

TITLE 876 INDIANA REAL ESTATE COMMISSION

ARTICLE 1. GENERAL PROVISIONS

Rule 1. Definitions; Licensing; Miscellaneous Provisions

876 IAC 1-1-1 Authority; purpose

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1

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

876 IAC 1-1-2 Effective date (Repealed)

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 (*Repealed by Indiana Real Estate Commission; filed Dec 11, 1986, 10:40 pm: 10 IR 881*)

876 IAC 1-1-3 Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

A person who, for consideration:

(1) sells;

(2) buys;

(3) trades;

(4) exchanges;

(5) options;

(6) leases;

(7) rents;

(8) manages;

- (9) lists;
- (10) refers; or
- (11) appraises;

real estate or negotiates or offers to perform any of those acts.

(o) "Salesperson" means any person holding a valid salesperson's license issued by the commission. An individual, other than a broker, who, for consideration and in association with and under the auspices of a principal broker:

- (1) sells;
- (2) buys;
- (3) trades;
- (4) exchanges;
- (5) options;
- (6) leases;
- (7) rents;
- (8) manages; or
- (9) lists;

real estate or negotiates or offers to perform any of those acts.

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

(q) "He" shall also mean she.

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

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

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

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

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

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

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

876 IAC 1-1-6 Examinations (Repealed)

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

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

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

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

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

Dec 21, 1988, 3:45 p.m.: 12 IR 1209)

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

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

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

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

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

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

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

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

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

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-3-3.1

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

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

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

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

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

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

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

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

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

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

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

876 IAC 1-1-17 Evidence of current licensure

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

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

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

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

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

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

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

Sec. 19. Any licensee, upon termination of his association with a principal broker, shall turn over to said principal broker any and all listings obtained during his association unless otherwise stipulated by a written contract. Said listings shall remain the property of the principal broker whether originally given to the licensee by the principal broker or copied from the records of said broker. The principal broker of a terminated salesperson is responsible for submitting to the commission within five (5) business days of the termination, a notification form provided by the commission and signed by the terminating broker and attesting to the termination. In the event the terminated licensee is transferring to a new principal broker, it shall be the responsibility of the licensee to provide the commission with a transfer application signed by the licensee and the new principal broker. Said licensee is responsible for submitting to the commission the transfer application at the time of this association with another principal broker. The broker-salesperson, salesperson's license will remain in the commission's inactive file until such transfer application is timely received. A licensee who terminates his association with a principal broker must immediately notify the commission of his change of address. (*Indiana Real Estate Commission; Rule 20; filed Sep 28, 1977, 4:30 pm: Rules and Regs. 1978, p. 799; filed Jan 16, 1979, 11:55 am: 2 IR 315; filed Mar 13, 1980, 2:40 pm: 3 IR 648; filed Dec 11, 1986, 10:40 am: 10 IR 877; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824*)

876 IAC 1-1-20 Splitting commissions

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

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

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

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

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

876 IAC 1-1-22 Listing agreements; prohibition

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

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

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

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

Sec. 23. Any and all written offers to purchase or authorization to purchase shall be communicated to the seller for his or her formal acceptance or rejection immediately upon receipt of such offer, and such offers or authorizations shall be made in quadruplicate, one (1) copy to the prospective purchasers at the time of signing, one (1) copy for the principal broker's files, one (1) copy to the sellers, and one (1) copy to be returned to the purchasers after acceptance or rejection. The listing principal broker shall, on or before the next two (2) banking days after acceptance of the offer to purchase by the seller, do one (1) of the following:

- (1) Deposit all money received in connection with a transaction in his or her escrow/trust account.
- (2) Delegate the responsibility to the selling principal broker to deposit the money in the selling broker's escrow/trust account.

In any event, the commission shall hold the listing principal broker responsible for the money. In the event the earnest money deposit is other than cash, this fact shall be communicated to the seller prior to his or her acceptance of the offer to purchase, and such fact shall be shown in the earnest money receipt. All money shall be retained in the escrow/trust account so designated until disbursement thereof is properly authorized. The listing and selling principal brokers holding any earnest money are not required to make payment to the purchasers or sellers when a real estate transaction is not consummated unless the parties enter into a mutual release of the funds or a court issues an order for payment. (*Indiana Real Estate Commission; Rule 24; filed Sep 28, 1977, 4:30 p.m.: Rules and Regs. 1978, p. 800; filed Dec 11, 1986, 10:40 a.m.: 10 IR 878; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824; filed Aug 15, 2001, 9:50 a.m.: 25 IR 102*)

876 IAC 1-1-24 Closing statements

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

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

2001, 9:56 a.m.: 24 IR 3824; filed Aug 15, 2001, 9:50 a.m.: 25 IR 102)

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

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

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

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

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

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

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

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

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

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

876 IAC 1-1-29 Duplicate licenses

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

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

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

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

876 IAC 1-1-31 Complaints (Repealed)

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

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

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

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

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-2-5

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

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

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

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

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

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

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-2-5

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

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

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-2-5

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

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

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

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

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

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

876 IAC 1-1-40 Incompetent practice

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

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

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

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

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

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

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

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

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

Sec. 42. Licensees may not allow an unlicensed assistant to perform any act that would require licensure under IC 25-34.1-3-2, including the following functions:

- (1) Prepare promotional materials or advertisements without the review and approval of the supervising licensee.
- (2) Show real property.
- (3) Answer questions about listings other than those concerning list price, address, or geographic directions.
- (4) Discuss or explain a contract, listing, lease, agreement, or other real estate document with any broker or salesperson outside the licensee's firm or with any potential client or customer.
- (5) Conduct open houses.
- (6) Conduct telemarketing or telephone canvassing to schedule appointments in order to seek listings.
- (7) Negotiate or agree to any commission, commission split, management fee, or referral fee on behalf of a licensee.

(*Indiana Real Estate Commission; 876 IAC 1-1-42; filed Jun 14, 1995, 11:00 a.m.: 18 IR 2783; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824*)

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

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

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

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

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

Rule 3. Condominiums and Time Sharing Plans (Repealed)

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

Rule 4. Residential Real Estate Sales Disclosure

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

Authority: IC 24-4.6-2-7
Affected: IC 24-4.6-2-7

Sec. 1. (a) This rule establishes the seller's residential real estate sales disclosure form provided for in IC 24-4.6-2-7.

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(b) The form appears in section 2 of this rule. (*Indiana Real Estate Commission; 876 IAC 1-4-1; filed Jun 1, 1994, 5:00 p.m.: 17 IR 2352; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824*)

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

Authority: IC 24-4.6-2-7
 Affected: IC 24-4.6-2

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

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

Date (month, day, year)

Seller states that the information contained in this Disclosure is correct to the best of Seller's CURRENT ACTUAL KNOWLEDGE as of the above date. The prospective buyer and the owner may wish to obtain professional advice or inspections of the property and provide for appropriate provisions in a contract between them concerning any advice, inspections, defects, or warranties obtained on the property. The representations in this form are the representations of the owner and are not the representations of the agent, if any. This information is for disclosure only and is not intended to be a part of any contract between the buyer and the owner. Indiana law (IC 24-4.6-2) generally requires sellers of 1-4 unit residential property to complete this form regarding the known physical condition of the property. An owner must complete and sign the disclosure form and submit the form to a prospective buyer before an offer is accepted for the sale of the real estate.

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

1. The following are in the conditions indicated:

A. APPLIANCES	None/Not Included	Defective	Not Defective	Do Not Know	C. WATER & SEWER SYSTEM	None/Not Included	Defective	Not Defective	Do Not Know	
Built-in Vacuum System					Cistern					
Clothes Dryer					Septic Field / Bed					
Clothes Washer					Hot Tub					
Dishwasher					Plumbing					
Disposal					Aerator System					
Freezer					Sump Pump					
Gas Grill					Irrigation Systems					
Hood					Water Heater / Electric					
Microwave Oven					Water Heater / Gas					
Oven					Water Heater / Solar					
Range					Water Purifier					
Refrigerator					Water Softener					
Room Air Conditioner(s)					Well					
Trash Compactor					Other Sewer System (Explain)					
TV Antenna / Dish								Yes	No	Do Not Know
					Are the improvements connected to a public water system?					
					Are the improvements connected to a public sewer system?					
					Are the improvements connected to a private/community water system?					
					Are the improvements connected to a private/community sewer system?					

B. ELECTRICAL SYSTEM	None/Not Included	Defective	Not Defective	Do Not Know	D. HEATING & COOLING SYSTEM	None/Not Included	Defective	Not Defective	Do Not Know
Air Purifier					Attic Fan				
Burglar Alarm					Central Air Conditioning				
Ceiling Fan(s)					Hot Water Heat				
Garage Door Opener / Controls					Furnace Heat / Gas				
Inside Telephone Wiring and Blocks / Jacks					Furnace Heat / Electric				
Intercom					Solar House-Heating				
Light Fixtures					Woodburning Stove				
Sauna					Fireplace				
Smoke / Fire Alarm(s)					Fireplace Insert				
Switches and Outlets					Air Cleaner				
Vent Fan(s)					Humidifier				
					Propane Tank				

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60 /100 /200 Amp Service (Circle one)				
NOTE: "Defect" means a condition that would have a significant adverse effect on the value of the property that would significantly impair the health or safety of future occupants of the property, or that if not repaired, removed or replaced would significantly shorten or adversely affect the expected normal life of the premises.				

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

3. HAZARDOUS CONDITIONS	YES	NO	DO NOT KNOW
Are there any existing hazardous conditions on the property, such as methane gas, lead paint, radon gas in house or well, radioactive material, landfill, mineshaft, expansive soil, toxic materials, asbestos insulation or PCB's?			

4. OTHER DISCLOSURES	YES	NO	DO NOT KNOW
Do improvements have aluminum wiring?			
Are there any foundation problems with the improvements?			
Are there any encroachments?			
Are there any violations of zoning, building codes or restrictive covenants?			
Is the present use a non-conforming use? Explain:			
Have you received any notices by any governmental or quasi-governmental agencies affecting this property? Are there any structural problems with the building?			
Have any substantial additions or alterations been made without a required building permit?			
Are there moisture and/or water problems in the basement or crawl space area?			
Is there any damage due to wind, flood, termites or rodents?			
Are the furnace/woodstove/chimney/flue all in working order?			
Is the property in a flood plain?			
Do you currently pay flood insurance?			
Does the property contain underground storage tank(s)?			
Is the seller a licensed real estate salesperson or broker?			
Is there any threatened or existing litigation regarding the property?			
Is the property subject to covenants, conditions and/or restrictions of a homeowner's association?			
Is the property located within one (1) mile of an airport?			

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

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

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

(Indiana Real Estate Commission; 876 IAC 1-4-2; filed Jun 1, 1994, 5:00 p.m.: 17 IR 2352; filed Jun 14, 1995, 11:00 a.m.: 18 IR 2787; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824)

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)*

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)*

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)*

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)*

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*)

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*)

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*)

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*)

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*)

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*)

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*)

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*)

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*)

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*)

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*)

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*)

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*)

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*)

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*)

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*)

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*)

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*)

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*)

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*)

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*)

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*)

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*)

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*)

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*)

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*)

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*)

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*)

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*)

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*)

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*)

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*)

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)

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)

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)*

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)

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)

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)*

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)*

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)*

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)*

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*)

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*)

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*)

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*)

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
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)

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)

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)

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)

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*)

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)

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)

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)

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)

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)

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)

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)

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)

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)

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)

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)

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*)

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)

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)*

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*)

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*)

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*)

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*)

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*)

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*)

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*)

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.

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)

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*)

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*)

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*)

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)

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)

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)

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)

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)

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)

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)

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)

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)

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)

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)*

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)

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)

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*)

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)*

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)

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 Mortgage 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)

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)

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)

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*)

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*)

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)

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)

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)

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)*

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 waiver

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

Sec. 1. 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 the state of Indiana, an applicant for a broker license must have at least two (2) years 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)*

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)*

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*)

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*)

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*)

ARTICLE 3. REAL ESTATE APPRAISER LICENSURE AND CERTIFICATION

Rule 1. Definitions

876 IAC 3-1-1 Applicability

Authority: IC 25-34.1-3-8

Affected: IC 25-34.1

Sec. 1. The definitions in this rule apply throughout this article. (*Indiana Real Estate Commission; 876 IAC 3-1-1; filed Sep 24, 1992, 9:00 a.m.: 16 IR 736; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238*)

876 IAC 3-1-2 "Board" defined

Authority: IC 25-34.1-3-8

Affected: IC 25-34.1-8-1

Sec. 2. "Board" refers to the real estate appraiser licensure and certification board established under IC 25-34.1-8-1. (*Indiana Real Estate Commission; 876 IAC 3-1-2; filed Sep 24, 1992, 9:00 a.m.: 16 IR 736; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238*)

876 IAC 3-1-3 "License" defined

Authority: IC 25-34.1-3-8

Affected: IC 25-34.1

Sec. 3. "License" refers to any of the following:

- (1) Indiana licensed trainee appraiser.
- (2) Indiana licensed residential appraiser.
- (3) Indiana certified residential appraiser.
- (4) Indiana certified general appraiser.

(*Indiana Real Estate Commission; 876 IAC 3-1-3; filed Sep 24, 1992, 9:00 a.m.: 16 IR 736; filed Dec 8, 1993, 4:00 p.m.: 17 IR 770; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238*)

Rule 2. General Provisions

876 IAC 3-2-1 Licenses issued by the board

Authority: IC 25-34.1-3-8

Affected: IC 25-34.1

Sec. 1. There shall be four (4) licenses issued by the board, specifically, the following:

- (1) Indiana licensed trainee appraiser.
- (2) Indiana licensed residential appraiser.
- (3) Indiana certified residential appraiser.
- (4) Indiana certified general appraiser.

(*Indiana Real Estate Commission; 876 IAC 3-2-1; filed Sep 24, 1992, 9:00 a.m.: 16 IR 736; filed Dec 8, 1993, 4:00 p.m.: 17 IR 771; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238*)

876 IAC 3-2-2 Types of appraisals of real estate governed by federal law

Authority: IC 25-34.1-3-8

Affected: IC 25-34.1

Sec. 2. Types of appraisals of real estate involved in transactions governed by the federal act allowed to be done by holders

of the various licenses shall be governed by federal law. (*Indiana Real Estate Commission; 876 IAC 3-2-2; filed Sep 24, 1992, 9:00 a.m.: 16 IR 736; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238*)

876 IAC 3-2-3 Types of real estate transactions not governed by federal law

Authority: IC 25-34.1-3-8

Affected: IC 25-34.1

Sec. 3. (a) As concerns appraisals of real estate not involved in transactions governed by the federal act, holders of any of the four (4) licenses may do any type of appraisal they are competent to conduct as provided by the competency provision of the Uniform Standards of Professional Appraisal Practice (as adopted in 876 IAC 3-6-2 and 876 IAC 3-6-3) subject to the limitations provided for in subsection (b).

(b) Subject to the limitations stated in subsection (a), the following apply:

(1) Indiana licensed trainee appraiser may do appraisals (not review appraisals) identified in 876 IAC 3-3-11 and 876 IAC 3-3-12 subject to the requirements of 876 IAC 3-6-8 and 876 IAC 3-6-9.

(2) Indiana licensed residential appraiser may independently do appraisals of other types of property, or review appraisals performed by others, in the residential category identified in 876 IAC 3-3-11 (except for appraisals of subdivisions or apartment complexes of two (2) or more buildings). Indiana licensed residential appraisers may do appraisals of other types of property identified in 876 IAC 3-3-12 if these appraisals are cosigned by an appraiser certified to complete these appraisals and the cosigner accepts full responsibility for all appraisals completed by the licensed residential appraiser.

(3) Indiana certified residential appraisers may independently do appraisals of other types of property, or review appraisals performed by others, in the residential category as identified in 876 IAC 3-3-11 (except for appraisals of subdivisions or apartment complexes of two (2) or more buildings) and appraisals in the general (nonresidential) category identified in 876 IAC 3-3-12(a)(1) through 876 IAC 3-3-12(a)(5). Indiana certified residential appraisers may do appraisals of other types of property identified in 876 IAC 3-3-12 if these appraisals are in compliance with the Uniform Standards of Professional Appraisal Practice as adopted in 876 IAC 3-6-2 and 876 IAC 3-6-3 and are cosigned by a certified general appraiser and the cosigner accepts full responsibility for all appraisals completed by the certified residential appraiser.

(4) Indiana certified general appraiser may do appraisals, or review appraisals performed by others, of all types of real property.

(c) Indiana licensed trainee appraisers are also governed by 876 IAC 3-6-8 and 876 IAC 3-6-9.

(d) Nothing about this article shall be construed to limit the right of licensed real estate brokers to conduct appraisals of real estate except to the extent that federal law requires that they be conducted by individuals who hold Indiana licensed residential appraiser licenses, Indiana certified residential appraiser licenses, or Indiana certified general appraiser licenses issued by the board. (*Indiana Real Estate Commission; 876 IAC 3-2-3; filed Sep 24, 1992, 9:00 a.m.: 16 IR 736; filed Dec 8, 1993, 4:00 p.m.: 17 IR 771; errata filed Jan 21, 1994, 3:00 p.m.: 17 IR 1101; filed Dec 24, 1997, 11:00 a.m.: 21 IR 1757; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238*)

876 IAC 3-2-4 Expiration of licenses

Authority: IC 25-34.1-3-8

Affected: IC 25-34.1

Sec. 4. (a) Licenses issued under this article shall expire January 1 of every even-numbered year.

(b) To renew a license, an individual must do the following:

(1) Pay the fee required by section 7(b)(2) of this rule.

(2) Complete an application for renewal on a form provided by the board.

(3) Satisfactorily complete the continuing education required by 876 IAC 3-5.

(4) Sign a statement under penalty of perjury that:

(A) the hours submitted are correct;

(B) the licensee attended and completed courses taken; and

(C) to the best of the licensee's knowledge, the courses completed meet the requirements of 876 IAC 3-5.

(c) When renewing a license, a licensee may apply for and receive an inactive license. Such an individual is exempt from the continuing education requirements stated in subsection (b)(3) and 876 IAC 3-5. The holder of an inactive license may not appraise

real estate.

(d) To reactivate an inactive license, a licensee must apply to the board and have obtained the number of qualifying continuing education hours required by the provisions of 876 IAC 3-5-1 within the two (2) years preceding the filing of the application. (*Indiana Real Estate Commission; 876 IAC 3-2-4; filed Sep 24, 1992, 9:00 a.m.: 16 IR 736; filed Jan 8, 1993, 4:00 p.m.: 17 IR 771; filed Apr 10, 1995, 10:00 a.m.: 18 IR 2113; filed Jun 14, 1995, 11:00 a.m.: 18 IR 2790; errata filed Jul 3, 1995, 12:00 p.m.: 18 IR 2796; filed Dec 24, 1997, 11:00 a.m.: 21 IR 1758; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238*)

876 IAC 3-2-5 Reinstatement of expired license

Authority: IC 25-34.1-3-8

Affected: IC 25-34.1

Sec. 5. (a) An expired license may be reinstated within one hundred twenty (120) days after its expiration by complying with section 4(b) of this rule and paying a reinstatement fee of twenty dollars (\$20).

(b) If the license is renewed within one (1) year, but more than one hundred twenty (120) days after expiration, the licensee must comply with section 4(b) of this rule and pay an additional reinstatement fee of one hundred dollars (\$100).

(c) If the license is renewed within eighteen (18) months, but more than one (1) year after expiration, the licensee must comply with section 4(b) of this rule and pay an additional reinstatement fee of seventy-five dollars (\$75).

(d) If a licensee fails to reinstate a license within eighteen (18) months after expiration, the license may not be reinstated. To be licensed again, the individual must obtain a new license following the requirements of this article. (*Indiana Real Estate Commission; 876 IAC 3-2-5; filed Sep 24, 1992, 9:00 a.m.: 16 IR 737; filed Dec 24, 1997, 11:00 a.m.: 21 IR 1758; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238*)

876 IAC 3-2-6 Transitional license expiration (Repealed)

Sec. 6. (*Repealed by Indiana Real Estate Commission; filed Dec 8, 1993, 4:00 p.m.: 17 IR 782*)

876 IAC 3-2-7 Fee schedule

Authority: IC 25-34.1-3-8

Affected: IC 25-34.1

Sec. 7. (a) This section establishes the fee schedule for the real estate appraiser licensure and certification program. The fees stated in subsection (b) apply to Indiana licensed trainee appraisers, Indiana licensed residential appraisers, Indiana certified residential appraisers, and Indiana certified general appraisers. However, the fee for licensed trainee appraisers under subsections [subsection] (b)(2), (b)(3), (b)(5), and (b)(6) shall be fifty dollars (\$50), because there is not a requirement under federal law to transmit these amounts for licensed trainee appraisers.

(b) The fee schedule is as follows:

- | | |
|--|-------|
| (1) Application for admittance to the examination | \$50 |
| (2) Fee for license or certificate (after passing the examination) during an even-numbered year (including fifty dollars (\$50) required by federal law to be transmitted to the federal government) | \$100 |
| (3) Fee for license or certificate (after passing the examination) during an odd-numbered year (including twenty-five dollars (\$25) required by federal law to be transmitted to the federal government) | \$75 |
| (4) Application for licensure by reciprocity | \$50 |
| (5) Fee for license or certificate by reciprocity (after approval by the board) during an even-numbered year (including fifty dollars (\$50) required by federal law to be transmitted to the federal government) | \$100 |
| (6) Fee for license or certificate by reciprocity (after approval by the board) during an odd-numbered year (including twenty-five dollars (\$25) required by federal law to be transmitted to the federal government) | \$75 |
| (7) Application for the renewal of a license or certification (including fifty dollars (\$50) required by federal law to be transmitted to the federal government) | \$100 |
| (8) Duplicate license or certificate | \$5 |
| (9) Duplicate pocket card | \$5 |
| (10) Certification of license to another state | \$10 |

- (11) Application by a holder of an Indiana trainee appraiser license to be approved for a regular license \$15
(12) Application for the issuance of a permit for temporary practice \$10

(c) All fees are nonrefundable and nontransferable. (*Indiana Real Estate Commission; 876 IAC 3-2-7; filed Sep 24, 1992, 9:00 a.m.: 16 IR 737; filed Dec 8, 1993, 4:00 p.m.: 17 IR 772, eff. Jan 2, 1994 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #93-130 was filed Dec 8, 1993.]; filed Jun 14, 1995, 11:00 a.m.: 18 IR 2791; filed Jun 21, 1996, 10:00 a.m.: 19 IR 3111; filed Apr 12, 2001, 12:30 p.m.: 24 IR 2697; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238*)

876 IAC 3-2-8 Change of name or address

Authority: IC 25-34.1-3-8
Affected: IC 25-34.1

Sec. 8. All licenses and certificate holders shall notify the board in writing of each change of address or name under which the licensee conducts business, within ten (10) days of said change. The address shall be sufficiently descriptive to enable the board to correspond with and locate the licensee or certificate holder. (*Indiana Real Estate Commission; 876 IAC 3-2-8; filed Sep 24, 1992, 9:00 a.m.: 16 IR 737; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238*)

876 IAC 3-2-9 Use of titles

Authority: IC 25-34.1-3-8
Affected: IC 25-34.1

Sec. 9. (a) Inasmuch as individuals licensed by the board are not required to be designated and because many appraisers are designated, Indiana licensed trainee appraisers, Indiana licensed residential appraisers, Indiana certified residential appraisers, or Indiana certified general appraisers, cannot use abbreviations connoting licensure or certification after their names.

(b) Whenever a licensee signs the licensed appraiser's name on an appraisal report or correspondence concerning an appraisal report, the licensed appraiser must include, with the licensed appraiser's signature, the words, "Indiana licensed trainee appraiser", "Indiana licensed residential appraiser", "Indiana certified residential appraiser", or "Indiana certified general appraiser", whichever is applicable, and the licensed appraiser's license number. This wording shall not be in letters larger than the licensed appraiser's name.

(c) Whenever an individual licensed by a temporary permit signs an appraisal report or correspondence concerning an appraisal report, the temporary permit holder must include with the signature the words "Operating under Indiana Temporary Permit Number" followed by the temporary permit number. The temporary permit holder must also state the license type, license number, and state of issue of the appraisal license given on the temporary permit application. (*Indiana Real Estate Commission; 876 IAC 3-2-9; filed Sep 24, 1992, 9:00 a.m.: 16 IR 737; filed Dec 8, 1993, 4:00 p.m.: 17 IR 772; filed Apr 12, 2001, 12:30 p.m.: 24 IR 2698; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238*)

876 IAC 3-2-10 Use of designation; corporation; partnership

Authority: IC 25-34.1-3-8
Affected: IC 25-34.1

Sec. 10. The terms "Indiana licensed residential appraiser", "Indiana certified residential appraiser", or "Indiana certified general appraiser" shall only be used to refer to individuals who hold licenses or certificates and may not be used following or immediately in connection with the name of a partnership, association, corporation, or group, or in such a manner that it might be interpreted as referring to a firm, partnership, corporation, group, or anyone other than an individual holder of the license or certificate. No license or certificate shall be issued to a firm, partnership, corporation, or group practice. However, this shall not be construed to prevent an appraiser licensed by the board from signing an appraisal report on behalf of a corporation, partnership, firm, or group practice, although the individual is solely responsible for the appraisal. (*Indiana Real Estate Commission; 876 IAC 3-2-10; filed Sep 24, 1992, 9:00 a.m.: 16 IR 738; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238*)

876 IAC 3-2-11 Investigation of appraisals and file records

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

Sec. 11. An appraiser shall provide access to all appraisal records and related documents upon request by Indiana professional licensing agency compliance officers for investigative purposes. Indiana professional licensing agency compliance officers shall have the right to inspect, review, and copy these documents. (*Indiana Real Estate Commission; 876 IAC 3-2-11; filed Apr 12, 2001, 12:30 p.m.: 24 IR 2698; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238*)

Rule 3. Requirements for Real Estate Appraisers; Licensure and Certification

876 IAC 3-3-1 Scope of rule

Authority: IC 25-34.1-3-8
Affected: IC 25-34.1

Sec. 1. This rule establishes education, experience, and examination requirements to obtain a license from the board. (*Indiana Real Estate Commission; 876 IAC 3-3-1; filed Sep 24, 1992, 9:00 a.m.: 16 IR 738; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238*)

876 IAC 3-3-2 Admittance to examination

Authority: IC 25-34.1-3-8
Affected: IC 25-34.1

Sec. 2. To be admitted to the examination for any of the licenses, an applicant must:

- (1) meet all the requirements for the license for which application has been made except for the passing of the examination;
- (2) complete the application provided for in section 15 of this rule; and
- (3) pay the applicant's cost of purchasing the examination, payable to the examination service.

(*Indiana Real Estate Commission; 876 IAC 3-3-2; filed Sep 24, 1992, 9:00 a.m.: 16 IR 738; filed Jun 14, 1995, 11:00 a.m.: 18 IR 2791; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238*)

876 IAC 3-3-3 Educational requirements for Indiana licensed residential appraiser

Authority: IC 25-34.1-3-8
Affected: IC 25-34.1

Sec. 3. (a) This section establishes the educational requirements for an Indiana licensed residential appraiser.

(b) The minimum prerequisite to sit for an Indiana licensed residential appraiser examination is ninety (90) classroom hours of courses with specific course content stated in subsection (k).

(c) A classroom hour is defined as fifty (50) minutes of classroom lecture out of each sixty (60) minute segment.

(d) Credit toward the classroom hour requirement may only be granted where the length of the educational offering is at least fifteen (15) hours and the individual successfully completes an examination pertinent to that educational offering.

(e) Credit for the classroom hour requirement may be obtained from the following:

- (1) Colleges or universities.
- (2) Community or junior colleges.
- (3) Real estate appraisal or real estate related organizations.
- (4) State or federal agencies or commissions.
- (5) Proprietary schools.
- (6) Other providers approved by the board.
- (7) Providers approved by the Appraiser Qualification Board of the Appraisal Foundation.

(f) Credit toward the classroom hour requirement may be awarded to teachers of appraisal courses meeting the requirements of this rule. A teacher requesting credit for the classroom hour requirement may request credit for either the classroom hour or experience requirement, but not both.

(g) Qualifying education credit will be accepted regardless of when the courses were taken as long as they were taken and successfully completed before the application was filed.

(h) No correspondence courses will be considered for credit.

(i) The board may grant credit for courses where the applicant obtained credit from the course provider by challenge examination without attending the courses, provided that such credit was granted by the course provider prior to July 1, 1990, and that the course meets the requirements of this rule.

(j) Various appraisal courses may be credited toward the ninety (90) classroom hour educational requirements. Applicants shall demonstrate that their education involved coverage of the following topics, with particular emphasis on the appraisal of one (1) to four (4) unit residential properties:

- (1) Influences on real estate value.
- (2) Legal considerations in appraisal.
- (3) Types of value.
- (4) Economic principles.
- (5) Real estate markets and analysis.
- (6) Valuation process.
- (7) Property description.
- (8) Highest and best use analysis.
- (9) Appraisal statistical concepts.
- (10) Sales comparison approach.
- (11) Site value.
- (12) Cost approach.
- (13) Income approach, including gross rent multiplier analysis.
- (14) Valuation of partial interests.
- (15) Appraisal standards and ethics.
- (16) Narrative report writing.

(k) Minimum classroom hours shall be as follows:

Introduction to real estate appraising valuation principles and procedures	30
Applied residential property valuation	15
Small income producing property (two (2) to four (4) residential)	15
Uniform Standards of Professional Appraisal Practice	15
Electives that are not duplicate courses and must be directly related to real estate appraising	15
TOTAL	90

(Indiana Real Estate Commission; 876 IAC 3-3-3; filed Sep 24, 1992, 9:00 a.m.: 16 IR 738; filed Dec 8, 1993, 4:00 p.m.: 17 IR 772; filed Apr 10, 1995, 10:00 a.m.: 18 IR 2114; filed Dec 24, 1997, 11:00 a.m.: 21 IR 1758, eff Jan 1, 1998 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #97-65 was filed Dec 24, 1997.]; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238)

876 IAC 3-3-3.1 Educational requirements for Indiana licensed trainee appraiser

Authority: IC 25-34.1-3-8

Affected: IC 25-34.1

Sec. 3.1. The educational requirements for the Indiana trainee appraiser license are the same as the Indiana licensed residential appraiser license as stated in section 3 of this rule. *(Indiana Real Estate Commission; 876 IAC 3-3-3.1; filed Dec 8, 1993, 4:00 p.m.: 17 IR 773; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238)*

876 IAC 3-3-4 Educational requirements for Indiana certified residential appraiser

Authority: IC 25-34.1-3-8

Affected: IC 25-34.1

Sec. 4. (a) This section establishes the educational requirements for an Indiana certified residential appraiser.

(b) The minimum prerequisite to sit for the Indiana certified residential appraiser examination is one hundred thirty-five (135)

classroom hours of specific course content stated in subsection (k).

(c) A classroom hour is defined as fifty (50) minutes of classroom lecture out of each sixty (60) minute segment.

(d) Credit toward the classroom hour requirement may only be granted where the length of the educational offering is at least fifteen (15) hours and the individual successfully completes an examination pertinent to that educational offering.

(e) Credit for the classroom hour requirement may be obtained from the following:

- (1) Colleges or universities.
- (2) Community or junior colleges.
- (3) Real estate appraisal or real estate related organizations.
- (4) State or federal agencies or commissions.
- (5) Proprietary schools.
- (6) Other providers approved by the board.
- (7) Providers approved by the Appraiser Qualification Board of the Appraisal Foundation.

(f) Credit toward the classroom hour requirement may be awarded to teachers of appraisal courses meeting the requirements of this rule. A teacher requesting credit for the classroom hour requirement may request credit for either the classroom hour or experience requirement, but not both.

(g) Qualifying education credit will be accepted regardless of when the courses were taken as long as they were taken before the application was filed.

(h) No correspondence courses will be considered for credit.

(i) The board may grant credit for courses where the applicant obtained credit from the course provider by challenge examination without attending the courses, provided that such credit was granted by the course provider prior to July 1, 1990, and that the course meets the requirements of this rule.

(j) Various appraisal courses may be credited toward the one hundred thirty-five (135) classroom hour education requirement. Applicants shall demonstrate that their education involved coverage of the following topics with particular emphasis on the appraisal of one (1) to four (4) unit residential properties:

- (1) Influences on real estate value.
- (2) Legal considerations in appraisal.
- (3) Types of value.
- (4) Economic principles.
- (5) Real estate markets and analysis.
- (6) Valuation process.
- (7) Property description.
- (8) Highest and best use analysis.
- (9) Appraisal statistical concepts.
- (10) Sales comparison approach.
- (11) Site value.
- (12) Cost approach.
- (13) Income approach, including the following:
 - (A) Gross rent multiplier analysis.
 - (B) Estimation of income and expenses.
 - (C) Operating expense ratios.
 - (D) Direct capitalization.

(14) Valuation of partial interests.

(15) Appraisal standards and ethics.

(16) Narrative report writing.

(k) The minimum classroom hours shall be as follows:

Introduction to real estate appraising valuation principles and procedures	30
Applied residential property valuation	30
Basic income capitalization	40
Uniform Standards of Professional Appraisal Practice	15
Electives that are not duplicate courses and must be directly related to real estate appraising	20
TOTAL	135

(Indiana Real Estate Commission; 876 IAC 3-3-4; filed Sep 24, 1992, 9:00 a.m.: 16 IR 739; filed Dec 8, 1993, 4:00 p.m.: 17 IR 773; filed Apr 10, 1995, 10:00 a.m.: 18 IR 2115; filed Dec 24, 1997, 11:00 a.m.: 21 IR 1759, eff Jan 1, 1998 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #97-65 was filed Dec 24, 1997.]; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238)

876 IAC 3-3-5 Educational requirements for Indiana certified general appraiser

Authority: IC 25-34.1-3-8

Affected: IC 25-34.1

Sec. 5. (a) This section establishes the educational requirements for an Indiana certified general appraiser.

(b) The prerequisite to sit for the Indiana certified general appraiser examination is one hundred eighty (180) classroom hours with specific course content stated in subsection (k).

(c) A classroom hour is defined as fifty (50) minutes of classroom lecture out of each sixty (60) minute segment.

(d) Credit toward the classroom hour requirement may only be granted where the length of the educational offering is at least fifteen (15) hours and the individual successfully completes an examination pertinent to that educational offering.

(e) Credit for the classroom hour requirement may be obtained from the following:

- (1) Colleges or universities.
- (2) Community or junior colleges.
- (3) Real estate appraisal or real estate related organizations.
- (4) State or federal agencies or commissions.
- (5) Proprietary schools.
- (6) Other providers approved by the Indiana board.
- (7) Providers approved by the Appraiser Qualification Board of the Appraisal Foundation.

(f) Credit toward the classroom hour requirement may be awarded to teachers of appraisal courses meeting the requirements of this rule. A teacher requesting credit for the classroom hour requirement may request credit for either the classroom hour or experience requirement, but not both.

(g) Qualifying education credit will be accepted regardless of when the courses were taken as long as they were taken before the application was filed.

(h) No correspondence courses will be considered for credit.

(i) The board may grant credit for courses where the applicant obtained credit from the course provider by challenge examination without attending the courses, provided that such credit was granted by the course provider prior to July 1, 1990, and that the course meets the requirements of this rule.

(j) Various appraisal courses may be credited toward the following one hundred eighty (180) classroom hour education requirement:

- (1) Influences on real estate value.
- (2) Legal considerations in appraisal.
- (3) Types of value.
- (4) Economic principles.
- (5) Real estate markets and analysis.
- (6) Valuation process.
- (7) Property description.
- (8) Highest and best use analysis.
- (9) Appraisal statistical concepts.
- (10) Sales comparison approach.
- (11) Site value.
- (12) Cost approach.
- (13) Income approach, including the following:
 - (A) Gross rent multiplier analysis.
 - (B) Estimation of income and expenses.
 - (C) Operating expense ratios.
 - (D) Direct capitalization.

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(E) Yield capitalization.

(F) Risk analysis.

(14) Valuation of partial interests.

(15) Appraisal standards and ethics.

(16) Narrative report writing.

(k) The minimum classroom hours shall be as follows:

Introduction to real estate appraising valuation principles and procedures	30
Basic income capitalization (which consists of the topics contained in subsection (j)(13)(A) through (j)(13)(D))	40
Advanced income property valuation (which consists of the topics contained in subsection (j)(13)(E) and (j)(13)(F))	55
Uniform Standards of Professional Appraisal Practice	15
Electives that are not duplicate courses and must be directly related to real estate appraising	40
TOTAL	180

(Indiana Real Estate Commission; 876 IAC 3-3-5; filed Sep 24, 1992, 9:00 a.m.: 16 IR 740; filed Dec 8, 1993, 4:00 p.m.: 17 IR 774; filed Dec 24, 1997, 11:00 a.m.: 21 IR 1760, eff Jan 1, 1998 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #97-65 was filed Dec 24, 1997.]; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238)

876 IAC 3-3-6 Credit for courses obtained after June 30, 1990

Authority: IC 25-34.1-3-8

Affected: IC 25-34.1

Sec. 6. To obtain credit under sections 1 through 3 of this rule for courses obtained after June 30, 1990, an applicant must have a certificate of course completion which must:

- (1) state the applicant's name;
- (2) contain the name of the sponsoring organization;
- (3) indicate the course title;
- (4) identify the course content;
- (5) state the date and location of the course;
- (6) certify the course minimum of fifteen (15) classroom hours;
- (7) indicate hours completed;
- (8) confirm passing grade; and
- (9) contain the:
 - (A) instructor's name;
 - (B) type of license or faculty position;
 - (C) license number; and
 - (D) issuing state.

(Indiana Real Estate Commission; 876 IAC 3-3-6; filed Sep 24, 1992, 9:00 a.m.: 16 IR 741; filed Dec 8, 1993, 4:00 p.m.: 17 IR 775; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238)

876 IAC 3-3-7 Credit for courses completed prior to July 1, 1990

Authority: IC 25-34.1-3-8

Affected: IC 25-34.1

Sec. 7. (a) To obtain credit for education under sections 3 through 5 of this rule for courses completed prior to July 1, 1990, verification may comply with section 6 of this rule or may be in the form of a certificate transcript or letter issued by the course provider showing course title, date of successful course completion, and number of classroom hours of applicant.

(b) Notwithstanding subsection (a), the board may consider a sworn notarized affidavit attesting to the successful completion of the educational requirements. *(Indiana Real Estate Commission; 876 IAC 3-3-7; filed Sep 24, 1992, 9:00 a.m.: 16 IR 741; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238)*

876 IAC 3-3-8 Education course qualifications for credit

Authority: IC 25-34.1-3-8
Affected: IC 25-34.1

Sec. 8. (a) For an education course to qualify for credit under sections 3 through 5 of this rule, it must have been at least fifteen (15) classroom hours in length and meet the criteria for content and classroom hours provided for in this rule.

(b) Credit for duplicate or equivalent courses will not be recognized. (*Indiana Real Estate Commission; 876 IAC 3-3-8; filed Sep 24, 1992, 9:00 a.m.: 16 IR 741; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238*)

876 IAC 3-3-9 Experience requirements for three licenses issued by the board

Authority: IC 25-34.1-3-8
Affected: IC 25-34.1

Sec. 9. (a) This section and sections 10 through 13 of this rule establish the experience requirements for the licenses issued by the board except for the Indiana trainee appraiser license which has no experience requirements.

(b) To qualify for experience credit, an appraisal must have been performed during the sixty (60) months preceding the filing of the application. Submission of appraisals that are not in substantial compliance with the version of the Uniform Standards of Professional Appraisal Practice (as adopted in 876 IAC 3-6-2 and 876 IAC 3-6-3) in effect on the inspection date of the appraisal may result in the denial of the appraisal experience required for licensure as:

- (1) a licensed residential appraiser;
- (2) a certified residential appraiser; and
- (3) a certified general appraiser.

(c) An applicant for licensed residential appraiser shall submit, on a form prescribed by the board, two thousand (2,000) hours of appraisal experience that the applicant has performed. The experience must be obtained over a period of at least twenty-four (24) months prior to the filing of the application. The board may request documentation in the form of reports or filed memoranda or any appraisal in support of the claim for experience.

(d) An applicant for certified residential appraiser shall submit, on a form prescribed by the board, two thousand five hundred (2,500) hours of appraisal experience that the applicant has performed. The experience must be obtained over a period of at least twenty-four (24) months prior to the filing of the application. The board may request documentation in the form of reports or filed memoranda or any appraisal in support of the claim for experience.

(e) An applicant for certified general appraiser shall submit, on a form prescribed by the board, three thousand (3,000) hours of appraisal experience that the applicant has performed over a period of not less than thirty (30) months. At least two thousand (2,000) hours must be in the general category. The board may request documentation in the form of reports, file memoranda, or any appraisal in support of the claim for experience. (*Indiana Real Estate Commission; 876 IAC 3-3-9; filed Sep 24, 1992, 9:00 a.m.: 16 IR 741; filed Dec 8, 1993, 4:00 p.m.: 17 IR 775; filed Dec 24, 1997, 11:00 a.m.: 21 IR 1761, eff Jan 1, 1998 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #97-65 was filed Dec 24, 1997.]; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238*)

876 IAC 3-3-10 Credit for appraisal performance

Authority: IC 25-34.1-3-8
Affected: IC 25-34.1

Sec. 10. (a) An applicant may be given full credit for performance of at least seventy-five percent (75%) of the work associated with an appraisal, including preparation of the appraisal report. Full credit may be claimed for that appraisal, even if the work was reviewed by a supervising appraiser who signed the appraisal report, notwithstanding subsection (b). No credit may be claimed by persons performing less than seventy-five percent (75%) of the work on an appraisal.

(b) An applicant may be given credit for twenty-five percent (25%) of the hours allotted for the type of property appraised if the applicant prepared a review of an appraisal prepared by another person, including a person under the applicant's supervision, but did not complete a field review and did not prepare a separate written review appraisal report but did sign the report as the reviewer. See column (C) in the table in section 13 of this rule.

(c) An applicant may be given credit for fifty percent (50%) of the hours allotted for the type of property appraised if the

applicant prepared a review of an appraisal prepared by another person, did complete a field review, and prepared a separate written review appraisal report; or to claim the fifty percent (50%) credit, an applicant reviewing a report prepared by a person under the applicant's supervision must accept equal responsibility for the content of the report and the indicated value found in the report. See column (B) in the table in section 13 of this rule.

(d) An applicant may be given credit for an additional fifty percent (50%) of the hours allotted for the type of property appraised if the applicant performed an appraisal for condemnation purposes where there was a partial taking of the property and documented before and after value of the property was completed. See column (D) in the table in section 13 of this rule.

(e) Any appraisal for which experience is claimed under this rule must be either:

- (1) a self-contained appraisal report;
- (2) a summary appraisal report; or
- (3) a restricted report;

and must be either a complete appraisal or a limited appraisal as these terms are defined in the definitions section of the Uniform Standards of Professional Appraisal Practice (as adopted in 876 IAC 3-6-2).

(f) The total credit given for appraisal work consisting of restricted appraisal reports shall not exceed five hundred (500) hours. (*Indiana Real Estate Commission; 876 IAC 3-3-10; filed Sep 24, 1992, 9:00 a.m.: 16 IR 741; filed Apr 10, 1995, 10:00 a.m.: 18 IR 2115; filed Apr 12, 2001, 12:30 p.m.: 24 IR 2698; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238*)

876 IAC 3-3-11 Property defined under residential category

Authority: IC 25-34.1-3-8

Affected: IC 25-34.1

Sec. 11. (a) Types of property under the residential category are defined as follows:

- (1) Single family.
- (2) Multiple family, no more than four (4) units (duplex, triplex, and quadplex).
- (3) Vacant lots, one (1) to four (4) units (except subdivisions).
- (4) Rural, ten (10) acres to one hundred (100) acres with homestead.
- (5) Other activities described in section 12(d)(4) through 12(d)(9) of this rule.

(b) An applicant performing an appraisal must describe, with supporting documentation, the properties appraised in sufficient detail to enable the board to determine the proper amount of credit which may be awarded.

(c) No credit may be claimed for the following:

- (1) Market value estimates performed by real estate licensees in connection with the listing and/or sale of real property.
- (2) Business appraisals.
- (3) Feasibility or market analysis, except to the extent that the market value of a proposed real estate project is being estimated.
- (d) Acceptable appraisal experience includes, but is not limited to, the following:
 - (1) Fee appraisal.
 - (2) Staff appraisal.
 - (3) Review appraisal.
 - (4) Ad valorem tax appraisal.
 - (5) Appraisal analysis.
 - (6) Real estate counseling.
 - (7) Highest and best use analysis.
 - (8) Feasibility analysis or study.
 - (9) Teaching of appraisal courses.

(e) No more than five hundred (500) hours of credit will be accepted in any single category in subsection (d)(4) through subsection (d)(9).

(f) No more than seven hundred fifty (750) cumulative hours of credit will be accepted for the total amount of experience under subsection (d)(4) through (d)(9). (*Indiana Real Estate Commission; 876 IAC 3-3-11; filed Sep 24, 1992, 9:00 a.m.: 16 IR 742; filed Dec 8, 1993, 4:00 p.m.: 17 IR 776; filed Apr 10, 1995, 10:00 a.m.: 18 IR 2116; filed Dec 24, 1997, 11:00 a.m.: 21 IR 1762, eff Jan 1, 1998 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #97-65 was filed Dec 24, 1997.]; filed Apr 12, 2001, 12:30 p.m.: 24 IR 2699; readopted filed May 29, 2001, 10:00*)

a.m.: 24 IR 3238)

876 IAC 3-3-12 Property defined under general (nonresidential) category

Authority: IC 25-34.1-3-8

Affected: IC 25-34.1

Sec. 12. (a) Types of property under the general (nonresidential) category are as follows:

- (1) Land, one hundred (100) acres or more, including the following:
 - (A) Farms of one hundred (100) acres or more in size.
 - (B) Undeveloped tracts.
 - (C) Residential multiple family sites.
 - (D) Commercial sites.
 - (E) Industrial sites.
 - (F) Land in transition.
 - (G) Similar projects.
- (2) Land, under one hundred (100) acres, including the following:
 - (A) Farms of one hundred (100) acres or less in size.
 - (B) Undeveloped tracts.
 - (C) Residential multiple family sites.
 - (D) Commercial sites.
 - (E) Industrial sites.
 - (F) Land in transition.
 - (G) Similar projects.
- (3) Residential multiple family (five (5) to twelve (12) units), including the following:
 - (A) Apartments.
 - (B) Condominiums.
 - (C) Townhouses.
 - (D) Mobile home parks.
- (4) Residential multiple family (thirteen (13) or more units), including the following:
 - (A) Apartments.
 - (B) Condominiums.
 - (C) Townhouses.
 - (D) Mobile home parks.
- (5) Commercial single tenant, including the following:
 - (A) Office building.
 - (B) Retail store.
 - (C) Restaurant.
 - (D) Service station.
 - (E) Bank.
 - (F) Day care center.
 - (G) Similar projects.
- (6) Commercial multiple tenant, including the following:
 - (A) Office building.
 - (B) Shopping center.
 - (C) Hotel or motel.
 - (D) Similar projects.
- (7) Industrial, including the following:
 - (A) Warehouse.
 - (B) Manufacturing plant.
 - (C) Similar projects.
- (8) Special purpose, including the following:

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- (A) Rest home.
- (B) Nursing home.
- (C) Hospital.
- (D) School.
- (E) Church.
- (F) Government building.
- (G) Other special purpose properties, including intensive agricultural and business uses.

(9) Other activities described in subsection (d)(4) through (d)(9).

(b) An applicant performing an appraisal must describe, with supporting documentation, the properties appraised in sufficient detail to enable the board to determine the proper amount of credit which may be awarded.

(c) No credit may be claimed for the following:

- (1) Market value estimates performed by real estate licensees in connection with the listing and/or sale of real property.
- (2) Business appraisals.
- (3) Personal property appraisals.
- (4) Feasibility or market analysis, except to the extent that the market value of a proposed real estate project is being estimated.

(d) Acceptable appraisal experience includes, but is not limited to, the following:

- (1) Fee appraisal.
- (2) Staff appraisal.
- (3) Review appraisal.
- (4) Ad valorem tax appraisal.
- (5) Appraisal analysis.
- (6) Real estate counseling.
- (7) Highest and best use analysis.
- (8) Feasibility analysis or study.
- (9) Teaching of appraisal courses.

(e) No more than five hundred (500) hours of credit will be accepted in any single category in subsection (d)(4) through (d)(9).

(f) No more than one thousand (1,000) cumulative hours of credit will be accepted for the total amount of experience under subsection (d)(4) through (d)(9). (*Indiana Real Estate Commission; 876 IAC 3-3-12; filed Sep 24, 1992, 9:00 a.m.: 16 IR 742; filed Dec 8, 1993, 4:00 p.m.: 17 IR 776; filed Apr 10, 1995, 10:00 a.m.: 18 IR 2116; filed Dec 24, 1997, 11:00 a.m.: 21 IR 1762; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238*)

876 IAC 3-3-13 Hour value of appraisal work established

Authority: IC 25-34.1-3-8

Affected: IC 25-34.1

Sec. 13. (a) The following table establishes the hour value of various types of appraisal work which may qualify for experience credit:

EXPERIENCE CREDIT REPORTING FORM												
PROPERTY CATEGORY	TYPE OF APPRAISAL PERFORMED											
	APPRAISAL			DOCUMENTARY REVIEW						CONDEMNATION Appraisals		
	PERFORMED BY YOU (A)			WITH FIELD REVIEW AND SEPARATE REPORT (B)			WITHOUT FIELD REVIEW AND SEPARATE REPORT (C)			INVOLVING A PARTIAL TAKING (D)		
RESIDENTIAL CATEGORY	No. Apps.	Hours Value	Hours	No. Apps.	Hours Value	Hours	No. Apps.	Hours Value	Hours	No. Apps.	Hours Value	Hours
I. SINGLE FAMILY												
Complete Appraisal												

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a. Self-Contained		6.00		3.00		1.50		9.00
b. Summary		4.50		2.25		1.50		6.75
c. Restricted		3.00		1.50		0.75		4.50
Limited Appraisal								
d. Self-Contained		4.50		2.25		1.15		6.75
e. Summary		3.00		1.50		0.75		4.50
f. Restricted		1.50		0.75		0.40		2.25
2. MULTI-FAMILY (2-4 units)								
Complete Appraisal								
a. Self-Contained		12.00		6.00		3.00		18.00
b. Summary		9.00		4.50		2.25		13.50
c. Restricted		6.00		3.00		1.50		9.00
Limited Appraisal								
d. Self-Contained		9.00		4.50		2.25		13.50
e. Summary		6.00		3.00		1.50		9.00
f. Restricted		3.00		1.50		0.75		4.50
3. VACANT LOTS (1-4 units)								
Complete Appraisal								
a. Self-Contained		2.00		1.00		0.50		3.00
b. Summary		1.50		0.75		0.40		2.25
c. Restricted		1.00		0.50		0.25		1.50
Limited Appraisal								
d. Self-Contained		1.50		0.75		0.40		2.25
e. Summary		1.50		0.50		0.25		1.50
f. Restricted		0.50		0.25		0.15		0.75
4. RURAL 10 ACRES TO 100 ACRES WITH HOMESTEAD								
Complete Appraisal								
a. Self-Contained		12.00		6.00		3.00		18.00
b. Summary		9.00		4.50		2.25		13.50
c. Restricted		6.00		3.00		1.50		9.00
Limited Appraisal								
d. Self-Contained		9.00		4.50		2.25		13.50
e. Summary		6.00		3.00		1.50		9.00
f. Restricted		3.00		1.50		0.75		4.50
5. OTHER (Documentation Required)								
Complete Appraisal								
a. Self-Contained								
b. Summary								
c. Restricted								
Limited Appraisal								
d. Self-Contained								
e. Summary								
f. Restricted								
SUBTOTAL								
TOTAL RESIDENTIAL								

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This form is to document the experience obtained pursuant to administrative rules 876 IAC 3-3-9, 876 IAC 3-3-10, 876 IAC 3-3-11, 876 IAC 3-3-12, and 876 IAC 3-3-13.

EXPERIENCE CREDIT REPORTING FORM												
PROPERTY CATEGORY	TYPE OF APPRAISAL PERFORMED											
	APPRAISAL			DOCUMENTARY REVIEW						CONDEMNATION Appraisals		
	PERFORMED BY YOU (A)			WITH FIELD REVIEW AND SEPARATE REPORT (B)			WITHOUT FIELD REVIEW AND SEPARATE REPORT (C)			INVOLVING A PARTIAL TAKING (D)		
GENERAL CATEGORY	No. Apps.	Hours Value	Hours	No. Apps.	Hours Value	Hours	No. Apps.	Hours Value	Hours	No. Apps.	Hours Value	Hours
6. LAND 100 ACRES +												
Complete Appraisal												
a. Self-Contained		18.00			9.00			4.50			27.00	
b. Summary		13.50			6.75			3.40			20.25	
c. Restricted		9.00			4.50			2.25			13.50	
Limited Appraisal												
d. Self-Contained		13.50			6.75			3.40			20.25	
e. Summary		9.00			4.50			2.25			13.50	
f. Restricted		4.50			2.25			1.15			6.75	
7. LAND UNDER 100 ACRES												
Complete Appraisal												
a. Self-Contained		10.00			5.00			2.50			15.00	
b. Summary		7.50			3.75			1.90			11.25	
c. Restricted		5.00			2.50			1.25			7.50	
Limited Appraisal												
d. Self-Contained		7.50			3.75			1.90			11.25	
e. Summary		5.00			2.50			1.25			7.50	
f. Restricted		2.50			1.25			0.65			3.75	
8. RESIDENTIAL MULTI-FAMILY (5-12 units)												
Complete Appraisal												
a. Self-Contained		24.00			12.00			6.00			36.00	
b. Summary		18.00			9.00			4.50			27.00	
c. Restricted		12.00			6.00			3.00			18.00	
Limited Appraisal												
d. Self-Contained		18.00			9.00			4.50			27.00	
e. Summary		12.00			6.00			3.00			18.00	
f. Restricted		6.00			3.00			1.50			9.00	
9. RESIDENTIAL MULTI-FAMILY 13+												

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PROPOSED PROJECT												
Complete Appraisal												
a. Self-Contained		60.00			30.00			15.00			90.00	
b. Summary		45.00			22.50			11.25			67.50	
c. Restricted		30.00			15.00			7.50			45.00	
Limited Appraisal												
d. Self-Contained		45.00			22.50			11.25			67.50	
e. Summary		30.00			15.00			7.50			45.00	
f. Restricted		15.00			7.50			3.75			22.50	
SUBTOTAL PAGE 1												
TOTAL PAGE 1												

This form is to document the experience obtained pursuant to administrative rules 876 IAC 3-3-9, 876 IAC 3-3-10, 876 IAC 3-3-11, 876 IAC 3-3-12, and 876 IAC 3-3-13.

EXPERIENCE CREDIT REPORTING FORM												
PROPERTY CATEGORY	TYPE OF APPRAISAL PERFORMED											
	APPRAISAL			DOCUMENTARY REVIEW						CONDEMNATION Appraisals		
	PERFORMED BY YOU (A)			WITH FIELD REVIEW AND SEPARATE REPORT (B)			WITHOUT FIELD REVIEW AND SEPARATE REPORT (C)			INVOLVING A PARTIAL TAKING (D)		
GENERAL CATEGORY	No. Apps.	Hours Value	Hours	No. Apps.	Hours Value	Hours	No. Apps.	Hours Value	Hours	No. Apps.	Hours Value	Hours
10. RESIDENTIAL MULTI-FAMILY 13+ EXISTING PROJECT												
Complete Appraisal												
a. Self-Contained		40.00			20.00			10.00			60.00	
b. Summary		30.00			15.00			7.50			45.00	
c. Restricted		20.00			10.00			5.00			30.00	
Limited Appraisal												
d. Self-Contained		30.00			15.00			7.50			45.00	
e. Summary		20.00			10.00			5.00			30.00	
f. Restricted		10.00			5.00			2.50			15.00	
11. COMMERCIAL SINGLE TENANT												
Complete Appraisal												
a. Self-Contained		30.00			15.00			7.50			45.00	
b. Summary		22.50			11.25			5.65			33.75	
c. Restricted		15.00			7.50			3.75			22.50	
Limited Appraisal												
d. Self-Contained		22.50			11.25			5.65			33.75	
e. Summary		15.00			7.50			3.75			22.50	
f. Restricted		7.50			3.75			1.90			11.25	
12. COMMERCIAL MULTI-TENANT												

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PROPOSED PROJECT (5-12 units)												
Complete Appraisal												
a. Self-Contained		60.00		30.00			15.00				90.00	
b. Summary		45.00		22.50			11.25				67.50	
c. Restricted		30.00		15.00			7.50				45.00	
Limited Appraisal												
d. Self-Contained		45.00		22.50			11.25				67.50	
e. Summary		30.00		15.00			7.50				45.00	
f. Restricted		15.00		7.50			3.75				22.50	
13. COMMERCIAL MULTI-TENANT EXISTING PROJECT												
Complete Appraisal												
a. Self-Contained		50.00		25.00			12.50				75.00	
b. Summary		37.50		18.75			9.40				56.25	
c. Restricted		25.00		12.50			6.25				37.50	
Limited Appraisal												
d. Self-Contained		37.50		18.75			9.40				56.25	
e. Summary		25.00		12.50			6.25				37.50	
f. Restricted		12.50		6.25			3.15				18.75	
SUBTOTAL PAGE 2												
TOTAL PAGE 2												

This form is to document the experience obtained pursuant to administrative rules 876 IAC 3-3-9, 876 IAC 3-3-10, 876 IAC 3-3-11, 876 IAC 3-3-12, and 876 IAC 3-3-13.

EXPERIENCE CREDIT REPORTING FORM												
PROPERTY CATEGORY	TYPE OF APPRAISAL PERFORMED											
	APPRAISAL			DOCUMENTARY REVIEW						CONDEMNATION Appraisals		
	PERFORMED BY YOU (A)			WITH FIELD REVIEW AND SEPARATE REPORT (B)			WITHOUT FIELD REVIEW AND SEPARATE REPORT (C)			INVOLVING A PARTIAL TAKING (D)		
GENERAL CATEGORY	No. Apps.	Hours Value	Hours	No. Apps.	Hours Value	Hours	No. Apps.	Hours Value	Hours	No. Apps.	Hours Value	Hours
14. INDUSTRIAL												
Complete Appraisal												
a. Self-Contained		50.00		25.00			12.50				75.00	
b. Summary		37.50		18.75			9.40				56.25	
c. Restricted		25.00		12.50			6.25				37.50	
Limited Appraisal												
d. Self-Contained		37.50		18.75			9.40				56.25	
e. Summary		25.00		12.50			6.25				37.50	
f. Restricted		12.50		6.25			3.15				18.75	
15. SPECIAL PURPOSE												
Complete Appraisal												
a. Self-Contained		50.00		25.00			12.50				75.00	

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b. Summary		37.50			18.75			9.40			56.25
c. Restricted		25.00			12.50			6.25			37.50
Limited Appraisal											
d. Self-Contained		37.50			18.75			9.40			56.25
e. Summary		25.00			12.50			6.25			37.50
f. Restricted		12.50			6.25			3.15			18.75
16. OTHER (Documentation Required)											
Complete Appraisal											
a. Self-Contained											
b. Summary											
c. Restricted											
Limited Appraisal											
d. Self-Contained											
e. Summary											
f. Restricted											
SUBTOTAL PAGE 3											
TOTAL PAGE 3											
TOTAL APPRAISAL HOURS	RESIDENTIAL			GENERAL			TOTAL				
TOTAL PAGE 1											
TOTAL PAGE 2											
TOTAL PAGE 3											
TOTAL											

This form is to document the experience obtained pursuant to administrative rules 876 IAC 3-3-9, 876 IAC 3-3-10, 876 IAC 3-3-11, 876 IAC 3-3-12, and 876 IAC 3-3-13.

(b) The hour value of other appraisal work, whether it be in the residential or the general category, shall be the actual number of hours, provided that this is a reasonable number of hours. No more than one hundred (100) hours per appraisal assignment will be granted. (*Indiana Real Estate Commission; 876 IAC 3-3-13; filed Sep 24, 1992, 9:00 a.m.: 16 IR 743; filed Apr 10, 1995, 10:00 a.m.: 18 IR 2117; filed Apr 12, 2001, 12:30 p.m.: 24 IR 2699; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238*)

876 IAC 3-3-14 Examination for four licenses issued by the board

Authority: IC 25-34.1-3-8

Affected: IC 25-34.1

Sec. 14. (a) This section and sections 15 through 19 of this rule govern the examination for the four (4) licenses issued by the board.

(b) To qualify for real estate appraiser licensure or certification, an examination shall be passed which is designed to measure the applicant's knowledge and understanding of subject matter essential to real estate appraiser practice.

(c) Notwithstanding subsection (b), an individual who holds an Indiana licensed trainee appraiser license and applies for an Indiana licensed residential appraiser license shall not be required to pass an examination to receive that license.

(d) An applicant for licensure shall obtain a license within one hundred twenty (120) days of passing the examination. An applicant failing to obtain a license within one hundred twenty (120) days shall have the applicant's examination results voided and shall not be eligible for licensure.

(e) Notwithstanding subsection (d), the board may grant a license to an applicant who has not obtained a license within one hundred twenty (120) days of passing the examination if the applicant demonstrates a good faith reason for not obtaining the license within one hundred twenty (120) days.

(f) If an applicant's examination results are voided under subsection (d), the applicant must file a new application for examination and pay the appropriate fees. (*Indiana Real Estate Commission; 876 IAC 3-3-14; filed Sep 24, 1992, 9:00 a.m.: 16 IR 745; filed Dec 8, 1993, 4:00 p.m.: 17 IR 777; filed Jun 14, 1995, 11:00 a.m.: 18 IR 2791; filed Dec 24, 1997, 11:00 a.m.: 21 IR*

1763; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238)

876 IAC 3-3-15 Application for examination

Authority: IC 25-34.1-3-8

Affected: IC 25-34.1

Sec. 15. (a) An application for examination shall be filed on a form prescribed by the board.

(b) The board shall require applicants to provide documentation in support of education, experience, and other relevant data.

(c) The applicant shall indicate on the application the location in which the applicant desires to be examined. (*Indiana Real Estate Commission; 876 IAC 3-3-15; filed Sep 24, 1992, 9:00 a.m.: 16 IR 745; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238*)

876 IAC 3-3-16 Special administration of examination

Authority: IC 25-34.1-3-8

Affected: IC 25-34.1

Sec. 16. (a) A special administration of the examination can be arranged if the applicant is unable to sit for examination under normal test conditions because of visual or physical problems.

(b) The board will act upon all requests for a special examination and, if the request is approved, notify the applicant of the date, time, place, and arrangements for the examination. (*Indiana Real Estate Commission; 876 IAC 3-3-16; filed Sep 24, 1992, 9:00 a.m.: 16 IR 745; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238*)

876 IAC 3-3-17 Instructions for scheduling examinations; deadline

Authority: IC 25-34.1-3-8

Affected: IC 25-34.1

Sec. 17. (a) After an application has been processed and approved by the board, the board will send a letter of approval to the applicant. The instructions for scheduling examinations will be included with the approval letter.

(b) An applicant must pass the examination no later than one (1) year after the date of the approval letter described in subsection (a).

(c) The board may grant extensions to the time limit in subsection (b) due to physical incapacity, military service, and similar good cause.

(d) Notwithstanding subsection (b), an applicant whose approval letter predates July 1, 2001, shall have until July 1, 2002, to pass the examination. (*Indiana Real Estate Commission; 876 IAC 3-3-17; filed Sep 24, 1992, 9:00 a.m.: 16 IR 745; filed Apr 12, 2001, 12:30 p.m.: 24 IR 2704; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238*)

876 IAC 3-3-18 Examination content

Authority: IC 25-34.1-3-8

Affected: IC 25-34.1

Sec. 18. (a) The real estate appraiser licensure and certification examinations will contain questions relating to the following:

(1) The appraisal of residential one (1) to four (4) unit properties.

(2) The appraisal of all types of properties.

(b) Although most of the topics listed in subsection (a) will be covered on both the licensure and certification appraiser examinations, questions on these common topics will frequently be more challenging on the certified appraiser examination. (*Indiana Real Estate Commission; 876 IAC 3-3-18; filed Sep 24, 1992, 9:00 a.m.: 16 IR 745; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238*)

876 IAC 3-3-19 Individuals licensed in another state; licensing requirements; reciprocity

Authority: IC 25-34.1-2-8

Affected: IC 25-34.1

Sec. 19. (a) An individual who holds a valid license or certification that is not under any sanction from another state or territory may be issued an Indiana license or certification in the category of the out-of-state license or certification so long as the following are met:

- (1) The requirements for examination, education, and experience in the state the individual is licensed or certified are substantially similar to those in Indiana.
- (2) The individual meets all of the other Indiana requirements for the particular license or certification.
- (3) The individual pays the fees under 876 IAC 3-2-7(b)(4) and 876 IAC 3-2-7(b)(5) or 876 IAC 3-2-7(b)(6).
- (4) The individual has been licensed in the other state or territory for at least two (2) years.
- (5) The other state or territory grants licensure or certification by reciprocity to Indiana licensees or certificate holders in the same license or certification category.

(b) Reciprocity may exist with another state or territory in one (1) or more licensure or certification categories but not necessarily in all licensure or certification categories.

(c) The board may enter into memorandums of understanding with other states concerning licensure or certification by reciprocity. (*Indiana Real Estate Commission; 876 IAC 3-3-19; filed Sep 24, 1992, 9:00 a.m.: 16 IR 745; filed Dec 8, 1993, 4:00 p.m.: 17 IR 777; filed Jun 14, 1995, 11:00 a.m.: 18 IR 2791; filed Dec 24, 1997, 11:00 a.m.: 21 IR 1764; filed Apr 12, 2001, 12:30 p.m.: 24 IR 2705; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238*)

876 IAC 3-3-20 Requirements for holder of an Indiana licensed residential appraiser license applying for an Indiana certified residential appraiser license (Repealed)

Sec. 20. (*Repealed by Indiana Real Estate Commission; filed Jun 14, 1995, 11:00 a.m.: 18 IR 2792*)

876 IAC 3-3-20.1 Indiana licensed trainee appraiser; exemption from examination for transitional license holders (Repealed)

Sec. 20.1. (*Repealed by Indiana Real Estate Commission; filed Dec 24, 1997, 11:00 a.m.: 21 IR 1767*)

876 IAC 3-3-21 Permit for temporary practice

Authority: IC 25-34.1-3-8
Affected: IC 25-34.1

Sec. 21. (a) The board will recognize, on a temporary basis, the license or certificate of an appraiser issued by another state, provided the following:

- (1) The appraiser's business is of a temporary nature.
 - (2) The appraiser registers with the board.
 - (3) The license or certificate issued by the other state is appropriate for the type of property to be appraised.
 - (4) The work in Indiana does not last longer than six (6) months.
- (b) An applicant must apply on a form provided by the board and pay a fee required by 876 IAC 3-2-7(b)(12).

(c) Each temporary license or certificate is limited to performing the appraisals or specialized services required by the contract for appraisal services.

(d) Temporary privilege [*sic., privileges*] expire upon completion of the work required by the assignment or specialized service or after six (6) months, whichever is earlier, and no more than three (3) different temporary licenses may be issued to an individual per calendar year.

(e) An applicant must consent to service of process in Indiana and may not advertise or represent themselves as an Indiana licensed or certified appraiser.

(f) An individual who has been denied either admission to an examination or a license by the board will not be eligible for a temporary permit for the level of licensure for which the individual was denied or greater level of license. However, regardless of this subsection, an individual who otherwise qualifies under this section shall be eligible for a permit for federally related transactions. (*Indiana Real Estate Commission; 876 IAC 3-3-21; filed Sep 24, 1992, 9:00 a.m.: 16 IR 746; filed Dec 8, 1993, 4:00 p.m.: 17 IR 777; filed Jun 14, 1995, 11:00 a.m.: 18 IR 2792; filed Apr 12, 2001, 12:30 p.m.: 24 IR 2705, eff Jan 1, 2002; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238; filed Jul 15, 2002, 2:28 p.m.: 25 IR 4111*)

876 IAC 3-3-22 Indiana licensed trainee appraiser; examination; licensure procedures

Authority: IC 25-34.1-3-8

Affected: IC 25-34.1

Sec. 22. (a) An applicant for an Indiana licensed trainee appraiser license shall be required to pass the Indiana licensed residential appraiser examination.

(b) After an applicant passes the examination and pays the fee required by 876 IAC 3-2-7(b)(2) or 876 IAC 3-2-7(b)(3), the board shall do the following:

(1) Issue a wall certificate in the name of the Indiana licensed trainee appraiser to a licensed or certified appraiser who certifies the Indiana licensed trainee appraiser's association with the licensed or certified appraiser.

(2) Issue to the Indiana licensed trainee appraiser an identification card which:

(A) certifies that the Indiana licensed trainee appraiser is licensed; and

(B) indicates the expiration date of the license and the name of the licensed or certified appraiser with whom the licensed trainee appraiser is associated.

(c) Upon termination of an Indiana licensed trainee appraiser's association with a licensed or certified appraiser described in subsection (b)(1), the trainee's license shall be returned to the Indiana professional licensing agency within five (5) working days. The Indiana professional licensing agency shall reissue the license to any licensed or certified appraiser upon application as described in subsection (b)(1). (*Indiana Real Estate Commission; 876 IAC 3-3-22; filed Dec 8, 1993, 4:00 p.m.: 17 IR 778; filed Jun 14, 1995, 11:00 a.m.: 18 IR 2792; errata filed Nov 13, 1995, 10:00 a.m.: 19 IR 675; filed Dec 24, 1997, 11:00 a.m.: 21 IR 1764; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238*)

Rule 4. Real Estate Appraiser Course Provider Approval

876 IAC 3-4-1 Scope of rule

Authority: IC 25-34.1-3-8

Affected: IC 25-34.1-8-13; IC 25-34.1-8-14

Sec. 1. This rule establishes requirements implementing IC 25-34.1-8-13 and IC 25-34.1-8-14 concerning approved real estate appraiser schools and courses. Those statutory provisions and this rule apply to preclicensure education and not continuing education. (*Indiana Real Estate Commission; 876 IAC 3-4-1; filed Sep 24, 1992, 9:00 a.m.: 16 IR 746; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238*)

876 IAC 3-4-2 Application for real estate appraiser course provider approval; content

Authority: IC 25-34.1-3-8

Affected: IC 25-34.1-8-14

Sec. 2. Any request for approval of a real estate appraiser course provider shall be by written application for approval by the board and shall be accompanied with such documents, statements, and forms as required by IC 25-34.1-8-14 and this rule. (*Indiana Real Estate Commission; 876 IAC 3-4-2; filed Sep 24, 1992, 9:00 a.m.: 16 IR 746; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238*)

876 IAC 3-4-3 Course records

Authority: IC 25-34.1-3-8

Affected: IC 25-34.1

Sec. 3. An approved real estate appraiser course provider 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 the following:

(1) Attendance records.

(2) Examination score records.

(3) Duplicate copies of completion certificates.

(*Indiana Real Estate Commission; 876 IAC 3-4-3; filed Sep 24, 1992, 9:00 a.m.: 16 IR 746; readopted filed May 29, 2001, 10:00*

a.m.: 24 IR 3238)

876 IAC 3-4-4 Real estate appraiser course provider renewal

Authority: IC 25-34.1-3-8

Affected: IC 25-34.1-8-14

Sec. 4. The approval of real estate appraiser course providers expires on January 1 of each year. To obtain renewal of course provider approval, a request must be submitted to the board by November 30 of the current year, including the following:

(1) A letter requesting renewal.

(2) Proof that it has a bond meeting the requirements of IC 25-34.1-8-14.

(Indiana Real Estate Commission; 876 IAC 3-4-4; filed Sep 24, 1992, 9:00 a.m.: 16 IR 746; errata filed Feb 9, 2001, 3:35 p.m.: 24 IR 2091; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238)

876 IAC 3-4-5 Significant proposed changes

Authority: IC 25-34.1-3-8

Affected: IC 25-34.1-8-13

Sec. 5. (a) Significant proposed changes shall be submitted in writing for board approval and shall include such information which may be necessary to establish whether the proposed change will be in compliance with IC 25-34.1-3-8, IC 25-34.1-8, and this article.

(b) The following shall be deemed significant proposed changes under IC 25-34.1-8-13(c):

(1) Any change of twenty-five percent (25%) or more in the ownership of the stock of a real estate course provider which is a corporation.

(2) Any change in the detailed teaching syllabus.

(Indiana Real Estate Commission; 876 IAC 3-4-5; filed Sep 24, 1992, 9:00 a.m.: 16 IR 746; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238)

876 IAC 3-4-6 Advertising

Authority: IC 25-34.1-3-8

Affected: IC 25-34.1

Sec. 6. (a) No approved real estate appraiser course provider conducting 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 board.

(b) An approved real estate appraiser course provider may indicate that the course provider has been approved by the board, but may not indicate that any course review course or supplemental course of instruction has the approval of the board. *(Indiana Real Estate Commission; 876 IAC 3-4-6; filed Sep 24, 1992, 9:00 a.m.: 16 IR 747; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238)*

876 IAC 3-4-7 Approved real estate appraiser course providers; certificate requirements

Authority: IC 25-34.1-3-8

Affected: IC 25-34.1

Sec. 7. Upon successful completion and passing of a course, an approved real estate appraiser course provider shall provide a student a certificate which meets the requirements of 876 IAC 3-3-6. *(Indiana Real Estate Commission; 876 IAC 3-4-7; filed Dec 8, 1993, 4:00 p.m.: 17 IR 778; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238)*

876 IAC 3-4-8 Instructors; requirements

Authority: IC 25-34.1-3-8

Affected: IC 25-34.1

Sec. 8. (a) Each instructor used by an approved real estate appraiser course provider must 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 a minimum of two (2) years experience in real estate appraising.
- (3) Has an Indiana real estate appraiser license or certificate and a minimum of five (5) years experience as a real estate appraiser.
- (4) 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) Each instructor must be:
 - (1) a licensed or certified appraiser in Indiana or another state; or
 - (2) a member of the faculty at an accredited college or university;

and, if only licensed or certified, may not teach courses beyond the scope of their license. (*Indiana Real Estate Commission; 876 IAC 3-4-8; filed Dec 8, 1993, 4:00 p.m.: 17 IR 778; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238*)

876 IAC 3-4-9 Instructors; prohibitions

Authority: IC 25-34.1-3-8

Affected: IC 25-34.1

Sec. 9. An approved real estate appraiser course provider is prohibited from hiring, or retaining in its employ, an instructor who has:

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

(*Indiana Real Estate Commission; 876 IAC 3-4-9; filed Dec 8, 1993, 4:00 p.m.: 17 IR 779; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238*)

Rule 5. Continuing Education

876 IAC 3-5-1 Continuing education requirements

Authority: IC 25-34.1-3-8

Affected: IC 25-1-11; IC 25-34.1

Sec. 1. (a) As a prerequisite to renewal of a real estate appraiser license or certification, excluding a trainee license during the first five (5) years of licensure, the licensee or certificate holder shall satisfactorily complete twenty-eight (28) classroom hours of continuing education within that two (2) year renewal period from a real estate appraiser continuing education course provider approved by the board. However, a licensee or certificate holder initially licensed during the first year of a two (2) year renewal period shall be required to complete only fourteen (14) classroom hours of continuing education, and a licensee or certificate holder initially licensed during the second year of a two (2) year renewal period shall not be required to obtain any hours of continuing education.

(b) After holding a trainee's license for a five (5) year period, a trainee is required to satisfactorily complete the continuing education requirement in each following renewal cycle:

- (1) If the five (5) year period ends in the first year of a two (2) year renewal cycle, the trainee will be required to complete fourteen (14) hours of continuing education for the remainder of that renewal period.
- (2) If the five (5) year period ends in the second year of two (2) year renewal cycle, the trainee shall not be required to obtain any hours of continuing education for that renewal cycle.
- (c) The following criteria applies to determine the number of hours:

- (1) A classroom hour of instruction is defined as fifty (50) minutes of each sixty (60) minute hour segment.
- (2) Credit toward the classroom hour requirement may be granted only where the length of the educational offering is at least two (2) hours.
- (3) No more than eight (8) hours of continuing education may be acquired during any one (1) day.
- (4) Credit for the classroom hour requirement may be obtained from approved providers which may include organizations of the following types:

- (A) Colleges or universities.
- (B) Community or junior colleges.
- (C) Real estate appraisal or real estate related organizations.
- (D) State or federal agencies or commissions.
- (E) Proprietary schools.
- (F) Other providers approved by the board.
- (G) Providers approved by the Appraiser Qualification Board of the Appraisal Foundation.

- (5) Credit may be granted for education offerings which cover real estate appraisal and related topics which are consistent with the following continuing education requirements:

- (A) Ad valorem taxation.
- (B) Arbitrations.
- (C) Business courses related to real estate appraisal.
- (D) Construction estimating.
- (E) Ethics and standards of professional practice.
- (F) Land use planning, zoning, and taxation.
- (G) Litigation.
- (H) Management, leasing, brokerage, and timesharing.
- (I) Property development.
- (J) Real estate appraisal (valuations or evaluations).
- (K) The Uniform Standards of Professional Appraisal Practice.
- (L) Real estate financing and investment.
- (M) Real estate law.
- (N) Real estate litigation.
- (O) Real estate appraisal-related computer applications.
- (P) Real estate securities and syndication.
- (Q) Real property exchange.

- (d) Notwithstanding subsection (a), continuing education credit may be granted for participation, other than as a student in appraisal educational programs as follows:

- (1) Teaching.
- (2) Program development.
- (3) Authorship of textbooks.

- (e) A licensee is not entitled to continuing education credit for any classroom hours, which were used for required prelicensure education under 876 IAC 3-3.

- (f) The continuing education requirement is to ensure that appraisers participate in educational programs that maintain and increase their skill, knowledge, and competency in real estate appraising.

- (g) The board may verify any information concerning continuing education that is submitted by the licensee or certificate holder as evidence supporting the course information. The board may require licensees or certificate holders to provide information regarding the continuing education hours claimed on the individual's renewal. Failure to do so may lead to disciplinary action as provided for in IC 25-1-11.

- (h) It is the responsibility of each licensee or certificate holder to retain evidence to support the courses taken for a period of twenty-four (24) months after the end of the renewal period for which the renewal application is submitted to the board. Evidence of a Uniform Standards of Professional Appraisal Practice course shall be retained until twenty-four (24) months after the end of the last renewal period for which it may be applied. These records shall include one (1) or more of the following:

- (1) Course attendance verification by the sponsor.
- (2) Certificates of course completion.

(3) Continuing education attendance history by employer or third party.

(4) Other evidence of support and justification.

(Indiana Real Estate Commission; 876 IAC 3-5-1; filed Sep 24, 1992, 9:00 a.m.: 16 IR 747; filed Dec 8, 1993, 4:00 p.m.: 17 IR 779; filed Apr 10, 1995, 10:00 a.m.: 18 IR 2123; filed Dec 24, 1997, 11:00 a.m.: 21 IR 1764, eff Jan 1, 1998 [IC 4-22-2-36 suspends the effectiveness of a rule document for thirty (30) days after filing with the secretary of state. LSA Document #97-65 was filed Dec 24, 1997.]; filed Apr 12, 2001, 12:30 p.m.: 24 IR 2705, eff Jan 2, 2002; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238)

876 IAC 3-5-1.5 Mandatory continuing education courses; approved providers

Authority: IC 25-34.1-3-8

Affected: IC 25-1-11; IC 25-34.1-3-9; IC 25-34.1-8

Sec. 1.5. (a) Every renewal cycle, the following continuing education requirements must be met:

(1) Seven (7) hours of Uniform Standards of Professional Appraisal Practice; and

(2) Four (4) hours consisting of all of the following:

(A) Statute concerning disciplining appraisers, IC 25-1-11.

(B) Statute concerning appraiser licensing laws, IC 25-34.1-8, IC 25-34.1-3-8, and IC 25-34.1-3-9.

(C) Administrative rules governing appraiser licensing laws, 876 IAC 3 [this article], excluding 876 IAC 3-6-2 and 876 IAC 3-6-3.

(b) Case studies, which may include references to appropriate provisions of the Uniform Standards of Professional Appraisal Practice, may be used in the courses required in subsection (a)(2).

(c) The continuing education hours required by subsection (a)(2) must be from a continuing education provider approved under this rule and therefore may not be obtained under sections 9 through 11 of this rule. *(Indiana Real Estate Commission; 876 IAC 3-5-1.5; filed Apr 12, 2001, 12:30 p.m.: 24 IR 2707, eff Jan 2, 2002; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238)*

876 IAC 3-5-2 Application for real estate appraiser continuing education course provider

Authority: IC 25-34.1-3-8

Affected: IC 25-34.1

Sec. 2. Any request for approval of a real estate appraiser continuing education course provider shall be by written application for approval by the board. *(Indiana Real Estate Commission; 876 IAC 3-5-2; filed Sep 24, 1992, 9:00 a.m.: 16 IR 747; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238)*

876 IAC 3-5-3 Course records

Authority: IC 25-34.1-3-8

Affected: IC 25-34.1

Sec. 3. An approved real estate appraiser continuing education course provider must retain records of students who complete the course for a minimum of six (6) years. The records must include:

(1) attendance records;

(2) examination score records (if applicable); and

(3) duplicate copies of completion certificates.

(Indiana Real Estate Commission; 876 IAC 3-5-3; filed Sep 24, 1992, 9:00 a.m.: 16 IR 747; filed Dec 8, 1993, 4:00 p.m.: 17 IR 780; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238)

876 IAC 3-5-4 Real estate appraiser continuing education course provider renewal

Authority: IC 25-34.1-3-8

Affected: IC 25-34.1

Sec. 4. The approval of real estate appraiser continuing education course provider expires on January 1 of an even-numbered year. To obtain renewal of continuing education course provider approval, a request must be submitted to the board by November 30 of the preceding odd-numbered year. *(Indiana Real Estate Commission; 876 IAC 3-5-4; filed Sep 24, 1992, 9:00 a.m.: 16 IR 748;*

readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238)

876 IAC 3-5-5 Advertising

Authority: IC 25-34.1-3-8

Affected: IC 25-34.1

Sec. 5. (a) No approved real estate appraiser continuing education course provider conducting a course of study shall advertise or make any reference in its advertising, promotional material, brochures, and/or registration forms that the real estate appraiser course provider is endorsed, recommended, or accredited by or affiliated with the board.

(b) An approved real estate appraiser continuing education course provider may indicate that the course provider has been approved by the board, but may not indicate that any course, review course, or supplemental course of instruction has the approval of the board. (*Indiana Real Estate Commission; 876 IAC 3-5-5; filed Sep 24, 1992, 9:00 a.m.: 16 IR 748; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238*)

876 IAC 3-5-6 Approved real estate appraiser continuing education sponsor; certification requirements

Authority: IC 25-34.1-3-8

Affected: IC 25-34.1

Sec. 6. (a) Upon completion of a continuing education course, the approved real estate appraiser continuing education sponsor shall provide all attendees a completion certificate which must include the following information:

- (1) The attendee's name.
- (2) The name of the course sponsor.
- (3) The course title.
- (4) The course content.
- (5) The date and location of the course.
- (6) The hours completed.
- (7) Confirmation of a passing grade (if an examination is required).
- (8) Instructor's name, type of license or faculty position, license number, and issuing state.

(b) Licensees and certificate holders must retain the certificates described in subsection (a) for at least six (6) years after the end of the two (2) year renewal period in which the course was taken and make them available to the board upon request. (*Indiana Real Estate Commission; 876 IAC 3-5-6; filed Dec 8, 1993, 4:00 p.m.: 17 IR 780; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238*)

876 IAC 3-5-7 Instructors

Authority: IC 25-34.1-3-8

Affected: IC 25-34.1

Sec. 7. Each instructor used by an approved real estate appraiser continuing education provider must possess at least one (1) of the following minimum requirements:

- (1) Is a licensed or certified real estate appraiser or licensed real estate broker and has a bachelor's degree with a major or minor in real estate from an accredited college or university. Each instructor qualified under this subdivision must also meet the competency requirements of the Uniform Standards of Professional Appraisal Practice (as adopted in 876 IAC 3-6-2 and 876 IAC 3-6-3) for each course that they teach.
- (2) Is a licensed or certified real estate appraiser or licensed real estate broker and has a bachelor's degree from an accredited college or university and a minimum of two (2) years of experience in real estate appraising. Each instructor qualified under this subdivision must also meet the competency requirements of the Uniform Standards of Professional Appraisal Practice (as adopted in 876 IAC 3-6-2 and 876 IAC 3-6-3) for each course that they teach.
- (3) Is a licensed or certified real estate appraiser and a minimum of five (5) years of experience as a real estate appraiser. An instructor qualified under this subsection may not teach any course that contains subject matter that is beyond his or her licensed ability to appraise. Each instructor qualified under this subdivision must also meet the competency requirements of the Uniform Standards of Professional Appraisal Practice (as adopted in 876 IAC 3-6-2 and 876 IAC 3-6-3) for each course

that they teach.

(4) Has two (2) years of experience as a qualified instructor or professor in the business, finance, or economics department of an accredited college or university.

(5) Has an Indiana real estate broker's license and a minimum of five (5) years of experience as a real estate broker. Each instructor qualified under this subdivision must also meet the competency requirements of the Uniform Standards of Professional Appraisal Practice (as adopted in 876 IAC 3-6-2 and 876 IAC 3-6-3) for each course that they teach.

(Indiana Real Estate Commission; 876 IAC 3-5-7; filed Dec 8, 1993, 4:00 p.m.: 17 IR 780; filed Dec 24, 1997, 11:00 a.m.: 21 IR 1765; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238)

876 IAC 3-5-8 Instructors; prohibitions

Authority: IC 25-34.1-3-8

Affected: IC 25-34.1

Sec. 8. A real estate appraiser continuing education provider is prohibited from hiring, or retaining in its employ, an instructor who has:

(1) had a real estate appraiser license revoked or suspended by any jurisdiction;

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

(3) 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 appraiser laws and abuse of fiduciary responsibilities;

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

(5) unless allowed by law, refused to appear and/or testify under oath at any hearing held by the board.

(Indiana Real Estate Commission; 876 IAC 3-5-8; filed Dec 8, 1993, 4:00 p.m.: 17 IR 780; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238)

876 IAC 3-5-9 Continuing education from another state

Authority: IC 25-34.1-3-8

Affected: IC 25-34.1

Sec. 9. The board will accept for credit toward the Indiana real estate appraiser continuing education requirement courses that are accepted for credit toward the continuing education requirements for real estate appraisers in another state. *(Indiana Real Estate Commission; 876 IAC 3-5-9; filed Dec 24, 1997, 11:00 a.m.: 21 IR 1766; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238)*

876 IAC 3-5-10 Continuing education from another profession

Authority: IC 25-34.1-3-8

Affected: IC 25-34.1

Sec. 10. The board will accept for credit toward the Indiana real estate appraiser continuing education requirement any course accepted for continuing education credit by an Indiana regulated profession so long as it complies with the guidelines established in section 1 of this rule. No more than fifty percent (50%) of the continuing education requirements established in section 1 of this rule may be satisfied by this section. *(Indiana Real Estate Commission; 876 IAC 3-5-10; filed Dec 24, 1997, 11:00 a.m.: 21 IR 1766; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238)*

876 IAC 3-5-11 Other approved continuing education

Authority: IC 25-34.1-3-8

Affected: IC 25-34.1

Sec. 11. The board may accept for credit toward the Indiana real estate appraiser continuing education requirement any course so long as the licensee adequately demonstrates that the course complies with section 1 of this rule and the board approves the individual course in writing. *(Indiana Real Estate Commission; 876 IAC 3-5-11; filed Dec 24, 1997, 11:00 a.m.: 21 IR 1766; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238)*

Rule 6. Standards of Practice for Appraisers

876 IAC 3-6-1 Disciplinary sanctions

Authority: IC 25-34.1-3-8

Affected: IC 25-34.1-8-11

Sec. 1. Under IC 25-34.1-8-11, the board has the authority to impose appropriate disciplinary sanctions concerning an individual's license or certification for violation of that section even if the behavior in question was done when the individual was engaged in an appraisal of real estate not involved in transactions governed by the federal act or the practitioner was purportedly functioning as a real estate broker. However, this section shall not be interpreted to mean that the board may take action against a practitioner's real estate broker license. (*Indiana Real Estate Commission; 876 IAC 3-6-1; filed Sep 24, 1992, 9:00 a.m.: 16 IR 748; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238*)

876 IAC 3-6-2 Uniform Standards of Professional Appraisal Practice

Authority: IC 25-34.1-3-8

Affected: IC 4-22-2; IC 25-34.1

Sec. 2. (a) That certain document being titled Uniform Standards of Professional Appraisal Practice, 2002 edition, as published by the Appraisal Standards Board of the Appraisal Foundation, 1029 Vermont Avenue, N.W., Suite 900, Washington, D.C. 20005, copyright 2002, is hereby incorporated by reference as if fully set out in this rule except for the revisions stated in section 3 of this rule. The Statements on Appraisal Standards are adopted as part of this rule. The Advisory Opinions are not adopted as part of this rule. The Comments are adopted as part of this rule.

(b) No subsequent editions, amendments, supplements, or releases of the Uniform Standards of Professional Appraisal Practice will be in effect in Indiana or adopted by the commission except by following the rulemaking provisions of IC 4-22-2.

(c) As used in this article, "appraiser" refers to the following:

- (1) Indiana licensed trainee appraiser.
- (2) Indiana licensed residential appraiser.
- (3) Indiana certified residential appraiser.
- (4) Indiana certified general appraiser.

(*Indiana Real Estate Commission; 876 IAC 3-6-2; filed Sep 24, 1992, 9:00 a.m.: 16 IR 748; filed Dec 8, 1993, 4:00 p.m.: 17 IR 781; filed Apr 10, 1995, 10:00 a.m.: 18 IR 2124; filed Dec 24, 1997, 11:00 a.m.: 21 IR 1766; filed May 10, 1999, 12:42 p.m.: 22 IR 2879; filed Apr 24, 2000, 12:48 p.m.: 23 IR 2243; filed May 25, 2001, 2:42 p.m.: 24 IR 3068; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238; filed May 13, 2002, 2:05 p.m.: 25 IR 3181*)

876 IAC 3-6-3 Deletions from the Uniform Standards of Professional Appraisal Practice

Authority: IC 25-34.1-3-8

Affected: IC 25-1-11-5; IC 25-34.1

Sec. 3. (a) Standards 6 through 10 are deleted.

(b) The references to Standards 6 through 10 of the Uniform Standards of Professional Appraisal Practice are deleted or revised as follows:

(1) In the Comment under the definition of "REPORT", delete the following:

- (A) "personal property".
- (B) "Appraisal Report: a written report prepared under Standards Rule 10-2(a)".
- (C) "or 8-2(a)".
- (D) "or 8-2(b)".
- (E) The comma after 2-2(c) and "8-2(c) or 10-2(b)".

(2) Delete the last three (3) sentences of the fifth paragraph of the Preamble.

(3) In the second Comment under the Ethics Rule in the Preamble, delete "6-8, 8-3, and 10-3".

(4) In the second Comment under the Management category of the Ethics Rule in the Preamble, delete "6-8, 8-3 or 10-3" and before "5-3", insert "or".

(5) In the last paragraph of the Comment under the Record Keeping category under the Ethics Rule in the Preamble, delete “8-2(c)(ix), and 10-2(b)(ix)”.

(6) In the third to last paragraph of the Comment following the Departure Rule in the Preamble, delete “8-2(a)(xi), 8-2(b)(xi), 8-2(c)(xi), 10-2(a)(x), and 10-2(b)(x)” and before “2-2(c)(xi)”, insert “and”.

(7) In the next to last paragraph of the Comment following the Departure Rule in the Preamble, delete “6-1, 6-3, 6-6, 6-7, 6-8, 7-1, 7-2, 7-5, 8-1, 8-2, 8-3, 9-1, 9-2, 9-3, 9-5, 10-1, 10-2, and 10-3” and before “5-3”, insert “and”.

(8) In the Comment under Standards Rule 1-4(g), delete “(See Standard 7)” and “(See Standard 9)”.

(9) In Standard 3, delete “or personal property”.

(10) In the Comment under Standard 3, delete “or personal property” and delete “and 8-3”.

(11) In the Comment under Standard 3-1(c), delete “(STANDARD 1 or 7)” and insert “(STANDARD 1)”.

(12) In the Comment under Standard 3-2(d), delete “or 8-1” and “or 8-2(a), (b), or (c)(viii)”.

(13) Any references to Standards 6 through 10 in the Statements on Appraisal Standards are deleted and shall not apply.

(c) Delete the second paragraph of the Preamble.

(d) In the Preamble, add the following sentences to the end of the text of Supplemental Standards, “Any such supplemental standard shall not be considered part of this title. However, this does not preclude the possibility of disciplinary sanctions under IC 25-1-11-5(a)(3) where appropriate.”

(e) In the Definitions in the Preamble, delete the title and text of the Comment under Real Property. (*Indiana Real Estate Commission; 876 IAC 3-6-3; filed Sep 24, 1992, 9:00 a.m.: 16 IR 748; filed Dec 8, 1993, 4:00 p.m.: 17 IR 781; filed Apr 10, 1995, 10:00 a.m.: 18 IR 2124; errata filed May 8, 1995, 4:30 p.m.: 18 IR 2262; filed Dec 24, 1997, 11:00 a.m.: 21 IR 1767; filed May 10, 1999, 12:42 p.m.: 22 IR 2880; errata, 22 IR 3420; filed Apr 24, 2000, 12:48 p.m.: 23 IR 2244; filed May 25, 2001, 2:42 p.m.: 24 IR 3068; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238; filed May 13, 2002, 2:05 p.m.: 25 IR 3181*)

876 IAC 3-6-4 Supervision of licensed residential, certified residential, and certified general appraisers

Authority: IC 25-34.1-3-8

Affected: IC 25-34.1

Sec. 4. (a) When an Indiana licensed residential, certified residential, or certified general appraiser assists another licensed appraiser in the performance of a real estate appraisal, each is subject to the Uniform Standards of Professional Appraisal Practice, as adopted in this rule, and the appraiser assisting as well as the appraiser being assisted must clearly indicate on the appraisal report the extent of significant professional assistance provided by each signatory to the report. Absent a statement to the contrary, each signatory will be mutually responsible for the content of the report.

(b) When an Indiana licensed residential, certified residential, or certified general appraiser in the performance of an appraisal review of an Indiana licensed residential, certified residential, or certified general appraiser or any other licensed appraiser, the reviewer must comply with the Uniform Standards of Professional Appraisal Practice, Statement on Appraisal Standards No. 1 (SMT-1), as adopted in this rule. (*Indiana Real Estate Commission; 876 IAC 3-6-4; filed Sep 24, 1992, 9:00 a.m.: 16 IR 749; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238*)

876 IAC 3-6-5 Supervision of unlicensed and uncertified assistants (Repealed)

Sec. 5. (*Repealed by Indiana Real Estate Commission; filed Dec 8, 1993, 4:00 p.m.: 17 IR 782*)

876 IAC 3-6-6 Retention of licenses and certificates

Authority: IC 25-34.1-3-8

Affected: IC 25-34.1

Sec. 6. The license or certificate renewal pocket card issued by the board to each Indiana licensed or Indiana certified real estate appraiser shall be retained by the licensee or certificate holder as evidence of licensure or certification. (*Indiana Real Estate Commission; 876 IAC 3-6-6; filed Sep 24, 1992, 9:00 a.m.: 16 IR 749; filed Apr 12, 2001, 12:30 p.m.: 24 IR 2707; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238*)

876 IAC 3-6-7 Advertising

Authority: IC 25-34.1-3-8

Affected: IC 23-15-1; IC 25-34.1

Sec. 7. (a) When advertising or otherwise holding out as an Indiana real estate appraiser, a licensed residential appraiser shall identify himself or herself as an Indiana licensed appraiser; a certified residential appraiser shall identify himself or herself as an Indiana certified residential appraiser; and a certified general appraiser shall identify himself or herself as an Indiana certified general appraiser.

(b) An Indiana licensed or certified real estate appraiser doing business as a partnership, association, corporation, or other business entity shall not represent in any manner to the public that the partnership, association, corporation, or other business entity is either licensed or certified by the state of Indiana to engage in the business of real estate appraising.

(c) In the event that any licensee or certificate holder shall advertise in any manner using a firm name, corporate name, or an assumed name which does not set forth the surname of the licensee or certificate holder, he or she shall first notify the board in writing of such name and furnish the board with a copy of each registration of an assumed name filed under IC 23-15-1. (*Indiana Real Estate Commission; 876 IAC 3-6-7; filed Sep 24, 1992, 9:00 a.m.: 16 IR 749; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238*)

876 IAC 3-6-8 Indiana licensed trainee appraisers; required use and prohibitions

Authority: IC 25-34.1-3-8

Affected: IC 25-34.1

Sec. 8. (a) Indiana licensed residential appraisers, Indiana certified residential appraisers, and Indiana certified general appraisers may only employ Indiana licensed residential appraisers, Indiana certified residential appraisers, Indiana certified general appraisers, and Indiana licensed trainee appraisers to assist in the performance of real estate appraisals.

(b) Subsection (a) does not prohibit the use of unlicensed individuals to perform clerical functions.

(c) Indiana licensed trainee appraisers may not work independently or hold themselves out to the general public as licensed or certified appraisers.

(d) Indiana licensed trainee appraisers may not review appraisals submitted by other appraisers and may not hold themselves out as a review appraiser. (*Indiana Real Estate Commission; 876 IAC 3-6-8; filed Dec 8, 1993, 4:00 p.m.: 17 IR 781; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238*)

876 IAC 3-6-9 Indiana licensed trainee appraisers; supervision

Authority: IC 25-34.1-3-8

Affected: IC 25-34.1

Sec. 9. (a) This section establishes requirements for the use and supervision of Indiana licensed trainee appraisers.

(b) Indiana licensed trainee appraisers shall be subject to direct supervision (including inspection of all properties except as allowed by subsection (h)) by a supervising appraiser who shall be licensed or certified in Indiana.

(c) The supervisor shall be responsible for the direct supervision of the Indiana licensed trainee appraiser by signing and certifying the report as in compliance with the Uniform Standards of Professional Appraisal Practice.

(d) The Indiana licensed trainee appraiser is permitted to have more than one (1) supervising appraiser in the office of the licensed or certified appraiser holder of record with whom the Indiana licensed appraiser has associated under 876 IAC 3-3-22.

(e) An appraisal log shall be maintained by the Indiana licensed trainee appraiser and supervising appraiser and shall, at a minimum, include the following for each appraisal:

- (1) Client name and address.
- (2) Address of appraised property.
- (3) Description of work performed.
- (4) Number of work hours.

(f) The supervising appraiser shall review and sign the appraisal log annually and provide the log to the trainee. It is the responsibility of the trainee to retain the log for submission to the board with any future application for license certification.

(g) Separate appraisal logs shall be maintained by each supervising appraiser.

(h) The Indiana licensed trainee appraiser shall be subject to direct supervision until the Indiana licensed trainee appraiser is competent in accordance with the Competency Provision of the Uniform Standards of Professional Appraisal Practice, as adopted in section 2 of this rule, to perform appraisals for the specific property type. After the Indiana licensed trainee appraiser demonstrates competency, the supervising appraiser is not required to inspect the properties. However, the supervising appraiser must continue to sign and accept full responsibility for all appraisals performed by the Indiana licensed trainee appraiser. (*Indiana Real Estate Commission; 876 IAC 3-6-9; filed Dec 8, 1993, 4:00 p.m.: 17 IR 782; filed Apr 10, 1995, 10:00 a.m.: 18 IR 2124; readopted filed May 29, 2001, 10:00 a.m.: 24 IR 3238*)

ARTICLE 4. REAL ESTATE CONTINUING EDUCATION

Rule 1. Sponsors of Courses; Approval

876 IAC 4-1-1 Sponsors; approval

Authority: IC 25-34.1-9-21

Affected: IC 25-34.1-5

Sec. 1. (a) Credit for fulfillment of the continuing education requirement will be granted only to licensees who have successfully completed courses offered by sponsors approved by the commission.

(b) Continuing education course sponsor approval may be granted by the commission upon application to those schools offering approved broker or salesperson courses under IC 25-34.1-5 or to schools only offering continuing education courses. (*Indiana Real Estate Commission; 876 IAC 4-1-1; filed Dec 1, 1993, 10:30 a.m.: 17 IR 765; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824*)

876 IAC 4-1-2 Application for sponsor of continuing education courses

Authority: IC 25-34.1-9-21

Affected: IC 25-34.1-5

Sec. 2. (a) Applicants for sponsor approval who do not conduct salesperson or broker courses under IC 25-34.1-5 shall submit the following information:

- (1) Name, address, telephone number, and facsimile (FAX) number (if any) of the sponsor.
- (2) Name, address, and resume of the school director responsible for real estate administrative matters such as the following:
 - (A) Program development.
 - (B) Scheduling of classes.
 - (C) Advertising.
 - (D) Maintaining facilities and equipment.
 - (E) Record keeping.
 - (F) General supervision of the instructional program.
- (3) If the ownership of the sponsor is a partnership, the names and addresses of the partners.
- (4) If the ownership of the sponsor is a corporation, the names and addresses of the officers and directors.
- (5) If the ownership of the sponsor is a limited liability company, the names and addresses of the members and managers.
- (b) All applicants for continuing education course sponsorship approval shall submit the following:
 - (1) A course content outline describing the subjects to be offered during the approval period.
 - (2) Name, address, resume of course instructors, and a statement that each instructor meets the qualifications required by section 8 of this rule.
 - (3) A statement that the sponsor shall provide the licensee who successfully completes an approved course, a certificate of course completion indicating the following:
 - (A) Name, address, and signature of the sponsor.
 - (B) Name, address, and license number of the attendee.
 - (C) Title of the course.
 - (D) Course location.
 - (E) Date of the course.

(F) Number of continuing education credit hours completed.

(4) A statement that the sponsor shall conduct an instructor and course evaluation and that they shall be provided to the commission upon request.

(5) Application fee in the amount of fifty dollars (\$50).

(Indiana Real Estate Commission; 876 IAC 4-1-2; filed Dec 1, 1993, 10:30 a.m.: 17 IR 765; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824)

876 IAC 4-1-3 Significant changes

Authority: IC 25-34.1-9-21

Affected: IC 25-34.1

Sec. 3. (a) Any significant changes in the operation of the approved sponsor must be approved by the commission prior to the effective date of the change. Any change in the course outline must be approved by the commission prior to the course being offered or given. The commission shall review the changes to determine whether or not the sponsor shall continue to be approved.

(b) Significant changes shall include the following:

(1) Change in ownership of the sponsor, including changes in the officers and directors of the corporation.

(2) A new school director.

(3) A new instructor.

(4) Any change in course outline.

(c) Once a continuing education instructor has been approved through the continuing education sponsor, the instructor is approved to teach for all continuing education sponsors.

(d) Notwithstanding subsection (b)(3), an instructor who has already been approved under this section or section 2 of this rule for another approved sponsor shall not be considered a new instructor. *(Indiana Real Estate Commission; 876 IAC 4-1-3; filed Dec 1, 1993, 10:30 a.m.: 17 IR 766; filed Jun 14, 1995, 11:00 a.m.: 18 IR 2790; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824; filed Aug 15, 2001, 9:50 a.m.: 25 IR 103)*

876 IAC 4-1-4 Course availability

Authority: IC 25-34.1-9-21

Affected: IC 25-34.1

Sec. 4. All continuing education courses shall be available to all licensees; however, a course may be limited to brokers or salespersons only. *(Indiana Real Estate Commission; 876 IAC 4-1-4; filed Dec 1, 1993, 10:30 a.m.: 17 IR 766; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824)*

876 IAC 4-1-5 Sponsor renewal

Authority: IC 25-34.1-9-21

Affected: IC 25-34.1-9-14

Sec. 5. (a) Under IC 25-34.1-9-14(a), a sponsor of a salesperson level continuing education course shall submit by December 1 of each odd-numbered year the following information to request approval renewal:

(1) A letter requesting such renewal.

(2) A renewal fee of fifty dollars (\$50).

(b) Under IC 25-34.1-9-14(b), a sponsor of broker level continuing education courses shall submit by December 1 of each even-numbered year the following information to obtain approval renewal:

(1) A letter requesting such renewal.

(2) A renewal fee of fifty dollars (\$50).

(Indiana Real Estate Commission; 876 IAC 4-1-5; filed Dec 1, 1993, 10:30 a.m.: 17 IR 766; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824)

876 IAC 4-1-6 Facilities

Authority: IC 25-34.1-9-21
Affected: IC 25-34.1-5

Sec. 6. (a) No course shall be conducted in a facility which is also used as a broker or salesperson office.

(b) Courses shall be taught in a facility with adequate space, seating, equipment, and instructional material to accommodate the number of students enrolled.

(c) The premises, equipment, and facilities shall comply with all local, city, county, state, and federal regulations, such as fire, building, sanitation codes, and handicap accessibility.

(d) Any facility previously approved for broker or salesperson courses under IC 25-34.1-5 shall be deemed satisfactory. (*Indiana Real Estate Commission; 876 IAC 4-1-6; filed Dec 1, 1993, 10:30 a.m.: 17 IR 766; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824*)

876 IAC 4-1-7 School directors

Authority: IC 25-34.1-9-21
Affected: IC 25-34.1-5

Sec. 7. (a) Each continuing education course sponsor, upon application for continuing education course sponsor approval, shall designate one (1) individual as its school director.

(b) A continuing education course sponsor is prohibited from hiring or retaining in its employ, a school director who:

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

(2) 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; or

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

(c) The designated 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 under IC 25-34.1-5 before January 1, 1989, are exempt from the requirements of subsection

(c). (*Indiana Real Estate Commission; 876 IAC 4-1-7; filed Dec 1, 1993, 10:30 a.m.: 17 IR 766; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824*)

876 IAC 4-1-8 Instructors; qualifications

Authority: IC 25-34.1-9-21
Affected: IC 25-34.1-5

Sec. 8. (a) Continuing education course sponsors shall affirm, upon application for continuing education course sponsor approval, that the course instructors shall possess at least one (1) of the following minimum qualifications:

(1) An instructor of real estate courses who is or has been engaged in the practice of teaching at an accredited institution of higher education.

(2) An instructor for a broker or salesperson course approved under IC 25-34.1-5.

(3) Possession of a bachelor's degree from a college or university in a related field to that in which the person is to teach or a comparable degree from a school of a foreign country.

(4) Five (5) years full-time experience in a profession, trade, or technical occupation in the real estate field.

(5) A combination of a total of five (5) years of:

(A) full-time experience relevant to the real estate field; and

(B) a college level education.

The combination may include no more than three (3) years of such education.

(6) Member of the state bar of Indiana who is engaged in the field of real estate related law.

(b) An instructor whose professional license or certification has been limited, suspended, or revoked in any jurisdiction may not instruct in approved programs while the disciplinary action is in effect.

(c) Any substitute instructor shall meet the qualifications of this section. (*Indiana Real Estate Commission; 876 IAC 4-1-8;*

filed Dec 1, 1993, 10:30 a.m.: 17 IR 766; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824)

876 IAC 4-1-9 Sponsor approval date

Authority: IC 25-34.1-9-21

Affected: IC 25-34.1

Sec. 9. Sponsors of both salesperson or broker continuing education courses shall be considered approved as of the date of approval by the commission, and therefore courses predating the approval date do not qualify. *(Indiana Real Estate Commission; 876 IAC 4-1-9; filed Dec 1, 1993, 10:30 a.m.: 17 IR 767; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824)*

876 IAC 4-1-10 Course outline

Authority: IC 25-34.1-9-21

Affected: IC 25-34.1

Sec. 10. A course outline shall be prepared and distributed to the attendees. The outline shall state the number of continuing education hours offered. *(Indiana Real Estate Commission; 876 IAC 4-1-10; filed Dec 1, 1993, 10:30 a.m.: 17 IR 767; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824)*

876 IAC 4-1-11 Record retention

Authority: IC 25-34.1-9-21

Affected: IC 25-34.1

Sec. 11. (a) The sponsor shall retain a record of attendance for all courses showing date, place, and attendee's name. This record must be signed by the instructor.

(b) The sponsor shall maintain for five (5) years the course records required by subsection (a) and section 2(b)(1) through 2(b)(3) of this rule.

(c) The sponsor may be asked to provide to the commission copies of records required by subsections (a) and (b), section 2(b)(1) through 2(b)(3) of this rule, and section 10 of this rule. *(Indiana Real Estate Commission; 876 IAC 4-1-11; filed Dec 1, 1993, 10:30 a.m.: 17 IR 767; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824)*

Rule 2. Course Requirements

876 IAC 4-2-1 Continuing education requirements

Authority: IC 25-34.1-9-21

Affected: IC 25-34.1-3-10; IC 25-34.1-9-11; IC 25-34.1-9-19; IC 25-34.1-10

Sec. 1. (a) Every licensed real estate broker and salesperson who has not been granted an inactive license under IC 25-34.1-3-10 or a waiver under IC 25-34.1-9-19 must complete during each two (2) year licensure period at least sixteen (16) hours of the approved education requirements under IC 25-34.1-9-11 and this article which are given by commission approved sponsors of courses in order to qualify for license renewal.

(b) Licensees attending continuing education courses shall present a government-issued photo identification and a real estate broker or salesperson pocket card for inspection by the course sponsor or a person designated by the course sponsor.

(c) Measurements and reporting shall be in full hours with a fifty (50) minute instruction period equaling one (1) hour.

(d) A course shall be a minimum of two (2) hours instruction period.

(e) A minimum of two (2) hours and no more than eight (8) hours of instruction may be offered in a one (1) day course.

(f) A licensee shall not be entitled to any continuing education credit for a course unless the licensee attends the entire course.

(g) There shall be no minimum requirement of numbers of credit hours to be completed in each single year of the two (2) year licensure period.

(h) Any continuing education credit accumulated above the minimum requirement for a two (2) year licensure period shall not be carried forward o *[sic.]* the next two (2) year licensure period.

(i) A licensee who attends the same approved continuing education course more than once in the same two (2) year licensure

period is only entitled to continuing education credit for (1) course.

(j) An instructor shall be entitled to continuing education credit for courses the instructor teaches. However, an instructor may not be credited for more than six (6) hours of credit for instructing in any two (2) year licensure period. Instructors may not receive credit for repeated courses. (*Indiana Real Estate Commission; 876 IAC 4-2-1; filed Dec 1, 1993, 10:30 a.m.: 17 IR 767; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824; filed Aug 15, 2001, 9:50 a.m.: 25 IR 103*)

876 IAC 4-2-2 Curricula for salespersons under IC 25-34.1-9-11(1)

Authority: IC 25-34.1-9-21

Affected: IC 25-34.1-9-11

Sec. 2. (a) This section establishes the six (6) hour continuing education requirement under IC 25-34.1-9-11(1) for salespersons.

(b) To qualify for license renewal, salespersons must have two (2) hours of continuing education in each of any three (3) of the following:

- (1) Licensure and escrow law.
- (2) Agency law.
- (3) Civil rights law.
- (4) Listing contracts and purchase agreements.
- (5) Settlement procedures.
- (6) Antitrust.

(*Indiana Real Estate Commission; 876 IAC 4-2-2; filed Dec 1, 1993, 10:30 a.m.: 17 IR 768; filed Jun 21, 1996, 10:00 a.m.: 19 IR 3112; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824*)

876 IAC 4-2-3 Curricula for brokers under IC 25-34.1-9-11(1)

Authority: IC 25-34.1-9-21

Affected: IC 25-34.1-9-11

Sec. 3. (a) This section establishes the six (6) hour continuing education requirement under IC 25-34.1-9-11(1) for brokers.

(b) To qualify for license renewal, brokers must have two (2) hours in each of any three (3) of the following:

- (1) Licensure and escrow law.
- (2) Agency law.
- (3) Civil rights law.
- (4) Listing contracts and purchase agreements.
- (5) Settlement procedures.
- (6) Antitrust.

(*Indiana Real Estate Commission; 876 IAC 4-2-3; filed Dec 1, 1993, 10:30 a.m.: 17 IR 768; filed Jun 21, 1996, 10:00 a.m.: 19 IR 3112, eff Jan 1, 1997; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824*)

876 IAC 4-2-4 Curricula under IC 25-34.1-9-11(2)

Authority: IC 25-34.1-9-21

Affected: IC 25-34.1-9-11

Sec. 4. In addition to the subjects listed in IC 25-34.1-9-11(2), the following course subjects shall be allowed toward meeting the required ten (10) hours of course work:

- (1) Subjects listed in IC 25-34.1-9-11(1).
- (2) Property management, including lease agreements, accounting procedures, and management contracts.
- (3) Timeshares, condominiums, and cooperatives.
- (4) Industrial brokerage and leasing.
- (5) Investment real estate analysis.
- (6) Any course approved by the commission relating to real estate practices.

(*Indiana Real Estate Commission; 876 IAC 4-2-4; filed Dec 1, 1993, 10:30 a.m.: 17 IR 768; readopted filed Jun 29, 2001, 9:56*

a.m.: 24 IR 3824; filed Aug 15, 2001, 9:05 a.m.: 25 IR 104)

876 IAC 4-2-5 Course qualifications

Authority: IC 25-34.1-9-21

Affected: IC 25-34.1-5

Sec. 5. (a) All courses must be instructional and contribute to professional competence in the practice of real estate.

(b) The following courses do not qualify:

- (1) Real estate broker or salesperson prelicensing courses under IC 25-34.1-5.
- (2) Examination preparation.
- (3) Sales meetings.
- (4) In-house training sessions.
- (5) Correspondence.
- (6) Motivational classes or seminars.

(Indiana Real Estate Commission; 876 IAC 4-2-5; filed Dec 1, 1993, 10:30 a.m.: 17 IR 768; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824; filed Aug 15, 2001, 9:05 a.m.: 25 IR 104)

876 IAC 4-2-6 Renewal applications

Authority: IC 25-34.1-9-21

Affected: IC 25-1-11; IC 25-34.1

Sec. 6. (a) An applicant for license renewal shall certify on the application that the applicant has complied with the continuing education requirements under IC 25-34.1 and this article.

(b) The commission may request verification of any information submitted by the applicant and may request the applicant to submit evidence supporting the course credit claimed.

(c) It is the responsibility of each licensee to retain sponsor course attendance verification to support the courses taken by the licensee for four (4) years after the end of the biennial period for which the continuing education is claimed.

(d) The commission may request applicants to prove information as provided in subsection (c) in order to verify continuing education hours claimed in the application. Failure to do so shall subject a licensee to the sanctions provided for under IC 25-1-11.

(Indiana Real Estate Commission; 876 IAC 4-2-6; filed Dec 1, 1993, 10:30 a.m.: 17 IR 768; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824)

876 IAC 4-2-7 Commission review of continuing education compliance

Authority: IC 25-34.1-9-21

Affected: IC 25-1-11; IC 25-34.1-9

Sec. 7. (a) If, as the result of an audit or other review, the commission determines that continuing education hours a licensee has claimed do not meet the requirements of IC 25-34.1-9 and this article, the commission shall notify the licensee of that determination.

(b) A licensee, who has been notified under subsection (a), may within thirty (30) days submit information to the commission giving all the substantive reasons in support of the licensee's position that an adequate number of hours has been obtained.

(c) A licensee who submits false information under section 6 of this rule or this section shall be subject to the sanctions provided for under IC 25-1-11. *(Indiana Real Estate Commission; 876 IAC 4-2-7; filed Dec 1, 1993, 10:30 a.m.: 17 IR 768; errata filed May 3, 1999, 4:10 p.m.: 22 IR 2884; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824)*

876 IAC 4-2-8 Inactive license

Authority: IC 25-34.1-9-21

Affected: IC 25-34.1-3-10

Sec. 8. (a) An applicant for license renewal may request an inactive license under IC 25-34.1-3-10 by complying with that section and certifying under penalty of perjury that the applicant will not perform and does not intend to perform an act that requires

a salesperson license or broker license.

(b) Brokers who are broker salespersons and both assigned and unassigned salespersons may request an inactive license under subsection (a). By doing so, they are removed from their previous status and become holders of inactive licenses. (*Indiana Real Estate Commission; 876 IAC 4-2-8; filed Dec 1, 1993, 10:30 a.m.: 17 IR 769; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824*)

876 IAC 4-2-9 License activation

Authority: IC 25-34.1-9-21

Affected: IC 25-34.1-9-11

Sec. 9. (a) In order to reactivate an inactive license at the time of license renewal, the licensee must have obtained all sixteen (16) hours of continuing education which would have been required for renewal had the license been active.

(b) In order to reactivate an inactive license during a two (2) year licensure period, the licensee must obtain the sixteen (16) hours of continuing education required by IC 25-34.1-9-11(1) and IC 25-34.1-9-11(2) for that two (2) year licensure period and pay a ten dollar (\$10) fee. (*Indiana Real Estate Commission; 876 IAC 4-2-9; filed Dec 1, 1993, 10:30 a.m.: 17 IR 769; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824; filed Aug 15, 2001, 9:05 a.m.: 25 IR 104*)

876 IAC 4-2-10 License reinstatements; continuing education requirements

Authority: IC 25-34.1-9-21

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

Sec. 10. A licensee who does not obtain the required continuing education hours during a two (2) year licensure period does not qualify for renewal of the license unless the licensee has a waiver under section 8 of this rule. However, such licensee may cure that deficiency by obtaining the continuing education hours in the next two (2) year licensure period and applying for reinstatement of the license under the provisions of IC 25-34.1-3-3.1(f) or IC 25-34.1-3-4.1(h). Continuing education hours obtained to cure a deficiency in a prior two (2) year licensure period shall not be double counted by also being included in the licensing period in progress when they are obtained. (*Indiana Real Estate Commission; 876 IAC 4-2-10; filed Dec 1, 1993, 10:30 a.m.: 17 IR 769; errata filed Feb 3, 1998, 9:45 a.m.: 21 IR 2130; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824*)

876 IAC 4-2-11 Waiver of continuing education requirements due to hardship

Authority: IC 25-34.1-9-21

Affected: IC 25-34.1-9-11; IC 25-34.1-9-19

Sec. 11. (a) An applicant for license renewal who was unable to fulfill the continuing education requirements under IC 25-34.1-9-11 may be granted a waiver of the continuing education requirement by the commission under IC 25-34.1-9-19(1).

(b) An applicant requesting a waiver of continuing education requirements under subsection (a) shall certify under penalty of perjury that the applicant was unable to fulfill the continuing education due to a hardship resulting from the following:

(1) Service in the armed forces of the United States for one (1) year or more of the two (2) year licensure period.

(2) An incapacitating illness which has prevented either part-time or full-time employment for at least twelve (12) months of the two (2) year licensure period.

(c) Waivers from the continuing education requirement are also available under IC 25-34.1-9-19(2) for licensees who are affiliated with a principal broker for the sole purpose of making referrals to a licensed salesperson or broker.

(d) An individual with a waiver is required to pay the license renewal fee.

(e) An applicant who applies for waiver of the continuing education requirements shall request the waiver in writing.

(f) The commission may seek verification of the applicant's request for waiver of continuing education requirements under this section. (*Indiana Real Estate Commission; 876 IAC 4-2-11; filed Dec 1, 1993, 10:30 a.m.: 17 IR 769; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824*)

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