
 - (ii) Land utilization study.
 - (3) Concepts of value including the following:
 - (A) Value in use.
 - (B) Value in exchange.
 - (C) "Value" versus "cost" and "price".
 - (D) Kinds of property value (based on use of the value estimate) as follows:
 - (i) Market value.
 - (ii) Loan value.
 - (iii) Assessed value.
 - (iv) Insured value.
 - (v) Book value.
 - (4) Forces and factors influencing property value including the following:
 - (A) Social ideas and standards.
 - (B) Economic forces.
 - (C) Government activities.
 - (D) Physical or environmental forces.
 - (5) Basic economic principles of value including the following:
 - (A) Supply and demand.
 - (B) Anticipation.
 - (C) Substitution.
 - (D) Conformity.
 - (E) Contribution.
 - (F) Competition.
 - (G) Change.
 - (H) Highest and best use. (Use example for illustration.)
- (b) Due to the complexity pertaining to approaches to value (appraisal methods) the competency and instructional level for subdivisions (1) through (4) are noted separately in each subdivision. The following are concepts of approaches to value:
- (1) Market data approach including the following (also called direct sales comparison approach) (Level 4 students should be afforded practice in the use of this approach for estimating the value of residential properties.):
 - (A) Definition and general use.
 - (B) Procedures as follows:
 - (i) Find recently sold comparable properties ("comparables") as follows:
 - (AA) A minimum of three (3) or four (4) is preferable.
 - (BB) Sources include MLS records, other brokers, broker's own records, sellers, recorded deeds, tax records.
 - (ii) Identify and analyze sales and property data as follows:
 - (AA) Sales data includes sale price, terms of sale, and date of sale.
 - (BB) Property data includes location, size, type, and quality of construction, age, condition, and all other major property characteristics.
 - (iii) Adjust the sale prices of comparables to reflect differences between them and the subject property with respect to property and sales data.
 - (iv) Correlate the adjusted sale prices of comparables to derive estimate of value for subject property.
 - (2) Cost approach including the following (Level 3 except as indicated below):
 - (A) Definition and general use.
 - (B) Estimate of land (lot) value. (Determine by using market data approach.)
 - (C) Estimating building costs as follows:
 - (i) Reproduction cost versus replacement cost.
 - (ii) Methods of estimating reproduction or replacement cost as follows (Level 1: subitems (AA),(BB),(DD); Level 3: subitems (CC) and (EE)):
 - (AA) Quantity survey method (most complex and most accurate method).

- (BB) Unit-in-place method.
- (CC) Square foot (comparative) method (simplest and most widely used method by appraisers).
- (DD) Use of construction cost services (published estimates of building costs).
- (EE) Market abstraction method (same concept as used with market data approach; new, recently sold properties are used).
- (iii) Depreciation as follows (Level 2 except as noted):
 - (AA) Definition and basic concepts, such as "effective age" and "effective life".
 - (BB) Depreciation methods as follows: Age/life (straight-line) method (Level 3); market abstraction method; breakdown method: physical deterioration (curable and incurable), functional obsolescence (curable and incurable), economic obsolescence (incurable only).
- (D) Formulating the opinion of value (estimated reproduction/replacement cost less (-) estimated depreciation plus (+) estimated value of land equals (=) indication of value).
- (3) Income approach including the following (Level 3 except as noted below):
 - (A) Definition and general use.
 - (B) Gross rent multiplier (GRM) method as follows:
 - (i) Obtain sales price and gross income (rent) data on recently sold similar (comparable) properties. (Also record property and other sales data for comparative purposes.)
 - (ii) Derive gross rent multiplier for each comparable (sales price divided by gross income equals gross rent multiplier).
 - (iii) Correlate data to determine appropriate gross rent multiplier.
 - (iv) Derive estimate of subject property's value (gross rent multiplier multiplied by gross income of subject equals indicated value of subject).
 - (C) Capitalization of income method as follows:
 - (i) Estimate gross income based on "market rent".
 - (ii) Derive net operating income estimate by deducting projected vacancy and collection losses and operating expenses from gross income projection. (Note: Operating expenses include items such as property taxes, property insurance, maintenance and repair, management salaries, commissions, and replacement reserve. Items such as book depreciation, debt service, and capital improvements are not operating expenses.)
 - (iii) Derive capitalization rate by either subitem (AA) or (BB) as follows:
 - (AA) Market abstraction. (Sales concept as used with market data approach and GRM method. This is most commonly used method.)
 - (BB) Other methods such as "band of investment method", "build-up method", or "mortgage equity method". (These are beyond the scope of this course. Mention only, do not cover.)
 - (iv) Derive estimate of property value (value equals net operating income divided by capitalization rate).
 - (v) Discounted cash flow analysis. (Also called "present value analysis" may be used in connection with the capitalization of income, i.e., rentals from leases to be received at some future time.) (Use present value tables in connection with examples and problems on this topic.)
- (4) Reconciliation of the three (3) approaches to value including the following:
 - (A) Assign appropriate "weight" to value indicated by each approach according to the reliability of each approach for the particular subject property.
 - (B) Derive final conclusion (estimate) of value.

(Indiana Real Estate Commission; 876 IAC 2-14-9; filed Dec 1, 1989, 5:00 p.m.: 13 IR 671; errata filed Jun 2, 1998, 11:33 a.m.: 21 IR 3940; 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 2-14-10 Real estate finance and appraisal mathematics

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

Sec. 10. (a) The competency and instructional level for real estate finance and appraisal mathematics is Level 2. This section is included only for the purpose of listing in one (1) place the types of applied real estate finance and related mathematics calculations

which students should master in this course. As a practical matter, it will be necessary to cover most of these various mathematics calculations at various points during the course. It is not feasible to cover all real estate finance and related mathematics required in the course as a separate subject area, although instructors may wish to have a "review" on real estate finance mathematics near the end of the course.

(b) It should be noted that the mathematics listed below is applied real estate finance and related mathematics. This course outline does not provide for instruction in basic mathematics concepts such as addition, subtraction, multiplication, division, decimals, fractions, or percentages. It is presumed that entering students possess these elementary mathematics skills. Should it be necessary to provide students with remedial instruction in basic mathematics, schools must include additional time for such instruction over and above the minimum time required for this course.

(c) Instructors will note that competency and instructional levels are not assigned to topics in this section. Since all the topics (types of mathematics calculations) listed should be "mastered" by students, it is considered obvious that a working knowledge of these topics is required. Students are still expected to have a working knowledge of the mathematics associated with such topics.

(d) The following are concepts of applied real estate finance and related mathematics calculations:

(1) Financial calculations including the following:

- (A) Simple interest (how to compute monthly interest and amount of interest paid over life of a fixed-rate loan).
- (B) Debt service/mortgage debt reduction (how to use amortization tables and how to compute principal balance for a point in time, given previous principal balance, monthly payment, and interest rate, without amortization tables).
- (C) Loan origination fees and discount points.
- (D) Loan value (applying loan-to-value ratios).
- (E) Yields on mortgage loans (including loans involving discount points and wraparound mortgages).
- (F) Qualifying a buyer.

(2) Appraisal mathematics including the following:

- (A) Calculations involved with market data approach as follows:
 - (i) Adjustments to sale prices of comparables.
 - (ii) Calculating estimate of value.
- (B) Calculations involved with cost approach as follows:
 - (i) Determining cost per square foot.
 - (ii) Calculating depreciation by straight-line method.
 - (iii) Calculating estimate of value.
- (C) Calculations involved with income approach as follows:
 - (i) Determining and applying gross rent multiplier.
 - (ii) Deriving net operating expenses.
 - (iii) Capitalization of income (calculating estimate of value).
 - (iv) Computing present value (discounted cash flow analysis).

(Indiana Real Estate Commission; 876 IAC 2-14-10; filed Dec 1, 1989, 5:00 p.m.: 13 IR 672; errata filed Jun 2, 1998, 11:33 a.m.: 21 IR 3940; 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 15. Real Estate Broker Course; Required Instructional Materials

876 IAC 2-15-1 Required instructional materials

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-5

Sec. 1. (a) The Indiana real estate license law booklet, which is available without charge from the Indiana real estate commission, is required instructional material for the real estate broker course.

(b) Schools may also use such other textbooks and materials for instructional purposes that are appropriate and useful in teaching the broker curriculum provided for in 876 IAC 2-10 through 876 IAC 2-14. *(Indiana Real Estate Commission; 876 IAC 2-15-1; filed Dec 1, 1989, 5:00 p.m.: 13 IR 673; filed Jul 25, 1991, 3:30 p.m.: 14 IR 2257; filed Jun 30, 1999, 2:41 p.m.: 22 IR 3418; 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 2-15-2 Approved textbooks (Repealed)

Sec. 2. (Repealed by Indiana Real Estate Commission; filed Jul 25, 1991, 3:30 p.m.: 14 IR 2257)

876 IAC 2-15-3 Resource and supplemental course materials (Repealed)

Sec. 3. (Repealed by Indiana Real Estate Commission; filed Jul 25, 1991, 3:30 p.m.: 14 IR 2257)

Rule 16. Licensure; Miscellaneous Educational and Experience Provisions

876 IAC 2-16-1 Broker license; experience requirement and waiver

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-3-4.1; IC 25-34.1-9-19

Sec. 1. (a) Referral status under IC 25-34.1-9-19(2) does not qualify as accrued continuous active experience as a licensed salesperson as required under IC 25-34.1-3-4.1(a)(2).

(b) To qualify for a waiver of the requirement under IC 25-34.1-3-4.1(a)(2) of one (1) year experience immediately preceding the application as a licensed salesperson in Indiana, an applicant for a broker license must have at least two (2) years of experience within the previous five (5) years as a salesperson or broker in Indiana or any other state requiring licensure. (*Indiana Real Estate Commission; 876 IAC 2-16-1; filed Dec 9, 1988, 1:25 p.m.: 12 IR 935, 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; filed May 27, 2003, 11:00 a.m.: 26 IR 3342; readopted filed Dec 1, 2009, 9:14 a.m.: 20091223-IR-876090785RFA*)

876 IAC 2-16-2 Real estate school instructors; education requirement for licensure

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-3-3.1; IC 25-34.1-3-4.1

Sec. 2. (a) An individual who has taught a broker course approved under this article, and who subsequently applies for a broker license shall be deemed to have successfully completed the course under IC 25-34.1-3-4.1.

(b) An individual who has taught a salesperson course approved under this article, and who subsequently applies for a salesperson license shall be deemed to have successfully completed the course under IC 25-34.1-3-3.1.

(c) The one (1) year limitation contained in 876 IAC 2-17-1(c) applies to the completion of the broker or salesperson course under subsections (a) through (b). (*Indiana Real Estate Commission; 876 IAC 2-16-2; filed Dec 9, 1988, 1:25 p.m.: 12 IR 935, 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*)

Rule 17. Examinations

876 IAC 2-17-1 Requirements for admission to examination

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-3-3.1; IC 25-34.1-3-4.1

Sec. 1. (a) Prior to sitting for the salesperson examination, an applicant for a salesperson license must have completed the educational requirements established by IC 25-34.1-3-3.1(a)(2) and this article.

(b) Prior to sitting for the broker examination an applicant for a broker license must have completed the educational requirements established by IC 25-34.1-3-4.1(a)(3) and this article.

(c) An applicant who does not pass the applicable examination within one (1) year of completion of the salesperson or broker course must again comply with the educational requirements established by IC 25-34.1-3-3.1(a)(2) or IC 25-34.1-3-4.1(a)(3) and this article before being entitled to any further taking of the examination. This subsection does not apply to an applicant for a salesperson license who met the educational requirements by successful completion of college or university courses in the principles, practices, and law of real estate as provided for in IC 25-34.1-3-3.1(a)(2).

(d) Notwithstanding subsection (c), an applicant who completed the salesperson or broker course before January 1, 1989, has until December 31, 1989, to pass the examination without having to again comply with the educational requirements. (*Indiana Real Estate Commission; 876 IAC 2-17-1; 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; errata filed May 15, 1989, 2:20 p.m.: 12 IR 1907; 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 2-17-2 Application for examination; fee

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. 2. Applicants for licensure as a broker or salesperson who have completed all requirements for licensure except passing the applicable examination may take the examination upon payment of the applicant's cost of purchasing the examination, payable to the examination service. (*Indiana Real Estate Commission; 876 IAC 2-17-2; 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; filed Oct 23, 1990, 1:48 p.m.: 14 IR 450; filed Dec 6, 1994, 4:57 p.m.: 18 IR 1285; filed Jun 21, 1996, 10:00 a.m.: 19 IR 3111; 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 2-17-3 Examinations; passing score

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

Sec. 3. (a) The broker and salesperson examinations shall be standardized examinations for the testing of real estate brokers and salespersons. The examination required of all applicants for licensure as a broker or salesperson shall be divided into the following two (2) sections:

- (1) General real estate practices.
- (2) Indiana licensure law.

(b) Applicants for licensure by reciprocity shall only be required to take and pass the Indiana licensure section of the broker or salesperson exam, whichever is applicable.

(c) The examination will be electronically administered by the commission's duly appointed agent. However, individuals who are unable to take the electronically administered examination because of a disability may apply to take it on paper.

(d) An applicant shall be deemed to have passed the examination upon attaining a score of at least seventy-five percent (75%) on each section.

(e) If the applicant passes one (1) section of the examination, the applicant is credited for the section the applicant has passed and is not required to retake the section of the examination unless the applicant is retaking the examination after having to again comply with the education requirement in section 1(c) of this rule. (*Indiana Real Estate Commission; 876 IAC 2-17-3; 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; filed Dec 6, 1994, 4:57 p.m.: 18 IR 1286; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824; filed Aug 15, 2001, 9:50 a.m.: 25 IR 102, eff Oct 1, 2001; readopted filed Jul 19, 2007, 12:57 p.m.: 20070808-IR-876070067RFA*)

Rule 18. Fee Schedule

876 IAC 2-18-1 Fee schedule

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; IC 25-34.1-8-7.5

Sec. 1. In addition to the fees required under IC 25-34.1-3-3.1 and IC 25-34.1-3-4.1, the commission shall charge and collect the following fees, which shall be nonrefundable and nontransferable, for the investigative fund under IC 25-34.1-8-7.5 for the issuance and renewal of a:

- (1) Real estate salesperson license \$10
- (2) Real estate broker license \$10

(*Indiana Real Estate Commission; 876 IAC 2-18-1; filed Aug 12, 2004, 10:12 a.m.: 28 IR 213, eff Oct 1, 2004*)

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