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# TITLE 876 INDIANA REAL ESTATE COMMISSION

LSA Document #01-427(F)

#### **DIGEST**

Amends 876 IAC 1-1-23 to establish the requirements and procedures for the listing and selling principal broker to release earnest monies when one or more parties to a contract intend to perform. Amends 876 IAC 1-4-2 to revise the seller's residential real estate sales disclosure form. Amends 876 IAC 4-1-3 to allow continuing education courses once approved through continuing education sponsors to be used by other sponsors without further approval. Effective 30 days after filing with the secretary of state.

876 IAC 1-1-23 876 IAC 1-4-2 876 IAC 4-1-3

SECTION 1. 876 IAC 1-1-23, AS AMENDED AT 25 IR 102, SECTION 2, IS AMENDED TO READ AS FOLLOWS:

### 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. (a) Any and all written offers to purchase or authorization to purchase shall be communicated to the seller for his or her formal acceptance or rejection immediately upon receipt of 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 or selling principal brokers holding any earnest money are not required to make payment to the purchasers or sellers when a real estate transaction is not consummated unless the parties enter into a mutual release of the funds or a court issues an order for payment, except as permitted in subsection (b).

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

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

within sixty (60) days of the mailing date of the certified letter. If neither buyer or seller initiates litigation or enters into a written release within sixty (60) days of the mailing date of the certified letter, the broker may release the earnest money deposit to the party identified in the certified letter. (Indiana Real Estate Commission; Rule 24; filed Sep 28, 1977, 4:30 p.m.: Rules and Regs. 1978, p. 800; filed Dec 11, 1986, 10:40 a.m.: 10 IR 878; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824; filed Aug 15, 2001, 9:50 a.m.: 25 IR 102; filed Oct 28, 2002, 12:01 p.m.: 26 IR 789)

### SECTION 2. 876 IAC 1-4-2 IS AMENDED TO READ AS FOLLOWS:

### 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)
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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	Defectiv e	Not Defectiv e	Do Not Know	C. WATER & SEWER SYSTEM	None/Not Included	Defectiv e	Not Defectiv e	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)				
ΓV Antenna/Dish								Yes No	Do Not Know
Other:					Are the improvements connected system?  Are the improvements connected system?	•			
		Are there any additions that may require							
					improvements to the sewage disposal system?  If yes, have the improvements been completed on the sewage disposal system?  Are the improvements connected to a private/community water system?				
	1				Are the improvements connected				
					private/community sewer system				
					<u> </u>				
B. ELECTRICAL SYSTEM	None/Not Included	Defectiv e	Not Defectiv e	Do Not Know	D. HEATING & COOLING SYSTEM	None/Not Included	Defectiv e	Not Defectiv e	Do Not Know

Air Purifier	Attic Fan					
Burglar Alarm	Central Air Conditioning					
Ceiling Fan(s)	Hot Water Heat					
Garage Door Opener	Furnace Heat/Gas					
Controls						
Inside Telephone Wiring	Furnace Heat/Electric					
and Blocks/Jacks	Solar House-Heating					
Intercom	Woodburning Stove					
Light Fixtures	Fireplace					
Sauna	Fireplace Insert					
Smoke/Fire Alarm(s)	Air Cleaner					
Switches and Outlets	Humidifier					
Vent Fan(s)	Propane Tank					
60/100/200 Amp Service	Other Heating Source					
(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						
or replaced would significantly shorten or adversely a	affect					
the expected normal life of the premises.						

2. ROOF	YES	NO	DO NOT	4. OTHER DISCLOSURES	YES	NO	DO NOT
			KNOW				KNOW
Age, if known: Years				Do improvements have aluminum wiring?			
Does the roof leak?				Are there any foundation problems with the improvements?			
Is there present damage to the roof?				Are there any encroachments?	$\dashv$		
Is there more than one roof on the house?				Are there any violations of zoning,			
is there more than one roof on the nouse:				building codes, or restrictive covenants?			
If so, how many <del>roofs?</del> layers?				Is the present use a nonconforming use?			
, ··,,,, -				Explain:			
			DO	·			
3. HAZARDOUS CONDITIONS	YES	NO	NOT KNOW				
Have there been or are there any existing							
hazardous conditions on the property, such				Have you received any notices by any			
as methane gas, lead paint, radon gas in				governmental or quasi-governmental			
house or well, radioactive material, landfill,				agencies affecting this property?			
mineshaft, expansive soil, toxic materials,				Are there any structural problems with the			
mold, other biological contaminants,				building?			
asbestos insulation, or PCB's?				Have any substantial additions or			
E1-2				alterations been made without a required			
Explain:				building permit?			
				Are there moisture and/or water problems			
				in the basement, <del>or</del> crawl space area, <b>or</b>			
				any other area?			
				Is there any damage due to wind, flood,			
				termites, or rodents?			
				Have any improvements been treated			
				for wood destroying insects?			
				Are the furnace/woodstove/chimney/flue			
				all in working order?  Is the property in a flood plain?			
				Do you currently pay flood insurance?	_		
				Does the property contain underground	$\dashv$		
				storage tank(s)?			
				Is the seller homeowner a licensed real			
				estate salesperson or broker?			
				Is there any threatened or existing			
				litigation regarding the property?			
				Is the property subject to covenants,	-		
				conditions, and/or restrictions of a			
				homeowner's association?			
				Is the property located within one (1) mile			
				of an airport?			
E. ADDITIONAL COMMENTS AND/OR	EXPL	ANAT	IONS: (Us				
				Seller, who certifies to the truth thereof, based on the			
				e owner or the owner's agent, if any, and the disclose			
• 1				tive buyer or owner may later obtain. At or before			
				f the property or certify to the purchaser at settleme			
	was w	nen the	disclosure	form was provided. Seller and Purchaser hereby ac	Know	iedge	receipt of
this Disclosure by signing below:		Dot-		Cionatura of Duvier	<del></del> -	Dot-	
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							20
originally provided to the Buyer.	or me	propert	y is substa	many the same as it was when the selier's Disclos	u16 10	л111 W	as
Signature of Seller		Date		Signature of Seller	<del></del>	Date	
/I. I'm D. I France Commission			1 2. £1.	J. L 1 1004 5.00 17 ID 2252. El	1 1 1		1 1005

(Indiana Real Estate Commission; 876 IAC 1-4-2; filed Jun 1, 1994, 5:00 p.m.: 17 IR 2352; filed Jun 14, 1995, 11:00 a.m.: 18 IR 2787; readopted filed Jun 29, 2001, 9:56 a.m.: 24 IR 3824; filed Oct 28, 2002, 12:01 p.m.: 26 IR 789)

SECTION 3. 876 IAC 4-1-3, AS AMENDED AT 25 IR 103, SECTION 6, IS AMENDED TO READ AS FOLLOWS:

# 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 and course outline have been approved through the continuing education sponsor, the instructor is and the course outline are approved to teach for all continuing education sponsors. It shall be the responsibility of the continuing education sponsor to ensure that the commission has previously approved the course outline.
- (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; filed Oct 28, 2002, 12:01 p.m.: 26 IR 791)

*LSA Document #01-427(F)* 

Notice of Intent Published: 25 IR 1199

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