

Indiana Real Estate Commission Newsletter



Chairman's Report

By Paul Boyter, Commission Chair

It is with great pleasure that I have the opportunity to Chair the Indiana Real Estate Commission this year. Commissioner Mike Lunsford did an excellent job of Chairing the prior year and has prepared me well for the upcoming year. After obtaining my salesperson license in 1990, I affiliated with McColly Real Estate in Hobart, and then moved to their Chesterton Office to manage in 1998. Currently, I live in Chesterton with my wife, Megan and two children, Lilly and Luke.



In 2005, seven of us came on the Commission as rookies. We were lucky to have long time members H. James Litten and Tim Reed to guide us through the meetings. Now we have twelve veterans serving on the Commission and Director Jeanette Langford keeps us busy with settlements, ALJ panel hearings, committees, and scheduled

Commission meetings. Mrs. Langford has been wonderful the past year working on the broker transition, online transfer system, and numerous legislative and rule changes that have been completed or are currently under review.

In the past, I have received many calls from licensees wanting more information about the Indiana License Laws. The Commission's Compliance Director, Eric Felde, has revamped the

Cont. on page 2

Director's Update

By Jeanette Langford, Director

The Indiana Professional Licensing Agency has recently welcomed a new Governor as well as a new Executive Director, Virgil R. Madden. The Commission is excited about the opportunity to work with Mr. Madden as we move through our license law changes. The Commission is also pleased to announce a new online application for the transfer/reassignment of licenses. Gone are the days of having to print, sign, stuff and stamp your transfer request for the Commission. We trust that you will

find our new application useful, efficient and intuitive in making these changes to your workforce. You can read more about this new application on page 3. I would also encourage you to review all of the important information in this issue as it may serve to guide you in your everyday practice. As always, please feel free to contact our office for any questions or concerns you may have about this newsletter or general licensing questions.

- > Online Transfers
Page 3
- > Word on the Street
Page 4
- > Practice Questions
Page 5
- > 2013 Meeting Dates
Page 6
- > Recent Discipline
Page 7

Inside this issue:

Newsletter Info	2
Technical Issues	3
Commission Info	4
In Practice	5
Comm. Spotlight	6
Discipline	7

Newsletter Information

Chairman's Report, Cont'd

Commission web page at <http://www.in.gov/pla/2787.htm>, which is where you can find the Indiana Real Estate Commission Laws and Regulations, as well as, Title 876 of the Indiana Administrative Code. This page is full of information about license renewals, license transfers, continuing education, and how to file a complaint.

If a member of the public or a licensee feels that a violation has occurred, the complaint form can be found at <http://www.in.gov/pla/3171.htm>. This form can be filled out online or printed and mailed to the Indiana Attorney General's Office. This web page gives an easy to understand description of the disciplinary process and what happens after a complaint is filed.

I look forward to another momentous year serving on the Indiana Real Estate Commission. Please feel free to contact me at pboyter@mccolly.com or (219) 926-1616, if you have any questions, suggestions, or comments.

Best Regards,
Paul Boyter

Broker Transition Update

We are just over a quarter of the way through the broker transition period, and we have heard a bit of feedback from licensees. While some of the questions raised are answered on page 4 of this newsletter, the Commission wants to update all licensees on the status of the transition.

The transition period began on July 1, 2012. At that time, there were 1,247 salespersons have upgraded their license to broker. This represents about seven percent (7%) of the currently 17,648 non-expired salespersons.

We hope to see many more salespersons transition in the coming months, so that no significant delays are seen as the end of the transition period draws nearer. If you have any questions about the transition, please feel free to contact our office by any of the methods listed below.

Contact Us

Have a question about real estate licensing? Need to change information on file with the Commission? Feel free to contact the real estate staff at IPLA by any of the following methods:

Phone: (317) 234-3009

E-mail: pla9@pla.in.gov

Fax: (317) 233-4236

Licensee Numbers

Salespersons	17648
Active:	8384
Inactive:	2479
Referral:	6430
Unassigned:	355
Associate Brokers	5836
Active:	4553
Inactive:	265
Referral:	1018
Principal Brokers	9089
Active:	7390
Inactive:	1699



Technical Issues

Online Transfer System

After much discussion, thought, and work, the Commission is pleased to bring licensees a new system that allows most license transfers of association and status to be performed online. This is a significant improvement, as the most common transaction completed in the past few years has been the license transfer, by a wide margin. The new system will allow for any transfer that does not require confirmation of education or other documentation to be completed online. This means the following transfers can be done **without** check, envelope, and three day wait:

- One company/broker to another
- Active with one company/broker into referral status with a new company/broker
- Active into referral
- Active into unassigned
- Active into inactive
- Referral into inactive

How Does it Work?

The online transfer application is a simple, easy to use, and efficient system. Below are some of the questions we have either already received, or expect to receive.

How do I sign in?

All that is needed to sign in is your license number for the login, and the last four numbers of your social security number for the password.

What do I do now?

Depending on the current status of your license, you can complete any number of types of license transfers. Want to go inactive? Joining a new company? Click on the link that corresponds with the transfer you want, and you have begun the process.

I am a principal broker. How am I supposed to know if an associate has left my company?

Upon submitting a transfer request, a notification email is sent to the broker previously holding the applicant's license. This notification alerts the broker that an associate has begun the transfer process.

Website Link



For more information about the online transfer application, and the user guide, please click the following link:

<http://www.in.gov/pla/3166.htm>



Under development

We are currently working on making additions to the licensing tasks already described, for licensees to use through the online transfer system. Read below for details on these improvements.

Principal Broker Access

While principal brokers can currently approve license transfers, we are working on adding the ability to transfer an associate out of their company. This access will allow a principal broker to move active licensees to unassigned, and licensees in other statuses to inactive. There is no fee associated with these transfers, so this will be a one step process. Notification will be sent to the transferred licensee, giving them information on how to transfer their license into an association with another company or broker.

Notifications

Several bugs were addressed early on regarding email notification of a pending transfer. In addition to fixing these errors, we are looking into adding a notification at the time the transfer is completed. Currently, the notification is sent upon the submission of a transfer request.

Commission Information

Word on the Street

The ultimate goal of this newsletter is to improve communication with you, the licensee. In the process of doing this we are also working to address common misconceptions, misunderstandings, and misinformation. Below is a list of thoughts and ideas we have heard, along with some corrections and answers to them. As you hear information through your own work, please feel free to check this section, or contact our office for assistance.

As a salesperson, I should wait until 2014 to complete the broker transition course.

This is not true! There is no benefit to waiting until the later part of the transition period to complete the transition course. In fact, it could cause difficulty to wait until the last minute, as classes will fill up, and our office will face delays in processing applications.

As a principal broker, I can prevent an associate from leaving my company until I get (X,Y,Z) that she owes me.

Also not true! A transfer of license is not an action that is subject to contractual issues between employer and employee. An associate can transfer out at any time, and a principal broker can move a licensee out of association with his or her personal license or company at any time. Because the transfer form has a spot for the broker to sign, many are under the belief that the lack of a signature prevents the transfer from occurring. This is not the case, as a transfer will be processed when an explanation accompanies the request explaining the lack of signature.

I don't like the new online transfer system. As brokers, we don't know when someone is leaving!

While some early bugs were addressed with the notification system, the online transfer application was built to send an email to the current broker of a transferring associate. If you are not getting this notification, please check with us to see that we have your correct email address, and also that your email is not set up to discard our notifications.



I am a broker, so I don't need a license for the company I work under.

Not true at all! While sole proprietors working under their own name (e.g.— “Bob Jones Realty”) are excluded, if you operate a company that exists beyond your own person, and it is engaged in the practice of real estate, you must license this company to conduct real estate business in Indiana.

I already paid my dues to the association. You don't need anything else for my renewal, right?

Nope. It is commonly thought that we are connected in some way to many professional associations. While we try to stay in contact with these organizations (just like our licensees), they are not directly connected to the Commission's activity. The Commission is the state authority for licensing, and the actions an association (like MIBOR, IAR, etc.) takes regarding membership are their own. If you have a question about something to do with your membership in these organizations, please call that specific body. While dues are something these associations may require, your license renewal is separate, and should be submitted to the Commission when renewal rolls around.

In Practice

Questions and Answers

The Commission employs case managers who spend a significant part of each day answering questions about real estate licensing. Having an actual person on the line makes it easier for you to get the information you need, and get back to work. Occasionally we get questions for which there is either no clear answer, or we are not in a position to answer. To assist in clarifying these situations, the Commission has provided a summary of those issues surrounding questions involving legal interpretation of real estate practice requirements. Please take some time to click on the link at right to review this document.

Real Estate Practice Questions

It may seem perfectly logical to call the Commission to ask, for example, if one needs a broker license to manage an apartment complex. At first glance, this question seems perfectly suited for someone at the Commission to answer— it deals with real estate, right? Well, there is more to it than that. Unfortunately, this is a type of question we cannot answer for you, but with good reason.

1. Our knowledge

In almost all cases, we could not possibly know all necessary information to answer your question accurately. Are you a resident of Indiana? Are you licensed in another state? Do you own the building? Are you a full-time employee of the company that owns the building? Where is the building located? How many apartments are in the building?

What starts as a simple question can easily compound into many questions that we are

More information



For more information on questions that require legal interpretation about the practice of real estate, click the link below:
<http://www.in.gov/pla/3415.htm>

completely unable to know. Furthermore, an accurate answer depends on knowing most, if not all, of these facts.

Additionally, when asked about the above scenario, any answer we provide would be based upon information that we have no way of confirming.

2. Our position

Our task as staff of the Commission is to regulate the profession, in licensing and compliance with licensing law. We cannot, and should not, take a position regarding the practice of a licensee that would amount to advocacy on your behalf. While the Commission enforces its rules through the disciplinary process, and uses this newsletter and other communications to elaborate on requirements, the best source for a licensee to seek out for advocacy would be in the private sector, whether that be a principal broker, a representative of a professional association, or an attorney.

3. Our training

Our staff is not trained in the practice of real estate. While we know enough to understand what you tell us, it will better serve your interests to find a resource who has significant experience in the actual practice of real estate, whether that is a licensee or an attorney.

Important Note



While the information above relates to legal questions about practice, we are always available to answer any and all questions about licensing and education.

Commission

Commissioner Spotlight—Tim Reed

Commissioner Tim Reed has been a REALTOR® since 1980. Tim is a past president of both the Duneland/Valparaiso Association of REALTORS® and the Greater Northwest Indiana Association of REALTORS®. Tim has served as chairman of the REALTORS political action committee, Convention and Governmental Affairs committees for the Indiana Association of REALTORS® and is a past member of the state RPAC Trustees committee. In 1998 he was honored as the Indiana Association of REALTORS REALTOR® of the Year. In addition to his association activities, Tim is both a pre-licensing and continuing education instructor. Tim has been a member of the Indiana Real Estate Commission since 1992, and currently serves as a liaison to the Indiana Attorney General’s office for the Real Estate Commission.



Commission Meetings

Commission meetings are open to the public, and attendance by licensees is always encouraged. Meetings begin at 9:00 a.m., and are held in the Indiana Government Center South building. Below are the dates for 2013.

- 2013**
 January 23
 March 6
 April 24
 June 5
 July 24
 September 4
 October 16
 December 11

Members of the Commission

<u>Member</u>	<u>Congressional District</u>
Mark R. Bock, Vice Chairman	3rd
Paul Boyter, Chairman	At-Large
Jarod Brown	Consumer
Suzan M. Cox	2nd
Susan Daniel	Consumer
D.J. Hines	9th
H. James Litten	5th
Michael O. Lunsford	6th
Norman E. McClain	7th
Carolyn McClintock	8th
Timothy Reed	1st
Charles W. Shook	4th

License Discipline

In its task of consumer protection, the Commission hears complaints brought by consumers to the Office of the Attorney General. If the Commission finds that violations of license law have occurred, it may choose to discipline the license of the individual found in violation. The forms of discipline range from a letter of reprimand to revocation of a real estate license. The filings in these disciplinary hearings are public record, and can be found following the link to the right.

This section contains a list of licensees who have been found in violation of license law and disciplined by the Commission at its most recent meeting. Because discipline does not always remain on a license for an indefinite period, it is recommended that you use the License Search and Verify to confirm the current license status of any individual on this list. For any other questions about license discipline, please contact IPLA staff.



For More Information...



You can find more detail on disciplinary procedure, as well as public records from disciplinary actions by visiting the following link: [PLA Litigation Search](#).

Martha Herrera's license (SP30807439) was suspended by the Commission after a hearing, finding that she violated Ind. Code § 25-1-11-5(a)(4) (B) when she failed to provide the prospective purchaser with a copy of the purchase agreement, and Ind. Code § 25-1-11-5(a)(3) when she practiced real estate while her license was expired.

Nathan K. Lombard's license (SP30704440) was suspended by the Commission after reaching a settlement agreeing that his conduct violated Ind. Code § 25-1-11-5(a)(2)(A) and (B) in that he was convicted of making false statements on a passport application and aggravated identity theft.

Jessica Smithes' license (SP39901398) was revoked by the Commission after a hearing, finding that her conduct violated Ind. Code § 25-1-11-5(a)(2)(A) in that she pleaded guilty to check deception and obstruction of justice.

Noel Pottinger's license (SP30403292) was revoked by the Commission after reaching a settlement agreeing that his conduct violated Ind. Code § 25-1-11-5(a)(2)(A) in that he was convicted of criminal confinement.

Donald M. Johnson's license (PB20401113) was revoked by the Commission after a hearing, finding that he violated Ind. Code § 25-1-11-5(a)(10) in that he failed to comply with an order imposing sanctions.

Brenda Hatfield's license (PB21004740) was suspended by the Commission after reaching a settlement agreeing that her conduct violated Ind. Code § 25-1-11-5(a)(2)(A) in that she was convicted of twelve counts of forgery regarding real estate transactions.

License Discipline

Studley, Inc.'s license (RC51200013) was placed on probation by the Commission after reaching a settlement agreeing that its conduct violated Ind. Code § 25-34.1-3-2(a) in that it conducted real estate business in Indiana without the required licensure.

Joseph Fansler's license (IB20600799) was placed on probation by the Commission after reaching a settlement agreeing that his conduct violated Ind. Code § 25-1-11-5(a)(4)(B) in that he failed to attend real estate closings with his client.

Ken Gehris' license (PB20701874) was placed on probation by the Commission after reaching a settlement agreeing that his conduct violated Ind. Code § 25-1-11-5(a)(4)(B) in that he failed to attend real estate closings with his client.

Robert Gaines' license (PB51398337) was revoked by the Commission after reaching a settlement agreeing that her conduct violated Ind. Code § 25-1-11-5(a)(1)(B) in that he engaged in fraud or material deception in the course of her business when she participated in a mortgage fraud scheme.

Daniel Quintero was ordered to cease and desist the unlicensed practice of real estate in violation of Ind. Code art. 25-34.1.

Carin D. Henderson was ordered to cease and desist the unlicensed practice of real estate in violation of Ind. Code art. 25-34.1.