

IC 25-34.1-3

Chapter 3. Licensing

IC 25-34.1-3-1

Registration or license requirements; fees or charges

Sec. 1. Any agency or political subdivision of the state other than the commission may not impose any registration or license requirement or any license or employment fee or charge on licensees on account of activities defined in IC 25-34.1.

As added by Acts 1979, P.L.248, SEC.1.

IC 25-34.1-3-2

Transactions without license; prohibition; exemption

Sec. 2. (a) Except as provided in:

- (1) subsection (b);
- (2) section 8(i) of this chapter; and
- (3) section 11 of this chapter;

no person shall, for consideration, sell, buy, trade, exchange, option, lease, rent, manage, list, or appraise real estate or negotiate or offer to perform any of those acts in Indiana or with respect to real estate situated in Indiana, without a license.

(b) This article does not apply to:

- (1) acts of an attorney which constitute the practice of law;
- (2) performance by a public official of acts authorized by law;
- (3) acts of a receiver, executor, administrator, commissioner, trustee, or guardian, respecting real estate owned or leased by the person represented, performed pursuant to court order or a will;
- (4) rental, for periods of less than thirty (30) days, of rooms, lodging, or other accommodations, by any commercial hotel, motel, tourist facility, or similar establishment which regularly furnishes such accommodations for consideration;
- (5) rental of residential apartment units by an individual employed or supervised by a licensed broker;
- (6) rental of apartment units which are owned and managed by a person whose only activities regulated by this article are in relation to a maximum of twelve (12) apartment units which are located on a single parcel of real estate or on contiguous parcels of real estate;
- (7) referral of real estate business by a broker, salesperson, or referral company which is licensed under the laws of another state, to or from brokers and salespersons licensed by this state;
- (8) acts performed by a person in relation to real estate owned by that person unless that person is licensed under this article, in which case the article does apply to him;
- (9) acts performed by a regular, full-time, salaried employee of a person in relation to real estate owned or leased by that person unless the employee is licensed under this article, in which case the article does apply to him;
- (10) conduct of a sale at public auction by a licensed auctioneer

pursuant to IC 25-6.1;

(11) sale, lease, or other transfer of interests in cemetery lots;
and

(12) acts of a broker or salesperson, who is licensed under the laws of another state, which are performed pursuant to, and under restrictions provided by, written permission that is granted by the commission in its sole discretion, except that such a person shall comply with the requirements of section 5(c) of this chapter.

As added by Acts 1979, P.L.248, SEC.1. Amended by Acts 1982, P.L.156, SEC.1; P.L.183-1991, SEC.6; P.L.64-2004, SEC.17.

IC 25-34.1-3-3

Repealed

(Repealed by Acts 1982, P.L.156, SEC.4.)

IC 25-34.1-3-3.1

Requirements for salesperson's license

Sec. 3.1. (a) To obtain a salesperson license, an individual must:

(1) be at least eighteen (18) years of age before applying for a license and must not have a conviction for:

(A) an act that would constitute a ground for disciplinary sanction under IC 25-1-11;

(B) a crime that has a direct bearing on the individual's ability to practice competently; or

(C) a crime that indicates the individual has the propensity to endanger the public;

(2) have successfully completed courses in the principles, practices, and law of real estate, totaling eight (8) semester credit hours, or their equivalent, as a student at an accredited college or university or have successfully completed an approved salesperson course as provided in IC 25-34.1-5-5(a);

(3) apply for a license by submitting the fee prescribed by the commission and an application containing the name, address, and age of the applicant, the name under which the applicant intends to conduct business, the principal broker's address where the business is to be conducted, proof of compliance with subdivision (2), and any other information the commission requires;

(4) pass a written examination prepared and administered by the commission or its duly appointed agent; and

(5) submit not more than one (1) year after passing the written examination under subdivision (4) a sworn certification of a principal broker that the principal broker intends to associate with the applicant and maintain that association until notice of termination of the association is given to the commission.

(b) Upon the applicant's compliance with the requirements of subsection (a), the commission shall:

(1) issue a wall certificate in the name of the salesperson to the principal broker who certified the applicant's association with

the principal broker; and

(2) issue to the salesperson a pocket identification card which certifies that the salesperson is licensed and indicates the expiration date of the license and the name of the principal broker.

(c) A salesperson shall:

(1) act under the auspices of the principal broker responsible for that salesperson's conduct under this article;

(2) be associated with only one (1) principal broker;

(3) maintain evidence of licensure in the office, branch office, or sales outlet of the principal broker;

(4) advertise only in the name of the principal broker, with the principal broker's name in letters of advertising larger than that of the salesperson's name; and

(5) not maintain any real estate office apart from that office provided by the principal broker.

(d) Upon termination of a salesperson's association with a principal broker, the salesperson's license shall be returned to the commission within five (5) business days. The commission shall reissue the license to any principal broker whose certification, as prescribed in subsection (a)(5), is filed with the commission, and the commission shall issue a new identification card to the salesperson reflecting that change.

(e) Unless a license is renewed, a salesperson license expires on a date specified by the licensing agency under IC 25-1-6-4 and expires biennially after the initial expiration date. An applicant for renewal shall submit an application in the manner prescribed by the board and pay the renewal fee established by the board under IC 25-1-8-2 on or before the renewal date specified by the licensing agency. If the holder of a license does not renew the license by the date specified by the licensing agency, the license expires and becomes invalid without the board taking any action.

(f) If the holder of a license under this section fails to renew the license on or before the date specified by the licensing agency, the license may be reinstated by the commission if the holder of the license, not later than three (3) years after the expiration of the license, meets the requirements of IC 25-1-8-6(c).

(g) If a license under this section has been expired for more than three (3) years, the license may be reinstated by the commission if the holder meets the requirements for reinstatement under IC 25-1-8-6(d).

(h) A salesperson license may be issued to an individual who is not yet associated with a principal broker but who otherwise meets the requirements of subsection (a). A license issued under this subsection shall be held by the commission in an unassigned status until the date the individual submits the certification of a principal broker required by subsection (a)(5). If the individual does not submit the application for licensure within one (1) year after passing the commission examination, the commission shall void the application and may not issue a license to that applicant unless the

applicant again complies with the requirements of subsection (a)(4) through (a)(5).

(i) If an individual holding a salesperson license is not associated with a principal broker for two (2) successive renewal periods, the commission shall notify the individual in writing that the individual's license will become void if the individual does not associate with a principal broker within thirty (30) days from the date the notification is mailed. A void license may not be renewed.

As added by Acts 1982, P.L.156, SEC.2. Amended by P.L.255-1987, SEC.2; P.L.214-1993, SEC.82; P.L.128-1994, SEC.2; P.L.236-1995, SEC.49; P.L.182-1996, SEC.1; P.L.194-2005, SEC.85; P.L.157-2006, SEC.71; P.L.105-2008, SEC.62.

IC 25-34.1-3-4

Repealed

(Repealed by Acts 1982, P.L.156, SEC.4.)

IC 25-34.1-3-4.1

Requirements for broker's license

Sec. 4.1. (a) To obtain a broker license, an individual must:

(1) be at least eighteen (18) years of age before applying for a license and must not have a conviction for:

(A) an act that would constitute a ground for disciplinary sanction under IC 25-1-11;

(B) a crime that has a direct bearing on the individual's ability to practice competently; or

(C) a crime that indicates the individual has the propensity to endanger the public;

(2) have satisfied section 3.1(a)(2) of this chapter and have had continuous active experience for one (1) year immediately preceding the application as a licensed salesperson in Indiana. However, this one (1) year experience requirement may be waived by the commission upon a finding of equivalent experience;

(3) have successfully completed an approved broker course of study as prescribed in IC 25-34.1-5-5(b);

(4) apply for a license by submitting the application fee prescribed by the commission and an application specifying the name, address, and age of the applicant, the name under which the applicant intends to conduct business, the address where the business is to be conducted, proof of compliance with subdivisions (2) and (3), and any other information the commission requires;

(5) pass a written examination prepared and administered by the commission or its duly appointed agent; and

(6) within one (1) year after passing the commission examination, submit the license fee established by the commission under IC 25-1-8-2. If an individual applicant fails to file a timely license fee, the commission shall void the application and may not issue a license to that applicant unless

that applicant again complies with the requirements of subdivisions (4) and (5) and this subdivision.

- (b) To obtain a broker license, a partnership must:
 - (1) have as partners only individuals who are licensed brokers;
 - (2) have at least one (1) partner who:
 - (A) is a resident of Indiana; or
 - (B) is a principal broker under IC 25-34.1-4-3(b);
 - (3) cause each employee of the partnership who acts as a broker or salesperson to be licensed; and
 - (4) submit the license fee established by the commission under IC 25-1-8-2 and an application setting forth the name and residence address of each partner and the information prescribed in subsection (a)(4).
- (c) To obtain a broker license, a corporation must:
 - (1) have a licensed broker:
 - (A) residing in Indiana who is either an officer of the corporation or, if no officer resides in Indiana, the highest ranking corporate employee in Indiana with authority to bind the corporation in real estate transactions; or
 - (B) who is a principal broker under IC 25-34.1-4-3(b);
 - (2) cause each employee of the corporation who acts as a broker or salesperson to be licensed; and
 - (3) submit the license fee established by the commission under IC 25-1-8-2, an application setting forth the name and residence address of each officer and the information prescribed in subsection (a)(4), a copy of the certificate of incorporation, and a certificate of good standing of the corporation issued by the secretary of state.
- (d) To obtain a broker license, a limited liability company must:
 - (1) if a member-managed limited liability company:
 - (A) have as members only individuals who are licensed brokers; and
 - (B) have at least one (1) member who is:
 - (i) a resident of Indiana; or
 - (ii) a principal broker under IC 25-34.1-4-3(b);
 - (2) if a manager-managed limited liability company, have a licensed broker:
 - (A) residing in Indiana who is either a manager of the company or, if no manager resides in Indiana, the highest ranking company officer or employee in Indiana with authority to bind the company in real estate transactions; or
 - (B) who is a principal broker under IC 25-34.1-4-3(b);
 - (3) cause each employee of the limited liability company who acts as a broker or salesperson to be licensed; and
 - (4) submit the license fee established by the commission under IC 25-1-8-2 and an application setting forth the information prescribed in subsection (a)(4), together with:
 - (A) if a member-managed company, the name and residence address of each member; or
 - (B) if a manager-managed company, the name and residence

address of each manager, or of each officer if the company has officers.

(e) Licenses granted to partnerships, corporations, and limited liability companies are issued, expire, are renewed, and are effective on the same terms as licenses granted to individual brokers, except as provided in subsection (h), and except that expiration or revocation of the license of:

(1) any partner in a partnership or all individuals in a corporation satisfying subsection (c)(1); or

(2) a member in a member-managed limited liability company or all individuals in a manager-managed limited liability company satisfying subsection (d)(2);

terminates the license of that partnership, corporation, or limited liability company.

(f) Upon the applicant's compliance with the requirements of subsection (a), (b), or (c), the commission shall issue the applicant a broker license and an identification card which certifies the issuance of the license and indicates the expiration date of the license. The license shall be displayed at the broker's place of business.

(g) Unless the license is renewed, a broker license expires, for individuals, on a date specified by the licensing agency under IC 25-1-6-4 and expires biennially after the initial expiration date. An applicant for renewal shall submit an application in the manner prescribed by the board and pay the renewal fee established by the commission under IC 25-1-8-2 on or before the renewal date specified by the licensing agency. If the holder of a license does not renew the license by the date specified by the licensing agency, the license expires and becomes invalid without the board taking any action.

(h) If the holder of a license under this section fails to renew the license on or before the date specified by the licensing agency, the license may be reinstated by the commission if the holder of the license, not later than three (3) years after the expiration of the license, meets the requirements of IC 25-1-8-6(c).

(i) If a license under this section has been expired for more than three (3) years, the license may be reinstated by the commission if the holder meets the requirements for reinstatement under IC 25-1-8-6(d).

(j) A partnership, corporation, or limited liability company may not be a broker-salesperson except as authorized in IC 23-1.5. An individual broker who associates as a broker-salesperson with a principal broker shall immediately notify the commission of the name and business address of the principal broker and of any changes of principal broker that may occur. The commission shall then change the address of the broker-salesperson on its records to that of the principal broker.

As added by Acts 1982, P.L.156, SEC.3. Amended by P.L.255-1987, SEC.3; P.L.5-1988, SEC.139; P.L.214-1993, SEC.83; P.L.128-1994, SEC.3; P.L.229-1995, SEC.6; P.L.236-1995, SEC.50; P.L.182-1996, SEC.2; P.L.64-2004, SEC.18; P.L.194-2005, SEC.86; P.L.157-2006,

SEC.72; P.L.105-2008, SEC.63.

IC 25-34.1-3-5

Licensing of nonresident; consent to service of process; waiver

Sec. 5. (a) A resident of another state, meeting the requirements of this chapter, may be licensed.

(b) A nonresident salesperson or broker shall file with the commission a written consent that any action arising out of the conduct of the licensee's business in Indiana may be commenced in any county of this state in which the cause of action accrues. The consent shall provide that service of process may be made upon the commission, as agent for the nonresident licensee, and that service in accordance with the Indiana Rules of Trial Procedure subjects the licensee to the jurisdiction of the courts in that county.

(c) The requirements of this section may be waived for individuals of or moving from other jurisdictions if the following requirements are met:

- (1) The jurisdiction grants the same privilege to the licensees of this state.
- (2) The individual is licensed in that jurisdiction.
- (3) The licensing requirements of that jurisdiction are substantially similar to the requirements of this chapter.
- (4) The applicant states that the applicant has studied, is familiar with, and will abide by the statutes and rules of this state.

As added by Acts 1979, P.L.248, SEC.1. Amended by P.L.255-1987, SEC.4; P.L.64-2004, SEC.19.

IC 25-34.1-3-6

Change of name, business address, or association of licensee or principal broker

Sec. 6. Each licensee and each licensee's principal broker, if any, shall notify the commission immediately of any change of name, name under which the licensee transacts business, business address, or association.

As added by Acts 1979, P.L.248, SEC.1.

IC 25-34.1-3-7

Repealed

(Repealed by Acts 1981, P.L.222, SEC.296.)

IC 25-34.1-3-8

Real estate appraiser licensure and certification program; necessity for licensure or certification

Sec. 8. (a) This section does not preclude a person who:

- (1) is not licensed or certified as a real estate appraiser under this section; and
- (2) is licensed as a broker under this article;

from appraising real estate in Indiana for compensation.

(b) As used in this section, "federal act" refers to Title XI of the

Financial Institutions Reform, Recovery, and Enforcement Act (12 U.S.C. 3331 through 3351).

(c) The commission shall adopt rules to establish a real estate appraiser licensure and certification program to be administered by the board.

(d) The commission may not adopt rules under this section except upon the action and written recommendations of the board under IC 25-34.1-8-6.5.

(e) The real estate appraiser licensure and certification program established by the commission under this section must meet the requirements of:

- (1) the federal act;
- (2) any federal regulations adopted under the federal act; and
- (3) any other requirements established by the commission as recommended by the board, including requirements for education, experience, examination, reciprocity, and temporary practice.

(f) The real estate appraiser licensure and certification requirements established by the commission under this section must require a person to meet the standards for real estate appraiser certification and licensure established:

- (1) under the federal act;
- (2) by federal regulations; and
- (3) under any other requirements established by the commission as recommended by the board, including requirements for education, experience, examination, reciprocity, and temporary practice.

(g) The commission may require continuing education as a condition of renewal for real estate appraiser licensure and certification.

(h) The following are not required to be a licensed or certified real estate appraiser to perform the requirements of IC 6-1.1-4:

- (1) A county assessor.
- (2) A township assessor.
- (3) An employee of a county or township assessor.

(i) Notwithstanding IC 25-34.1-3-2(a):

- (1) only a person who receives a license or certificate issued under the real estate appraiser licensure and certification program established under this section may appraise real estate involved in transactions governed by:

(A) the federal act; and

(B) any regulations adopted under the federal act; as determined under rules adopted by the commission, as recommended by the board; and

- (2) a person who receives a license or certificate issued under the real estate appraiser licensure and certification program established under this section may appraise real estate not involved in transactions governed by:

(A) the federal act; and

(B) any regulations adopted under the federal act;

as determined under rules adopted by the commission, as recommended by the board.

As added by P.L.186-1990, SEC.12. Amended by P.L.183-1991, SEC.7; P.L.57-2007, SEC.3; P.L.146-2008, SEC.530.

IC 25-34.1-3-9

Repealed

(Repealed by P.L.57-2007, SEC.9.)

IC 25-34.1-3-9.5

Fees; real estate appraiser licensure and certification program

Sec. 9.5. (a) The commission shall establish fees under IC 25-1-8-2 to implement section 8 of this chapter.

(b) Notwithstanding IC 25-1-8-2, a fee established under IC 25-1-8-2 to implement section 8 of this chapter may not be less than fifty dollars (\$50).

(c) The commission shall establish fees to provide funding for the investigative fund established by IC 25-34.1-8-7.5. The fees under this subsection may not be more than twenty dollars (\$20).

(d) The board may collect a fee required by federal law and transmit the fees to the federal government as required by federal law.

(e) A fee described in subsection (a) is in addition to any fees required by federal law.

As added by P.L.57-2007, SEC.4.

IC 25-34.1-3-10

Inactive license requirements; continuing education; reactivation requirements

Sec. 10. (a) A salesperson licensed under section 3.1 of this chapter or a broker licensed under section 4.1 of this chapter may apply for and receive an inactive license from the commission.

(b) An individual may not be granted an inactive license without the approval of the commission if a disciplinary or suspension hearing is pending against the individual.

(c) An individual with an inactive license:

(1) may not perform an act that requires a salesperson or broker's license;

(2) is not required to fulfill the continuing education requirements under IC 25-34.1-9;

(3) is required to pay any fees that a licensee is required to pay; and

(4) must fulfill the requirements under IC 25-34.1-9-11 for the current licensing period before applying for reactivation of the individual's license.

(d) Notwithstanding IC 25-34.1-9-11(2), the commission may adopt rules under IC 4-22-2 establishing continuing education requirements for individuals who have reactivated a license with less than twelve (12) months remaining in the licensing period.

As added by P.L.120-1992, SEC.1. Amended by P.L.157-2006,

SEC. 73.

IC 25-34.1-3-11

Acts permitted by unlicensed out-of-state commercial broker; written consent

Sec. 11. (a) An out-of-state commercial broker, for a fee, commission, or other valuable consideration, or in expectation, or upon the promise of receiving or collecting a fee, commission, or other valuable consideration, may perform acts with respect to commercial real estate that require a license under this article without a license under this article, if the out-of-state commercial broker does all of the following:

- (1) Works in cooperation with a broker who holds a valid license issued under this article.
- (2) Enters into a written agreement with the broker described in subdivision (1) that includes the terms of cooperation and compensation and a statement that the out-of-state commercial broker and the broker's agents will comply with the laws of this state.
- (3) Furnishes the broker described in subdivision (1) with a copy of the out-of-state commercial broker's current certificate of good standing or other proof of a license in good standing from a jurisdiction where the out-of-state commercial broker maintains a valid real estate license.
- (4) Files an irrevocable written consent with the commission that legal actions arising out of the conduct of the out-of-state commercial broker or the broker's agents may be commenced against the out-of-state commercial broker in a court with jurisdiction in a county in Indiana in which the cause of action accrues.
- (5) Advertises in compliance with state law and includes the name of the broker described in subdivision (1) in all advertising.
- (6) Deposits all escrow funds, security deposits, and other money received by either the out-of-state commercial broker or the broker described in subdivision (1) in a trust account maintained by the broker described in subdivision (1).
- (7) Deposits all documentation required by this section and records and documents related to the transaction with the broker described in subdivision (1).

(b) The broker described in subsection (a)(1) shall retain the documentation that is provided by the out-of-state commercial broker as required under this section, and the records and documents related to a transaction, for at least five (5) years.

(c) An out-of-state commercial salesperson may perform acts with respect to commercial real estate that require a salesperson to be licensed under this article without a license under this article if the out-of-state commercial salesperson meets all of the following requirements:

- (1) The out-of-state commercial salesperson:

(A) is licensed with and works under the direct supervision of the out-of-state commercial broker;

(B) provides the broker described in subsection (a)(1) with a copy of the out-of-state commercial salesperson's current certificate of good standing or other proof of a license in good standing from the jurisdiction where the out-of-state commercial salesperson maintains a valid real estate license in connection with the out-of-state commercial broker; and

(C) collects money, including:

(i) commissions;

(ii) deposits;

(iii) payments;

(iv) rentals; or

(v) escrow funds;

only in the name of and with the consent of the out-of-state commercial broker under whom the out-of-state commercial salesperson is licensed.

(2) The out-of-state commercial broker described in subdivision

(1)(A) meets all of the requirements of subsection (a).

(d) A person licensed in a jurisdiction where there is not a legal distinction between a real estate broker license and a real estate salesperson license must meet the requirements of subsection (a) before engaging in an act that requires a license under this article.

(e) An out-of-state commercial broker or salesperson acting under this section shall file a written consent as provided in section 5(b) of this chapter.

As added by P.L.64-2004, SEC.20.

IC 25-34.1-3-12

Criminal convictions

Sec. 12. A licensee who is convicted of a crime (as defined in IC 33-23-1-4) shall send a copy of the:

(1) complaint or other information that describes the crime; and

(2) judgment of conviction;

to the commission not more than thirty (30) days after the date of the conviction.

As added by P.L.87-2006, SEC.3.