TITLE 876 INDIANA REAL ESTATE COMMISSION

Proposed Rule
LSA Document #14-61

DIGEST

Adds 876 IAC 5 to add definitions and fee schedule. Adds 876 IAC 6 to add definitions and requirements for real estate schools, establish the hours of classroom instruction for real estate broker prelicensing education, establish real estate broker licensing exam requirements, and add other related miscellaneous provisions. Adds 876 IAC 7 to establish requirements for sponsors of continuing education for real estate licensees, establish managing broker educational requirements, establish postlicensing educational requirements, establish the continuing education requirements for brokers including managing brokers, establish instructor continuing education requirements, and other related miscellaneous requirements. Adds 876 IAC 8 to establish broker supervision requirements, escrow account requirements, advertising requirements, provisions regarding listing agreements, offers to purchase, closing statements, attendance at closings, licensee interest in property, incompetent practice, fee appraisals conducted by licensed brokers, and other miscellaneous requirements concerning the practice of real estate. Adds 876 IAC 9 to provide the seller's disclosure form. Repeals 876 IAC 1-1-1, 876 IAC 1-1-3, 876 IAC 1-1-11, 876 IAC 1-1-17, 876 IAC 1-1-18, 876 IAC 1-1-19, 876 IAC 1-1-20, 876 IAC 1-1-21, 876 IAC 1-1-22, 876 IAC 1-1-23, 876 IAC 1-1-24, 876 IAC 1-1-25, 876 IAC 1-1-26, 876 IAC 1-1-30.1, 876 IAC 1-1-33, 876 IAC 1-1-36, 876 IAC 1-1-37, 876 IAC 1-1-39, 876 IAC 1-1-40, 876 IAC 1-1-41, 876 IAC 1-1-42, 876 IAC 1-1-43, 876 IAC 1-4, 876 IAC 2-1, 876 IAC 2-2-1, 876 IAC 2-2-3, 876 IAC 2-2-4, 876 IAC 2-2-6, 876 IAC 2-2-7, 876 IAC 2-2-8, 876 IAC 2-2-9, 876 IAC 2-2-10, 876 IAC 2-2-11, 876 IAC 2-2-12, 876 IAC 2-3, 876 IAC 2-4-1, 876 IAC 2-4-3, 876 IAC 2-4-4, 876 IAC 2-4-5, 876 IAC 2-4-6, 876 IAC 2-4-7, 876 IAC 2-5, 876 IAC 2-6-1, 876 IAC 2-6-2, 876 IAC 2-6-3, 876 IAC 2-6-5, 876 IAC 2-6-6, 876 IAC 2-6-7, 876 IAC 2-6-8, 876 IAC 2-6-9, 876 IAC 2-6-10, 876 IAC 2-7, 876 IAC 2-8, 876 IAC 2-9-1, 876 IAC 2-15.1, 876 IAC 2-16, 876 IAC 2-17, 876 IAC 2-18, and 876 IAC 4. Effective July 1, 2014.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

876 IAC 1-1-1; 876 IAC 1-1-3; 876 IAC 1-1-11; 876 IAC 1-1-17; 876 IAC 1-1-18; 876 IAC 1-1-19; 876 IAC 1-1-20; 876 IAC 1-1-21; 876 IAC 1-1-22; 876 IAC 1-1-23; 876 IAC 1-1-24; 876 IAC 1-1-25; 876 IAC 1-1-26; 876 IAC 1-1-30.1; 876 IAC 1-1-33; 876 IAC 1-1-36; 876 IAC 1-1-37; 876 IAC 1-1-39; 876 IAC 1-1-40; 876 IAC 1-1-41; 876 IAC 1-1-42; 876 IAC 1-1-43; 876 IAC 1-4; 876 IAC 2-1; 876 IAC 2-2-1; 876 IAC 2-2-3; 876 IAC 2-2-4; 876 IAC 2-2-6; 876 IAC 2-2-7; 876 IAC 2-2-8; 876 IAC 2-2-9; 876 IAC 2-2-10; 876 IAC 2-2-11; 876 IAC 2-2-12; 876 IAC 2-3; 876 IAC 2-4-1; 876 IAC 2-4-3; 876 IAC 2-4-4; 876 IAC 2-4-5; 876 IAC 2-4-6; 876 IAC 2-4-7; 876 IAC 2-5; 876 IAC 2-6-1; 876 IAC 2-6-2; 876 IAC 2-6-3; 876 IAC 2-6-5; 876 IAC 2-6-6; 876 IAC 2-6-7; 876 IAC 2-6-8; 876 IAC 2-6-9; 876 IAC 2-6-10; 876 IAC 2-7; 876 IAC 2-8; 876 IAC 2-9-1; 876 IAC 2-15.1; 876 IAC 2-16; 876 IAC 2-17; 876 IAC 2-18; 876 IAC 4; 876 IAC 5; 876 IAC 6; 876 IAC 7; 876 IAC 8; 876 IAC 9

SECTION 1. 876 IAC 5 IS ADDED TO READ AS FOLLOWS:

ARTICLE 5. GENERAL PROVISIONS

Rule 1. Authority; Purpose

876 IAC 5-1-1 Authority; purpose

Authority: IC 25-34.1-2-5
affected: IC 25-1-11; IC 25-34.1

Sec. 1. The fundamental and primary purpose of the commission is to safeguard the public interest through the following:
(1) Encouraging and requiring high standards of knowledge.
(2) Encouraging ethical practices.
(3) Disciplining of licensees who engage in dishonest, fraudulent, or criminal activities.
(4) Causing the discipline of persons who violate IC 25-1-11, IC 25-34.1, or this title.

(Indiana Real Estate Commission; 876 IAC 5-1-1)

Rule 2. Definitions

876 IAC 5-2-1 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. 1. The definitions in this rule apply throughout this title.

(Indiana Real Estate Commission; 876 IAC 5-2-1)

876 IAC 5-2-2 "Branch manager" defined

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. 2. "Branch manager" means an individual broker who manages a branch office.

(Indiana Real Estate Commission; 876 IAC 5-2-2)

876 IAC 5-2-3 "Branch office" defined

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. "Branch office" means a broker company's office other than its principal place of business.

(Indiana Real Estate Commission; 876 IAC 5-2-3)

876 IAC 5-2-4 "Broker" defined

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. 4. "Broker" means a person who holds a valid broker license issued by the commission to practice real estate as described in IC 25-34.1-3-2.

(Indiana Real Estate Commission; 876 IAC 5-2-4)

876 IAC 5-2-5 "Broker company" defined

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. 5. "Broker company" means any business licensed as a broker to practice real estate as described in IC 25-34.1-3-2 whether as a sole proprietorship, partnership, limited liability company, or corporation. For sole proprietorships, the sole proprietor's individual broker license is the business license.

(Indiana Real Estate Commission; 876 IAC 5-2-5)

876 IAC 5-2-6 "Commission" defined

Authority: IC 25-34.1-2-5; IC 25-34.1-2-5.1
Affected: IC 25-34.1-2-1

Sec. 6. "Commission", unless the context clearly requires otherwise, means the Indiana real estate commission established by IC 25-34.1-2-1.

(Indiana Real Estate Commission; 876 IAC 5-2-6)

876 IAC 5-2-7 "Course approval" defined

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

(Indiana Real Estate Commission; 876 IAC 5-2-7)

876 IAC 5-2-8 "License" defined

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. 8. "License" means a right to perform, for compensation, any of the acts provided in IC 25-34.1-3-2.

(Indiana Real Estate Commission; 876 IAC 5-2-8)

876 IAC 5-2-9 "Licensee" defined

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. 9. "Licensee" means a person who holds a valid broker license issued by the commission.

(Indiana Real Estate Commission; 876 IAC 5-2-9)

876 IAC 5-2-10 "Licensing agency" defined

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. 10. "Licensing agency" means the Indiana professional licensing agency.

(Indiana Real Estate Commission; 876 IAC 5-2-10)

876 IAC 5-2-11 "Listing broker" defined

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. 11. "Listing broker" means a broker company who has a written contract with an owner, allowing the broker company to:
(1) sell;
(2) buy;
(3) trade;
(4) exchange;
(5) option;
(6) lease;
(7) rent;
(8) manage;
(9) list; or
(10) appraise;
real estate.

(Indiana Real Estate Commission; 876 IAC 5-2-11)

876 IAC 5-2-12 "Managing broker" defined

Authority: IC 25-34.1-2-5; IC 25-34.1-2-5.1
Affected: IC 25-34.1-1-2

Sec. 12. "Managing broker" has the meaning set forth in IC 25-34.1-1-2.

(Indiana Real Estate Commission; 876 IAC 5-2-12)

876 IAC 5-2-13 "Owner/seller" defined

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. 13. "Owner/seller" means that person or persons of record who has an interest in the property or their duly authorized representative.

(Indiana Real Estate Commission; 876 IAC 5-2-13)

876 IAC 5-2-14 "Person" defined

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. 14. "Person" means:
(1) an individual;
(2) a partnership;
(3) a limited liability company; or
(4) a corporation.

(Indiana Real Estate Commission; 876 IAC 5-2-14)

876 IAC 5-2-15 "Real estate" defined

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. 15. "Real estate" means any right, title, or interest in real property.

(Indiana Real Estate Commission; 876 IAC 5-2-15)

876 IAC 5-2-16 "Referral" defined

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. 16. "Referral" means the act of recommending or referring a sales lead to a licensee.

(Indiana Real Estate Commission; 876 IAC 5-2-16)

876 IAC 5-2-17 "Referral service" defined

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. 17. "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; 876 IAC 5-2-17)

876 IAC 5-2-18 "Selling broker" defined

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. 18. "Selling broker" means a broker company that:
(1) is acting on behalf of the buyer or tenant; and
(2) provides an accepted offer to purchase to the seller or accepted lease agreement to the landlord.

(Indiana Real Estate Commission; 876 IAC 5-2-18)

Rule 3. Fee Schedule

876 IAC 5-3-1 Fee schedule

Authority: IC 25-1-8-2; IC 25-34.1-2-5
Affected: IC 25-34.1-8-7.5

Sec. 1. (a) The fee schedule is as follows:
(1) Application for real estate broker license: $50
(2) Renewal of real estate broker license: $50
(3) Reassignment of license: $10
(4) Activation of inactive license: $10
(5) Application for continuing education course sponsor: $50
(6) Renewal of continuing education course sponsor: $50
(7) Application for continuing education course instructor permit: $10
(8) Renewal of continuing education course instructor permit: $10
(9) Application for real estate (prelicensing) school permit: $50
(10) Renewal of real estate (prelicensing) school permit: $50
(11) Application for prelicensing course instructor permit: $10
(12) Renewal of prelicensing course instructor permit: $10

(b) In addition to the fees required under subsection (a), the commission shall charge and collect ten dollars ($10) for the investigative fund under IC 25-34.1-8-7.5 for the issuance and renewal of a real estate broker license.

(c) All fees charged and collected under this rule shall be nonrefundable and nontransferable.

(Indiana Real Estate Commission; 876 IAC 5-3-1)

SECTION 2. 876 IAC 6 IS ADDED TO READ AS FOLLOWS:

ARTICLE 6. REAL ESTATE SCHOOLS; PRELICENSING EDUCATION; EXAMINATION

Rule 1. Definitions; General Provisions

876 IAC 6-1-1 Scope

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

Sec. 1. (a) This rule and 876 IAC 6-2 through 876 IAC 6-5 establish requirements for the education of applicants for licensure as a broker and establish requirements for broker courses under IC 25-34.1-5.

(b) The definitions in this rule apply throughout this article.

(Indiana Real Estate Commission; 876 IAC 6-1-1)

876 IAC 6-1-2 "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 conducted by a real estate school.

(Indiana Real Estate Commission; 876 IAC 6-1-2)

876 IAC 6-1-3 "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 or other entity that has, or is seeking to have, broker course approval from the commission under IC 25-34.1-5 and this article.

(Indiana Real Estate Commission; 876 IAC 6-1-3)

876 IAC 6-1-4 "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 6-1-4)

876 IAC 6-1-5 "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 the following:
(1) Program development.
(2) Scheduling of classes.
(3) Advertising.
(4) Maintaining facilities and equipment.
(5) Record keeping.
(6) General supervision of the instructional program.

(Indiana Real Estate Commission; 876 IAC 6-1-5)

876 IAC 6-1-6 Violations of statute and rules

Authority: IC 25-34.1-2-5
Affected: IC 4-21.5-3; IC 4-21.5-4; IC 25-34.1-5-7

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 6-2-5, the renewal shall be denied.

(c) Under subsections (a) and (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 6-1-6)

876 IAC 6-1-7 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 6-1-7)

876 IAC 6-1-8 Bonding

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

Sec. 8. A real estate school shall submit a bond meeting the requirements of IC 25-34.1-5.

(Indiana Real Estate Commission; 876 IAC 6-1-8)

876 IAC 6-1-9 Payments of bond proceeds

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

Sec. 9. (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 6-1-9)

876 IAC 6-1-10 Application for course approval; content

Authority: IC 25-34.1-2-5
Affected: IC 25-34.1-5-2; IC 25-34.1-5-15

Sec. 10. (a) Any real estate school seeking approval of a broker 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.

(d) The course approval under IC 25-34.1-5 and this article, and the real estate school permit under IC 25-34.1-5-15, shall be considered one and the same.

(Indiana Real Estate Commission; 876 IAC 6-1-10)

Rule 2. Real Estate Schools; General Requirements

876 IAC 6-2-1 School directors

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

Sec. 1. (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 has:
(1) had his or her real estate license revoked or suspended by any jurisdiction;
(2) 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) been convicted of a crime that 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) falsely certified hours of attendance or grades for any student;
(5) violated 876 IAC 6-5-1 concerning recruiting during the educational process; or
(6) unless authorized by law, refused to appear or testify, or both, 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) A person may serve as a school director without meeting the requirements of subsection (c) only where the commission determines that the person possesses substantially similar qualifications.

(e) School directors employed before January 1, 1989, are exempt from the requirements of subsection (c).

(Indiana Real Estate Commission; 876 IAC 6-2-1)

876 IAC 6-2-2 Unavailability of school director

Authority: IC 25-34.1-2-5
Affected: IC 25-34.1-5-8

Sec. 2. 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 8 of this rule).

(Indiana Real Estate Commission; 876 IAC 6-2-2)

876 IAC 6-2-3 Student fees; cancellation of course sessions

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

Sec. 3. (a) 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 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.

(b) Each approved course shall establish a refund policy that 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.

(c) 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 6-2-3)

876 IAC 6-2-4 Course records

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

Sec. 4. 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 6-2-4)

876 IAC 6-2-5 Course renewal

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

Sec. 5. The approval of courses and the real estate school permit expire on December 31 of each calendar year. To obtain renewal of course approval, the school must submit the following to the commission:
(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).
(3) An annual report.
(4) The fee established by 876 IAC 5-3-1.

(Indiana Real Estate Commission; 876 IAC 6-2-5)

876 IAC 6-2-6 Annual report

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

Sec. 6. (a) The annual report shall include the following:
(1) A written list of the current textbooks and other resource and study materials utilized in the course.
(2) A list of all approved course locations.
(3) A list of all instructors teaching the course.

(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 6-2-6)

876 IAC 6-2-7 Review and investigation of real estate schools

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

Sec. 7. (a) In addition to its review or investigation, or both, of a school for annual renewal of its course or courses approval, the commission or its designee may, at any time, review or investigate, or both, 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 6-2-7)

876 IAC 6-2-8 Significant changes in course

Authority: IC 25-34.1-2-5
Affected: IC 25-34.1-5-8

Sec. 8. (a) The following shall be deemed significant changes in broker courses under IC 25-34.1-5-8:
(1) Any change in the ownership of a real estate school.
(2) Any change in the location, including classroom location, of an approved real estate course.
(3) A new school director.
(4) Any new instructor.
(5) Any change in the curriculum or delivery method.

(b) Significant proposed changes shall be submitted in writing for commission approval and shall include such information that 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 6-2-8)

876 IAC 6-2-9 Facilities

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

Sec. 9. (a) Real estate schools shall use classroom facilities and shall be conducive to classroom environment.

(b) There shall be at all times adequate:
(1) space;
(2) seating;
(3) equipment; and

(4) instructional material;
to accommodate the number of students enrolled.

(c) The premises, equipment, and facilities of the school shall comply with all:
(1) local;
(2) city;
(3) county;
(4) state; and
(5) federal;
regulations, such as fire, building, sanitation codes, and accessibility for the disabled.

(d) 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.

(Indiana Real Estate Commission; 876 IAC 6-2-9)

Rule 3. Instructors

876 IAC 6-3-1 Instructors; compliance with rule required

Authority: IC 25-34.1-2-5; IC 25-34.1-5-13
Affected: IC 25-34.1-5

Sec. 1. (a) Instructors who teach courses given by real estate schools must hold an instructor permit as required by IC 25-34.1-5-13 and meet the requirements of this rule.

(b) Guest speakers shall be allowed in a broker course. However, the instructor shall be present at all times the guest speaker is presenting and shall supervise the guest speaker. A guest speaker shall not be required to hold an instructor permit.

(Indiana Real Estate Commission; 876 IAC 6-3-1)

876 IAC 6-3-2 Instructors; examination

Authority: IC 25-34.1-2-5; IC 25-34.1-5-13
Affected: IC 25-34.1-5

Sec. 2. In addition to the requirements of IC 25-34.1-5-13, an individual shall have passed an instructor assessment program examination as specified by the commission with a score of seventy-five percent (75%) or higher in order to qualify for an instructor permit.

(Indiana Real Estate Commission; 876 IAC 6-3-2)

876 IAC 6-3-3 Instructors; prohibitions

Authority: IC 25-34.1-2-5; IC 25-34.1-5-13
Affected: IC 25-34.1-5

Sec. 3. A real estate school is prohibited from hiring or retaining in its employ, an instructor who has:
(1) had his or her real estate license revoked or suspended by any jurisdiction;
(2) 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) been convicted of a crime that 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) falsely certified hours of attendance or grades for any student;
(5) violated 876 IAC 6-5-1 concerning recruiting during the educational process; or

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

(Indiana Real Estate Commission; 876 IAC 6-3-3)

Rule 4. Conduct of Courses

876 IAC 6-4-1 Real estate broker courses; hours of classroom instruction

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

Sec. 1. (a) A real estate broker course shall consist of at least ninety (90) hours of classroom instruction with required topics and hours spent on those topics as provided for in this section.

(b) An approved real estate broker course shall include instruction in real estate basics and law and consist of the following:
(1) One (1) hour in introduction to real estate law and course review.
(2) Three (3) hours in basic real estate concepts to include the following:
(A) Types of real property.
(B) Real estate market.
(C) Real and personal property.
(D) Surface, air, and subsurface rights.
(E) Concepts of homeownership.
(3) Four (4) hours in property ownership and interests to include the following:
(A) Bundle of rights.
(B) Estates.
(C) Forms of ownership.
(D) Encumbrances, liens, and other interests.
(E) Governmental powers.
(4) Four (4) hours in transfer of title to real property and title records to include the following:
(A) Title.
(B) Private and public ownership.
(C) Transfer of title.
(D) Voluntary alienation.
(E) Involuntary alienation.
(F) Deeds.
(G) Conveyance of decedent's property.
(H) Title records, searches, and title insurance.
(5) Two (2) hours in land use controls and property development to include the following:
(A) Public restrictions.
(B) Comprehensive plans and zoning.
(C) Building codes.
(D) Environmental issues.
(E) Private restrictions.
(F) Subdivision and development.
(6) Two (2) hours in real estate brokerage to include the following:
(A) Brokerage industry.
(B) Managing broker and affiliation of licensees.
(C) Independent contractor status.
(D) Compensation.
(E) Antitrust laws.
(F) Do not call registry.
(7) Two (2) hours in law of agency to include the following:
(A) History of law of agency.
(B) Definitions.
(C) Creation of agency relationship.
(D) Compensation.
(E) Fiduciary responsibilities.

(F) Termination of agency relationship.
(G) Single and limited (dual) agency.
(H) Disclosures.
(I) Minimum requirements.

(8) Twelve (12) hours in real estate contracts to include the following:
(A) Essential elements of contract.
(B) Consent.
(C) Statute of frauds.
(D) Discharge.
(E) Assignment.
(F) Interpretation of contracts.
(G) Remedies for breach of contract.
(H) Listing contracts.
(I) Multiple listing services.
(J) Installment land contracts.
(K) Options.
(L) Property management.

(9) Two (2) hours in landlord and tenant to include the following:
(A) Definitions.
(B) Nonfreehold estates.
(C) Types of leases.
(D) Provisions of leases.
(E) Statutory obligations.
(F) Enforcement of obligations.
(G) Remedies for breach of lease.
(H) Federal regulation.

(10) One (1) hour in legal descriptions to include the following:
(A) Definitions.
(B) Metes and bounds.
(C) Rectangular (government) survey system.
(D) Lot-and-block (recorded plat) system.
(E) Land measurement.

(11) Six (6) hours in closing real estate transactions to include the following:
(A) Definitions.
(B) Parties to a closing.
(C) Inspections and surveys.
(D) Title requirements.
(E) Insurance.
(F) Necessary documents.
(G) Proration calculations.
(H) Closing statements.
(I) Funds at closing and financing considerations.
(J) Practice completion of closing statements.

(12) One (1) hour in federal income taxation of real estate to include the following:
(A) Definitions.
(B) Income tax deductions.
(C) Mortgage interest credit.
(D) Sale of personal residence.

(13) Ten (10) hours in Indiana real estate license law and real estate commission rules to include the following:
(A) Definitions.
(B) Indiana real estate commission.
(C) Transactions requiring real estate license.
(D) License requirements.
(E) Inactive licenses.
(F) Managing broker.
(G) Recovery fund.
(H) Agency relationships.
(I) Professional standards and incompetent practice.
(J) Sanctions for violations.
(K) Evidence of licensure.

(L) Supervision of office.
(M) License association transfer.
(N) Commission splitting.
(O) Unlicensed associates.
(P) Listing agreements.
(Q) Offers to purchase.
(R) Closing statements.
(S) Escrow or trust accounts.
(T) Reporting of convictions.
(U) Licensee interest in property.
(V) Referral of real estate business.
(W) Fee appraisals by brokers.
(X) Continuing education.

(14) One (1) hour in fair housing law to include the following:
(A) Fair Housing Act of 1968.
(B) Discrimination in sale or rental of property.
(C) Exemptions.
(D) Enforcement and penalties.

(15) One (1) hour in property insurance and home warranties to include the following:
(A) Definitions.
(B) Concepts.
(C) Standardized forms.
(D) Standard contents.
(E) Home warranty.

(16) Three (3) hours in basic house construction and architecture to include the following:
(A) Types of construction.
(B) Architectural style.
(C) Trends in building.
(D) HUD standards.
(E) Energy issues and trends.

(17) One (1) hour in securities law aspects of real estate transactions to include the following:
(A) Definitions.
(B) Securities in real estate.
(C) Securities Act of 1933.
(D) Securities Exchange Act of 1934.

(18) Three (3) hours in inspections to include:
(A) Property inspection by buyer.
(B) Termite inspection.
(C) Common inspection issues.
(D) Environmental issues.

(c) An approved real estate broker course shall include instruction in real estate brokerage operation and consist of the following:

(1) Three (3) hours in real estate brokerage to include the following:
(A) Definitions.
(B) Managing broker and affiliation of licensees.
(C) Compensation.
(D) Procuring cause.
(E) Independent contractor status.
(F) Minimum level of service.
(G) Antitrust laws.
(H) Real estate management.

(2) Two (2) hours in earnest money and trust accounts to include the following:
(A) Definitions.
(B) Trust account requirements.
(C) Earnest money deposits.
(D) Tenant security deposits.
(E) Rents.
(F) Down payments.
(G) Final settlement.

(H) Other non-trust funds.
(I) Funds from transactions.
(J) Disbursement.
(K) Record keeping requirements.
(3) Two (2) hours in property management to include the following:
(A) Sources of business.
(B) Agreement.
(C) Responsibilities.
(D) Rental rates.
(E) Marketing.
(F) Selection of tenants.
(G) Maintenance.
(H) Federal laws regarding property management.
(I) Risk management.
(J) Environmental issues.
(K) Compensation.

(d) An approved real estate broker course shall include instruction in real estate finance and consist of the following:
(1) One (1) hour in introduction to real estate finance to include the following:
(A) Definitions.
(B) Theories of ownership.
(C) Elements of mortgage.
(D) Mortgage vs. deed of trust.
(E) Other financing instruments.
(F) Real estate finance history.
(G) Financial markets.
(H) Federal reserve system.
(2) One (1) hour in sources of mortgage funds to include the following:
(A) Definitions.
(B) Direct sources or lenders.
(C) Indirect sources or investors.
(D) Loan programs.
(3) One (1) hour in the secondary mortgage market to include the following:
(A) Definitions.
(B) Secondary mortgage market.
(C) Private mortgage insurance.
(4) Four (4) hours in financing instruments and loan products to include the following:
(A) Definitions.
(B) Financing options.
(C) Other financing instruments.
(D) Note provisions.
(E) Rights of borrowers.
(F) Rights of lenders.
(G) Purchase.
(5) Three (3) hours in real estate loan underwriting to include the following:
(A) Definitions.
(B) Borrower analysis.
(C) Property analysis.
(D) Loan analysis.
(E) Income property underwriting.
(6) One (1) hour in consumer legislation affecting real estate financing to include the following:
(A) Definitions.
(B) Truth in lending.
(C) Equal credit opportunity act.
(D) Real Estate Settlement Procedures Act (RESPA).
(E) Wall Street Reform and Consumer Protection Act (Dodd-Frank).
(7) Two (2) hours in property tax to include the following:
(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.

(8) Two (2) hours in real property valuation/Uniform Standards of Professional Appraisal Practice (USPAP) to include the following:
(A) Indiana licensing of fee appraisers.
(B) Purpose of appraisal.
(C) Approaches.
(D) Factors influencing value.
(E) Depreciation.
(F) Appraisal procedure.
(G) Competitive market analysis.
(H) Introduction to USPAP.

(9) Three (3) hours in current and geographic real estate topics, which may include the following:
(A) Current trends in real estate industry.
(B) Legislative issues affecting real estate industry.
(C) Commission news and findings.

The topics may not include MLS use and rules, brokerage or company internal rules or policy, or industry association rules or policy.

(e) The examinations required under section 4 of this rule may count toward up to six (6) hours of the ninety (90) hours required by subsection (a).

(Indiana Real Estate Commission; 876 IAC 6-4-1)

876 IAC 6-4-2 Breaks

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

Sec. 2. There shall be at least a ten (10) minute break after every two (2) hours of instruction.

(Indiana Real Estate Commission; 876 IAC 6-4-2)

876 IAC 6-4-3 Attendance

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

Sec. 3. (a) A student in a broker course session who:
(1) is not in attendance for at least eighty percent (80%) of the required hours; and
(2) fails to attend another class that covers the same material as the missed class, and is sponsored by the same school that offered the missed class;
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.

(Indiana Real Estate Commission; 876 IAC 6-4-3)

876 IAC 6-4-4 Examinations

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

Sec. 4. (a) A broker 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 broker course.

(b) 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.

(c) 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.

(d) 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.

(e) 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.

(f) Any examination and the answers for each student 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.

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

(h) Administration of makeup examinations shall be at the discretion of the course instructor. If makeup 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 makeup examination after other students in the class, a different examination shall be used; however, the examination must cover the same subject content.

(i) Each real estate school shall establish a written policy prohibiting cheating in its approved courses.

(Indiana Real Estate Commission; 876 IAC 6-4-4)

876 IAC 6-4-5 Course evaluations

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

Sec. 5. (a) Schools are required to survey their students at the end of each course session or after the students have taken the state licensing examination, or both.

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

(c) Evaluations must be made available for inspection by the commission upon request.

(Indiana Real Estate Commission; 876 IAC 6-4-5)

Rule 5. Real Estate Schools; Miscellaneous Prohibitions

876 IAC 6-5-1 Recruiting; prohibitions

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

Sec. 1. (a) No licensee, representative of a licensee, school, 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 that 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 order violators to stop recruiting and report the activity to the commission for possible action against the violator.

(Indiana Real Estate Commission; 876 IAC 6-5-1)

876 IAC 6-5-2 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.".

(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 6-5-2)

876 IAC 6-5-3 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 e-mail address or list of names or e-mail addresses of any potential licensee or licensees or student or students 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 6-5-3)

876 IAC 6-5-4 Advertising; requirements

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

Sec. 4. (a) Schools shall not engage 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 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 6-5-4)

876 IAC 6-5-5 Real estate schools; prohibitions

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

Sec. 5. 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 that 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 6-5-5)

876 IAC 6-5-6 Real estate schools; performance standard

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

Sec. 6. (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 6-5-6)

Rule 6. Licensing Examination

876 IAC 6-6-1 Requirements for admission to examination

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-3-4.1

Sec. 1. (a) 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 876 IAC 6-1 through 876 IAC 6-5.

(b) An applicant who does not pass the applicable examination within one (1) year of completion of the broker course must again comply with the educational requirements established by IC 25-34.1-3-4.1(a)(3) and 876 IAC 6-1 through 876 IAC 6-5 before being entitled to any further taking of the examination.

(Indiana Real Estate Commission; 876 IAC 6-6-1)

876 IAC 6-6-2 Application for examination; fee

Authority: IC 25-1-8-2; IC 25-34.1-2-5
Affected: IC 25-34.1-3-4.1

Sec. 2. Applicants for licensure as a broker 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 6-6-2)

876 IAC 6-6-3 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 examination shall be a standardized examination for the testing of real estate brokers. The examination required of all applicants for licensure 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 law section of the broker examination.

(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(b) of this rule.

(Indiana Real Estate Commission; 876 IAC 6-6-3)

Rule 7. Transition Requirements for Certain Inactive Brokers to Activate and Certain Referral Status Brokers to be Removed from Referral Status

876 IAC 6-7-1 License transition; scope of rule

Authority: IC 25-34.1-2-5

Affected: IC 25-34.1-3-10; IC 25-34.1-3-10.5

Sec. 1. (a) As used in this section, "referral status" has the meaning set forth in IC 25-34.1-3-10.5(a).

(b) As used in this section, "salesperson" has the meaning set forth in IC 25-34.1-3-10.5(b).

(c) This rule establishes the educational and examination requirements for brokers who held:
(1) an inactive salesperson license on June 30, 2014, that became an inactive broker license on July 1, 2014, under IC 25-34.1-3-10(e); or
(2) a salesperson license on referral status on June 30, 2014, that became a broker license on referral status on July 1, 2014, under IC 25-34.1-3-10.5(d);
to activate the inactive license or remove the license from referral status.

(d) The provisions of this rule apply to brokers and broker course providers as applicable.

(Indiana Real Estate Commission; 876 IAC 6-7-1)

876 IAC 6-7-2 Educational requirements

Authority: IC 25-34.1-2-5
Affected: IC 25-34.1-4.5

Sec. 2. (a) This section and sections 3 and 4 of this rule establish the educational requirements for the broker described in section 1(c) of this rule.

(b) The educational course shall be twenty-four (24) hours as provided for in this rule.

(Indiana Real Estate Commission; 876 IAC 6-7-2)

876 IAC 6-7-3 Applicability of broker course provisions

Authority: IC 25-34.1-2-5
Affected: IC 25-34.1-5-4; IC 25-34.1-5-8

Sec. 3. (a) The broker course requirements stated in 876 IAC 6-1 through 876 IAC 6-5 shall apply to the twenty-four (24) hour educational course under this rule except for the following, which shall not apply:
(1) 876 IAC 6-4-1.
(2) 876 IAC 6-4-4.
(3) 876 IAC 6-5-6.

(b) 876 IAC 6-4-3 shall apply except that the attendance requirement in 876 IAC 6-4-3(a) shall be one hundred percent (100%) for the twenty-four (24) hour educational course.

(c) The limitation in IC 25-34.1-5-4(a)(2) to thirty-five (35) students per instructor per classroom does not apply to the twenty-four (24) hour educational course under this rule.

(d) Except for real estate schools that are applying after the effective date of this rule for initial approval, approval of broker courses under this rule shall be considered significant changes under IC 25-34.1-5-8 and 876 IAC 6-2-8.

(Indiana Real Estate Commission; 876 IAC 6-7-3)

876 IAC 6-7-4 Education course; subject matter and hour requirements

Authority: IC 25-34.1-2-5
Affected: IC 25-34.1-4.5

Sec. 4. The subject matter and hour requirements for the twenty-four (24) hour educational course under this rule are as follows:

Subject Area	Number of Hours
BROKERAGE OPERATIONS	
Broker Business Operations/Relationships	2
Agency Relationships	1
Law of Contract	2
Listing/Purchase Agreements/Other Forms	2
Closing the Transaction/Procedures/Issues	2
Trust Account Management	1
FINANCING AND APPRAISING	
Broker Price Opinion (BPO)/Uniform Standards of Professional Appraisal Practice	2
Financing and Lending Markets	1
Mortgage Fraud	1
Loan Types: Mortgage Markets	1
Credit Scoring	1
GOVERNMENT REGULATIONS	
Consumer Legislation	1
Land Use Controls/Environmental Issues	1
INDIANA LICENSE LAW AND PROFESSIONAL STANDARDS	
Indiana Real Estate License Law	4
Ethics in Real Estate	2

(Indiana Real Estate Commission; 876 IAC 6-7-4)

876 IAC 6-7-5 Examination

Authority: IC 25-34.1-2-5
Affected: IC 25-34.1-4.5

Sec. 5. (a) 876 IAC 6-6 shall not apply to examinations under this rule.

(b) The examination under this rule shall be an examination for the testing of real estate brokers.

(c) The examination will be administered by the commission's duly appointed agent.

(d) Prior to sitting for the examination under this rule, a broker must have completed the twenty-four (24) hour course under this rule.

(e) An applicant shall be deemed to have passed the examination upon attaining a score of at least seventy percent (70%).

(f) An applicant who does not pass the examination under this rule in three (3) attempts must again complete the course under this rule.

(Indiana Real Estate Commission; 876 IAC 6-7-5)

876 IAC 6-7-6 Application

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

Sec. 6. To activate an inactive license or remove a license from referral status, the broker must:
(1) file an application establishing that the broker meets the requirements of this rule and IC 25-34.1-3-4.1; and

(2) pay the activation of an inactive license fee under 876 IAC 5-3-1.

(Indiana Real Estate Commission; 876 IAC 6-7-6)

876 IAC 6-7-7 Miscellaneous provisions

Authority: IC 25-34.1-2-5
Affected: IC 25-34.1-4.5

Sec. 7. (a) An applicant under this rule must have completed either the:
(1) twenty-four (24) hour educational course; or
(2) broker transitional course under 876 IAC 2-15.1 (before its repeal);
no later than one (1) year before the date of application.

(b) At the applicant's option, the applicant may take the ninety (90) hour broker course under this article instead of the twenty-four (24) hour educational course under this rule. The one (1) year limitation in subsection (a) shall also apply under this subsection.

(Indiana Real Estate Commission; 876 IAC 6-7-7)

SECTION 3. 876 IAC 7 IS ADDED TO READ AS FOLLOWS:

ARTICLE 7. MANAGING BROKER EDUCATION; POSTLICENSURE EDUCATION; CONTINUING EDUCATION; INSTRUCTOR EDUCATION

Rule 1. Scope of Article

876 IAC 7-1-1 Scope of article

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

Sec. 1. This article establishes educational requirements for individuals who hold broker or instructor licenses. It addresses postlicensing education, managing broker education, and continuing education for brokers, managing brokers, and instructors.

(Indiana Real Estate Commission; 876 IAC 7-1-1)

Rule 2. Sponsors of Courses; Approval

876 IAC 7-2-1 Scope of rule

Authority: IC 25-34.1-9-21
Affected: IC 25-1-4; IC 25-34.1-5

Sec. 1. (a) This rule establishes requirements for the approval of sponsors of courses for postlicensing education, managing broker education, and continuing education for brokers, managing brokers, and instructors.

(b) All education described in subsection (a) is generically continuing education and therefore subject to the requirements applicable to continuing education found in IC 25-1-4, IC 25-34.1, this title, and any other applicable statute or rule except to the extent that the context requires otherwise.

(Indiana Real Estate Commission; 876 IAC 7-2-1)

876 IAC 7-2-2 "Continuing education year" defined

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

Sec. 2. As used in this article, "continuing education year" means the one (1) year period between July 1 of one (1) calendar year and June 30 of the following calendar year.

(Indiana Real Estate Commission; 876 IAC 7-2-2)

876 IAC 7-2-3 "Course" defined

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

Sec. 3. As used in this article, "course" refers to approved postlicensing education, managing broker education, or continuing education provided by a sponsor.

(Indiana Real Estate Commission; 876 IAC 7-2-3)

876 IAC 7-2-4 "Sponsor " defined

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

Sec. 4. As used in this article, "sponsor" means any person or other entity who has been approved by the commission to provide approved courses to licensees or instructors.

(Indiana Real Estate Commission; 876 IAC 7-2-4)

876 IAC 7-2-5 Sponsors; approval

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

Sec. 5. Credit for fulfillment of managing broker education, postlicensing education, and continuing education will be granted only to licensees who have successfully completed courses offered by sponsors approved by the commission.

(Indiana Real Estate Commission; 876 IAC 7-2-5)

876 IAC 7-2-6 Application for sponsor of continuing education courses

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

Sec. 6. (a) Applicants for sponsor approval who do not conduct broker prelicensing courses under IC 25-34.1-5 shall submit the following information:

(1) The:
- **(A) name;**
- **(B) address;**
- **(C) telephone number;**
- **(D) facsimile (FAX) number (if any); and**
- **(E) e-mail address;**

of the sponsor.

(2) The 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 course sponsorship approval shall submit the following:
(1) A timed course content outline describing the subjects to be offered during the approval period to include learning objectives for the course.
(2) The name and permit number of each course instructor.
(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) The name, address, and signature of the sponsor.
(B) The name, address, and license number of the attendee.
(C) The title of the course.
(D) The course location.
(E) The date of the course.
(F) The number of credit hours of continuing education, postlicensing education, and managing broker completed.
(4) A statement that:
(A) the sponsor shall conduct an instructor and course evaluation; and
(B) they shall be provided to the commission upon request.
(5) The application fee established in 876 IAC 5-3-1.

(Indiana Real Estate Commission; 876 IAC 7-2-6)

876 IAC 7-2-7 Significant changes

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

Sec. 7. (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 of a previously approved course or request for approval of a new course 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. All requests for approval shall be submitted to the commission in electronic format.

(b) Significant changes shall include the following:
(1) Change in ownership of the sponsor.
(2) A new school director.
(3) Any change in course outline.
(4) Any new course to be added.

(c) Once a continuing education course outline has been approved through the continuing education sponsor, the course outline is approved 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 (c), the content of the course shall remain current with changes in law and industry trends.

(Indiana Real Estate Commission; 876 IAC 7-2-7)

876 IAC 7-2-8 Course availability

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

Sec. 8. All courses shall be available to all licensees.

(Indiana Real Estate Commission; 876 IAC 7-2-8)

876 IAC 7-2-9 Sponsor renewal

Authority: IC 25-34.1-9-21
Affected: IC 25-34.1-9-14

Sec. 9. Under IC 25-34.1-9-14(b), a sponsor of courses shall submit by December 1 of each even-numbered year the following to obtain approval for renewal:
(1) A letter requesting such renewal.
(2) The renewal fee provided for in 876 IAC 5-3-1.

(Indiana Real Estate Commission; 876 IAC 7-2-9)

876 IAC 7-2-10 Facilities

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

Sec. 10. (a) Courses shall be taught in a facility with adequate:
(1) space;
(2) seating;
(3) equipment; and
(4) instructional material;
to accommodate the number of students enrolled.

(b) The premises, equipment, and facilities shall comply with all:
(1) local;
(2) city;
(3) county;
(4) state; and
(5) federal;
regulations, such as fire, building, and sanitation codes and accessibility for the disabled.

(c) Any facility previously approved for broker prelicensing courses under IC 25-34.1-5 shall be deemed satisfactory.

(Indiana Real Estate Commission; 876 IAC 7-2-10)

876 IAC 7-2-11 School directors

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

Sec. 11. (a) Each sponsor, upon application for sponsor approval, shall designate one (1) individual as its school director.

(b) A 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 that 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.

(Indiana Real Estate Commission; 876 IAC 7-2-11)

876 IAC 7-2-12 Instructors; compliance with rule required

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

Sec. 12. (a) All courses given by a sponsor must be taught by instructors who hold an instructor permit as required by IC 25-34.1-9-22 and meet the requirements of this rule.

(b) Guest speakers shall be allowed in a continuing education course. However, the instructor shall be present at all times the guest speaker is presenting and shall supervise the guest speaker. A guest speaker shall not be required to hold an instructor permit.

(Indiana Real Estate Commission; 876 IAC 7-2-12)

876 IAC 7-2-13 Sponsor approval date

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

Sec. 13. Sponsors of 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 7-2-13)

876 IAC 7-2-14 Course outline

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

Sec. 14. A course outline shall be prepared and distributed to the attendees. The outline shall state the number of hours offered as approved by the commission.

(Indiana Real Estate Commission; 876 IAC 7-2-14)

876 IAC 7-2-15 Record retention

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

Sec. 15. (a) The sponsor shall retain a record of attendance for all courses showing date, place, and attendee's name.

(b) The sponsor shall maintain for five (5) years the course records required by subsection (a) and section 6(b)(1) through 6(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 6(b)(1) through 6(b)(3) of this rule, and section 14 of this rule.

(Indiana Real Estate Commission; 876 IAC 7-2-15)

Rule 3. Managing Broker Education and Designation

876 IAC 7-3-1 Scope of rule

Authority: IC 25-34.1-2-5; IC 25-34.1-4-0.5
Affected: IC 25-34.1-3-4.1

Sec. 1. This rule establishes requirements for managing broker courses required under IC 25-34.1-4-0.5.

(Indiana Real Estate Commission; 876 IAC 7-3-1)

876 IAC 7-3-2 Managing broker designation

Authority: IC 25-34.1-2-5; IC 25-34.1-4-0.5
Affected: IC 25-34.1-3-4.1

Sec. 2. To become a managing broker, an individual must:
(1) hold a broker license for at least two (2) years preceding the date of application;
(2) take and pass twenty-four (24) hours of broker management courses as outlined in section 2 of this rule; and
(3) submit to the commission proof of the courses required by subdivision (2).

(Indiana Real Estate Commission; 876 IAC 7-3-2)

876 IAC 7-3-3 Managing broker courses

Authority: IC 25-34.1-2-5; IC 25-34.1-4-0.5
Affected: IC 25-34.1-3-4.1

Sec. 3. To comply with the requirements of section 2 of this rule to become a managing broker, a broker shall complete a total of twenty-four (24) hours of broker management courses consisting of the following instruction:
(1) Eight (8) hours of instruction in introduction to brokerage management that includes the following:
(A) One-half (.5) hour in brokerage business that includes the primary function of the firm; and
(i) Residential, commercial, leasing, investment.
(ii) Organization structure.
(iii) Licensing (business).
(iv) Services to provide.
(B) One-half (.5) hour of instruction in brokerage business models that includes the following:
(i) Franchise vs. independent.
(ii) Traditional model-commission split model.
(iii) 100% commission model – desk fee model.
(iv) Flat fee model.
(v) Limited service model.
(vi) Antitrust laws.
(C) Two (2) hours of instruction in the law of agency and agency relationships that includes the following:
(i) Common and statutory law as basis as follows:
(AA) Basic terms.
(BB) Agent.
(CC) Principal.
(DD) Client.
(EE) Customer.
(FF) Fiduciary.
(GG) Subagent, prohibition.
(ii) Creation of relationship as follows:
(AA) Express or implied.
(BB) Implications of inadvertent implied agency.
(iii) Extent of authority as follows:
(AA) Universal.
(BB) General.
(CC) Special.
(iv) Compensation as follows:
(AA) Fee agreement vs. listing agreement.
(BB) Co-op fees.
(CC) Does not determine agency.

(DD) History and prohibition of subagency.
(EE) Duties to principal.
(FF) Care, including competence in particular activity.
(GG) Obedience.
(HH) Loyalty.
(II) Disclosure.
(JJ) Accounting.
(KK) Confidentiality.
(LL) Duties to third parties.
(MM) Duties to affiliated brokers.
(NN) Termination of relationship, including survival of confidentiality.
(v) Seller and landlord representation.
(vi) Buyer and tenant representation.
(vii) Nonagency as follows:
(AA) Transactional brokerage.
(BB) Representing a buyer with a "for sale by owner".
(viii) Dual/limited agency as follows:
(AA) Disclosed and undisclosed agency.
(BB) Required disclosures.
(CC) Written informed consent.
(ix) Team concept as follows:
(AA) Compensation.
(BB) Potential for confusion regarding agency.
(x) In-house agency as follows:
(AA) Role of managing broker.
(BB) Creation of limited agency when managing broker or sales manager directly has the list or sell side.
(xi) Written office policy on agency as follows:
(AA) Development.
(BB) Required content.
(CC) Implementation policy.
(xii) Required disclosures as follows:
(AA) Agency.
(BB) IN residential seller's disclosure.
(CC) Lead-based paint disclosure.
(DD) Other environmental disclosures.
(EE) Caveat emptor and selling as is.
(FF) Civil, criminal, and regulatory implications of failing to make proper disclosure.
(GG) Document chain.
(xiii) Statements as follows:
(AA) Opinion vs. fact.
(BB) Fraud.
(CC) Intentional and negligent misrepresentation.
(DD) Puffing.
(EE) Willful and negligent omission.
(FF) Latent defects.
(GG) Civil, criminal, and regulatory liabilities.
(xiv) Personal buying, selling, and leasing as follows:
(AA) Required disclosures.
(BB) Possible conflicts.
(xv) Psychologically affected properties as follows:
(AA) Subject properties and transactions.
(BB) Disclosures.
(CC) Implications when acting as limited agent.
(D) One-half (.5) hours of instruction in errors and omissions insurance that includes the following:
(i) Basic understanding.
(ii) Policy coverage, including who, what, when is covered.
(iii) Claims-made and first dollar defense.
(iv) Office policy on errors and omissions insurance.
(E) One-half (.5) hours of instruction in business insurance that includes the following:
(i) Types of coverage including valuable papers, records, property, loss of business.

(ii) General liability including worker's compensation.
(iii) Automobile liability.
(F) Two (2) hours of instruction in the legal environment of real estate brokerage that includes the following:
(i) Antitrust laws as follows:
(AA) Price fixing.
(BB) Group boycotts.
(CC) Allocation of customers or markets.
(DD) Tie-in agreements.
(ii) Fair housing laws as follows:
(AA) Civil Rights Act of 1968.
(BB) Equal Credit Opportunity Act.
(CC) Americans with Disabilities Act.
(iii) Real Estate Settlement Procedures Act as follows:
(AA) Controlled business arrangements.
(BB) Good faith estimate of settlement costs.
(CC) Uniform settlement statement (HUD-1).
(G) Two (2) hours of instruction in Indiana license law that includes the following:
(i) License law as follows:
(AA) Responsibility for actions of associated brokers.
(BB) Maintenance of two (2) or more offices.
(CC) Partnerships, corporations, and limited liability companies.
(DD) Residency requirements.
(EE) Death of an individual managing broker of termination of a partnership.
(FF) Manager's role in "in-house agency relationships".
(ii) This title as follows:
(AA) Evidence of current licensure.
(BB) Supervision of office by licensed broker.
(CC) Termination of association with managing broker and broker company.
(DD) Splitting commissions.
(EE) Associating with unlicensed person.
(FF) Advertising requirements.
(GG) 876 IAC 8-2-7 Incompetent practices.
(2) Eight (8) hours of instruction in brokerage operations that includes the following:
(A) Three (3) hours of instruction in office policy and procedures manuals including the following:
(i) Independent contractor agreements.
(ii) Employees.
(iii) Office policies.
(iv) Policy on social media.
(v) Evaluation of personnel.
(B) Three (3) hours of instruction in the basic financial concepts of budgeting, bookkeeping, and financial operations (internal controls) including the following:
(i) Revenue, costs, income, profit, fixed costs, cash flow.
(ii) Company dollar and profits.
(iii) Profit analysis.
(iv) Budgeting/financial controls.
(v) Desk cost.
(vi) Challenges that affect profitability.
(C) Two (2) hours of instruction in earnest money accounts and trust account guidelines including the following:
(i) General concepts and provisions, commingling, and conversion of the following:
(AA) Earnest monies.
(BB) Rent.
(CC) Down payments.
(DD) Monies received as part of settlement.
(EE) Nontrust funds.
(ii) Account requirements.
(iii) Record keeping systems and retention requirements.
(iv) Disbursements of the following:
(AA) Sales transaction.
(BB) Rental transaction.

(CC) Disbursement deadlines.
(v) Acting as escrow agent.
(3) Eight (8) hours of instruction in the role of the managing broker that includes the following:
(A) Two (2) hours of instruction in recruiting, training, and retention including the following:
(i) Recruiting agents including as follows:
(AA) Big office vs. small office.
(BB) New agents vs. experienced.
(CC) Recruiting ideas (career nights, advertising, sphere of influence, etc.).
(ii) Training agents in the following:
(AA) Building a client base.
(BB) Use of technology.
(CC) Contracts used in real estate.
(iii) Retention of agents with the following:
(AA) Bonus programs.
(BB) Office atmosphere.
(B) One (1) hour of instruction in the professional development of sales force that includes the following:
(i) Mentoring – agent training and development.
(ii) Industry professional designations including the following:
(AA) Appraisal.
(BB) Commercial sales.
(CC) Development/investment.
(DD) Property management.
(EE) REO/foreclosure.
(FF) Residential sales.
(GG) Sales management.
(C) One (1) hour of instruction in types of fraud that includes the following:
(i) Insurance fraud including the following:
(AA) Occupancy fraud.
(BB) Condition fraud.
(CC) Valuation fraud.
(ii) Mortgage fraud including the following:
(AA) Fraud for housing.
(BB) Foreclosure bailout.
(CC) Forensic loan audit fraud.
(DD) Fraud for profit.
(EE) Property flipping.
(FF) Silent second.
(GG) Nominee loans/straw buyers.
(HH) Fictitious/stolen identity.
(II) Inflated appraisals.
(JJ) Equity skimming.
(KK) Short sale schemes.
(LL) Predatory lending.
(MM) Rental fraud.
(iii) Craigslist scams.
(D) One (1) hour of instruction in dispute resolution that includes the following:
(i) Arbitration process.
(ii) Mediation process.
(E) One (1) hour of instruction in agent responsibilities and safety concerns that includes the following:
(i) Fiduciary duties to listing clients.
(ii) Fiduciary duties to buyer/tenant clients.
(iii) Confidentiality issues including the following:
(AA) Company.
(BB) Client information.
(iv) Client and personal safety.
(v) Protecting and preserving listed properties.
(F) One (1) hour of instruction in advertising issues and concerns that includes the following:
(i) Review of Indiana real estate commission rules and regulations regarding advertising.
(ii) Review of code of ethics articles and standard operating procedures that relate to advertising.

(iii) Overview of fair housing regulations regarding advertising.
(iv) RESPA Do's and RESPA Don'ts.
(v) Antitrust rules and regulations.
(vi) Advertising of listings.
(vii) Personal advertising by agents and disclosure of relationship with managing broker/company.
(viii) Internet advertising using websites, social media, widgets, apps, etc.
(ix) For sale/for lease signs.
(x) Can a licensee sell the licensee's own property?
(xi) The managing broker's role in assuring that all advertising is compliant.
(xii) Advertising case studies.

(G) One (1) hour of instruction in business ethics that includes the REALTORS® code of ethics including the following:
(i) A walk through the REALTORS® code of ethics.
(ii) Preamble.
(iii) The golden rule.
(iv) Articles and standards of practice as follows:
(AA) Duties to clients and customers.
(BB) Duties to the public.
(CC) Duties to realtors.
(v) Best business practices - "Pathways to Professionalism" from the National Association of Realtors (NAR).
(vi) Business ethics case studies.

(Indiana Real Estate Commission; 876 IAC 7-3-3)

876 IAC 7-3-4 Managing broker courses

Authority: IC 25-34.1-2-5; IC 25-34.1-4-0.5
Affected: IC 25-34.1-3-4.1

Sec. 4. The twenty-four (24) hours of managing broker education described in section 3 of this rule may be taken in one (1) twenty-four (24) hour course or in three (3) separate eight (8) hour courses with one (1) course consisting of the content required in section 3(1) of this rule, a second course consisting of the content required in section 3(2) of this rule, and a third course consisting of the content required in section 3(3) of this rule.

(Indiana Real Estate Commission; 876 IAC 7-3-4)

Rule 4. Postlicensing Education

876 IAC 7-4-1 Scope of rule

Authority: IC 25-34.1-2-5; IC 25-34.1-3-10
Affected: IC 25-34.1-3-4.1; IC 25-34.1-3-10.5

Sec. 1. This rule establishes requirements for postlicensing education required under IC 25-34.1-3-4.1(f).

(Indiana Real Estate Commission; 876 IAC 7-4-1)

876 IAC 7-4-2 Postlicensing education required

Authority: IC 25-34.1-2-5; IC 25-34.1-3-10
Affected: IC 25-1-4; IC 25-34.1-9

Sec. 2. (a) An individual issued a broker license after June 30, 2014, must, during the first two (2) years after the license was issued, take and pass thirty (30) hours of commission approved postlicensing education as provided for in section 3 of this rule.

(b) Failure of a licensee to complete the thirty (30) hours of commission approved postlicensing education required by subsection (a) will subject the licensee to action under IC 25-1-4.

(c) Completion of thirty (30) hours of postlicensing education as provided for in this rule fully satisfies any continuing education that otherwise would have been required under IC 25-34.1-9 and 876 IAC 7-5 for two (2) continuing education years. The continuing education year during which the broker is initially licensed shall not count toward calculating the two (2) continuing education years. Therefore, the licensee shall not be required to obtain continuing education under IC 25-34.1-9 and 876 IAC 7-5 until the third continuing education year after the continuing education year in progress when the licensee is initially licensed.

(Indiana Real Estate Commission; 876 IAC 7-4-2)

876 IAC 7-4-3 Approved postlicensing educational courses

Authority: IC 25-34.1-2-5; IC 25-34.1-3-10
Affected: IC 25-34.1-3-4.1; IC 25-34.1-3-10.5

Sec. 3. A broker must complete within the first two (2) years of licensure thirty (30) hours of approved postlicensing education consisting of the following:
(1) Six (6) hours of instruction in Indiana real estate transactions that includes the following:
(A) Unauthorized practice of law as follows:
(i) The dangers of unauthorized practice of law by real estate brokers.
(ii) Penalties.
(iii) Indiana State Bar Association vs. Indiana Real Estate Association, 1963.
(B) Contracts as follows:
(i) Elements of a contract.
(ii) Formation of a contract.
(iii) Issues affecting validity as follows:
(AA) Consideration.
(BB) Legal capacity of the parties.
(CC) Conditions affecting validity.
(iv) Obligations of the parties.
(v) Disputes and litigation.
(vi) License law issues.
(vii) Agency relationships.
(C) Listing/purchase agreements as follows:
(i) Listing agreements as follows:
(AA) Parties to the contract.
(BB) License law issues and agency disclosure.
(CC) Formation of the contract agreement (offer and acceptance).
(DD) Determining the listing price.
(EE) Terms of the listing agreement (length, compensation, etc).
(FF) Types of listings.
(GG) Permission for advertising.
(HH) Fair housing laws.
(II) Obligations of the parties.
(JJ) Termination of the listing.
(KK) Residential seller's disclosure form.
(LL) Lead-based paint form.
(ii) Purchase agreements as follows:
(AA) Parties to the contract.
(BB) License law and the purchase agreement.
(CC) Formation of the contract.
(DD) Property description.
(EE) Dealing with personal property.
(FF) Negotiating the price and terms.
(GG) Earnest money.
(HH) Method of payment.
(II) Appraisals.

(JJ) "Time is of the Essence".
(KK) Possession issues.
(LL) Surveys.
(MM) Flood insurance and homeowners insurance.
(NN) Environmental concerns.
(OO) Inspections process and issues.
(PP) Home warranties.
(QQ) Residential seller's disclosure form.
(RR) Lead-based paint form.
(SS) Title approval.
(TT) Real estate taxes.
(UU) Homeowners/condo associations.
(VV) Additional provisions.
(WW) Further conditions section.
(XX) Signatures of all parties.
(YY) Expiration.
(ZZ) Seller's potential responses.
(AAA) Brief discussion of procuring cause issues.
(iii) Required disclosures as follows:
(AA) Residential seller's disclosure form.
(BB) Lead-based paint disclosure form.
(CC) Agency relationships disclosure.
(D) Offers and counteroffers as follows:
(i) Presentation of offers as follows:
(AA) Written offers.
(BB) Verbal offers.
(ii) Owner response options/buyer or tenant response options as follows:
(AA) Acceptance.
(BB) Rejection.
(CC) Counter offer.
(DD) Letting an offer expire.
(iii) Confidentiality issues.
(iv) When does an offer become a contract?
(E) Closing process as follows:
(i) Learn your office policies and procedures.
(ii) The role of the title company.
(iii) The role of the lender.
(iv) The role of the listing broker.
(v) The role of the buyer/tenant broker.
(vi) The role of the limited agent.
(vii) The inspections process.
(viii) Surveys.
(ix) Zoning issues.
(x) Co-brokerage relationships.
(xi) Depositing the earnest money.
(xii) Closing documents.
(xiii) The closing statement.
(xiv) Broker's role at the actual closing.
(xv) After the closing.
(2) Six (6) hours of instruction in financing that includes the following:
(A) Financing and lending markets as follows:
(i) Primary mortgage market.
(ii) Secondary mortgage market.
(B) Mortgage fraud.
(C) Loan types as follows:
(i) Conventional and insured conventional loans.
(ii) FHA loans.
(iii) VA loans.
(iv) Land contracts.
(v) Other financing techniques.
(D) Good faith estimate (GFE) processing.

(E) Credit scoring as follows:
(i) The three (3) credit bureaus.
(ii) How credit scores are determined.
(iii) Rebuilding credit.
(3) Ten (10) hours of instruction in business planning/sales and marketing that includes the following:
(A) Business planning as follows:
(i) Contact database.
(ii) Budgeting.
(iii) Lead cultivation.
(iv) Buyer systems.
(v) Seller systems.
(B) Goal setting/time management as follows:
(i) Education.
(ii) Lead generation.
(iii) Networking.
(iv) Lead follow-up.
(v) Working with active buyers and sellers.
(C) Methods of growing business as follows:
(i) Prospecting.
(ii) Marketing.
(4) Five (5) hours of instruction in negotiating and counseling skills that includes basic negotiation styles of competing, collaborating, accommodating and the following:
(A) Negotiation principles and the phases of negotiation.
(B) Factors affecting the negotiation process.
(C) Cultural differences, language barriers, emotions, values/morals.
(D) Difficult situation or people, or both, as follows:
(i) Outcomes in negotiating.
(ii) Real estate counseling.
(E) Fee or free.
(F) Confidential advice to clients.
(G) Professional opinion vs. personal opinion.
(H) Counselors of real estate (CRE).
(5) One (1) hour of instruction in cultural diversity and fair housing that includes the following:
(A) Definitions.
(B) State and federal laws.
(C) Protected classes.
(D) Blockbusting.
(E) Prohibited practices.
(F) Enforcement.
(G) Diversity.
(6) Two (2) hours of instruction in construction that includes the following:
(A) Site preparation.
(B) Building codes.
(C) Building permits.
(D) Blueprints.
(E) Types.
(F) Styles.
(G) Foundation.
(H) Flooring.
(I) Framing (building envelope).
(J) Roof.
(K) Windows.
(L) Exterior doors.
(M) Interior finish work.
(N) Ventilation and moisture control.
(O) Heating and cooling.
(P) Plumbing.
(Q) Electrical.
(R) Building inspections/defects.
(S) Green building concepts.

(Indiana Real Estate Commission; 876 IAC 7-4-3)

876 IAC 7-4-4 Postlicensure education required

Authority: IC 25-34.1-2-5; IC 25-34.1-3-10
Affected: IC 25-34.1-3-4.1; IC 25-34.1-3-10.5

Sec. 4. The thirty (30) hours of postlicensing education described in section 3 of this rule may be taken in one (1) thirty (30) hour course or in five (5) separate courses with:
(1) one (1) course consisting of the content required in section 3(1) of this rule;
(2) a second course consisting of the content required in section 3(2) of this rule;
(3) a third course consisting of the content required in section 3(3) of this rule;
(4) a fourth course consisting of the content required by section 3(4) of this rule;
(5) a fifth course consisting of the content required by section 3(5) of this rule; and
(6) a sixth course consisting of the content required by section 3(6) of this rule.

(Indiana Real Estate Commission; 876 IAC 7-4-4)

Rule 5. Broker Continuing Education; Managing Broker Continuing Education; Instructor Continuing Education

876 IAC 7-5-1 Continuing education requirements

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

Sec. 1. (a) Every licensed real estate broker who has not been granted:
(1) an inactive license under IC 25-34.1-3-10; or
(2) a waiver under IC 25-34.1-9-19;
must complete at least twelve (12) hours per continuing education year of approved education courses under IC 25-34.1-9-11 and this article that are given by commission-approved sponsors.

(b) Licensees attending continuing education courses shall present a:
(1) government-issued photo identification; and
(2) proof of licensure as a real estate broker 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 a two (2) hour instruction period.

(e) A minimum of two (2) hours and not more than eight (8) hours of instruction may be offered in a one (1) day course. However, instruction for an approved distance learning continuing education program under 876 IAC 7-6 may be more than eight (8) hours of instruction in a one (1) day course.

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

(g) Any continuing education hours accumulated above the minimum requirement for a continuing education year shall not be carried forward to the next continuing education year.

(h) A licensee who attends the same approved continuing education course more than once in the same continuing education year is only entitled to continuing education credit for one (1) course.

(i) An instructor shall be entitled to broker continuing education credit for courses the instructor teaches. However, an instructor may not:
(1) be credited for more than twelve (12) hours of continuing education for instructing in any three (3) year licensure period;
(2) receive credit for repeated courses; or
(3) count instruction credit toward the continuing education specific to providing real estate instructors as required by IC 25-34.1-5-13 and IC 25-34.1-9-22.

(Indiana Real Estate Commission; 876 IAC 7-5-1)

876 IAC 7-5-2 Continuing education requirements for managing brokers

Authority: IC 25-34.1-9-21
Affected: IC 25-34.1-9-11

Sec. 2. (a) Under IC 25-34.1-9-11, at least four (4) hours of the twelve (12) hours a broker that holds a managing broker designation is required to obtain in a continuing education year must be dedicated to the necessary business and management skills and legal knowledge needed by a managing broker.

(b) The four (4) hour requirement under subsection (a) shall apply in any continuing education year that the broker functions as a managing broker for any period of time.

(Indiana Real Estate Commission; 876 IAC 7-5-2)

876 IAC 7-5-3 Continuing education requirements for instructors

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

Sec. 3. (a) As provided for by IC 25-34.1-5-13 and IC 25-34.1-9-12, an individual who holds a prelicensing instructor permit under IC 25-34.1-5-13 or a continuing education instructor permit under IC 25-34.1-9-22 shall complete a minimum of four (4) hours per continuing education year of continuing education specific to providing real estate instruction.

(b) Continuing education completed to satisfy this section shall also count toward the continuing education requirement for a broker under IC 25-34.1-9-11.

(Indiana Real Estate Commission; 876 IAC 7-5-3)

876 IAC 7-5-4 Curricula for brokers under IC 25-34.1-9-11(a)(1)

Authority: IC 25-34.1-9-21
Affected: IC 25-34.1-9-11

Sec. 4. (a) This section establishes the twelve (12) hour per continuing education year continuing education requirement under IC 25-34.1-9-11(a)(1) for brokers.

(b) To qualify for license renewal, brokers must have completed continuing education courses approved by the commission in any of the following subjects:
(1) The subjects listed in IC 25-34.1-9-11(a).
(2) Environmental issues.
(3) Ethics and standards.
(4) Time-shares, condominiums, and cooperatives.
(5) Investment real estate analysis.
(6) Any other course approved by the commission relating to real estate practices that is designed to directly enhance the licensee's knowledge and skill in providing real estate services.

(c) Agency law under IC 25-34.1-9-11 shall be agency law applicable in Indiana.

(d) License and escrow law under IC 25-34.1-9-11 shall be licensure and escrow law applicable in Indiana.

(Indiana Real Estate Commission; 876 IAC 7-5-4)

876 IAC 7-5-5 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 by being designed to directly enhance the licensee's knowledge and skill in providing real estate services.

(b) The following courses do not qualify:
(1) Examination preparation.
(2) Sales meetings.
(3) In-house training sessions.
(4) Correspondence.
(5) Motivational classes or seminars.

(Indiana Real Estate Commission; 876 IAC 7-5-5)

876 IAC 7-5-6 Renewal applications

Authority: IC 25-34.1-9-21
Affected: IC 25-1-4; 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 for each continuing education year during the three (3) year licensure period that ends on the expiration date of the license if it were not renewed.

(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 three (3) years after the end of the three (3) year licensure 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 action under IC 25-1-4.

(Indiana Real Estate Commission; 876 IAC 7-5-6)

876 IAC 7-5-7 Commission review of continuing education compliance

Authority: IC 25-34.1-9-21
Affected: IC 25-1-4; 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 the continuing education hours a licensee has claimed do not meet the requirements of IC 25-34.1-9 and this article, the commission may take action under IC 25-1-4.

(b) A licensee who submits false information under section 6 of this rule or this section shall be subject to action under IC 25-1-4 or sanctions provided for under IC 25-1-11, or both, as appropriate.

(Indiana Real Estate Commission; 876 IAC 7-5-7)

876 IAC 7-5-8 Inactive license

Authority: IC 25-34.1-9-21
Affected: IC 25-34.1-3-10

Sec. 8. (a) A licensee applying 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 broker license.

(b) Brokers, both assigned and unassigned, 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 7-5-8)

876 IAC 7-5-9 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 hours of continuing education that would have been required for renewal had the license been active.

(b) In order to reactivate an inactive license during a three (3) year licensure period, the licensee must obtain the twelve (12) hours for the current continuing education year and pay the activation fee established in 876 IAC 5-3-1.

(c) A licensee who has reactivated the licensee's license during a three (3) year licensure period under subsection (b) must obtain the twelve (12) hours of continuing education for each full continuing education year remaining in the licensure period.

(Indiana Real Estate Commission; 876 IAC 7-5-9)

876 IAC 7-5-10 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. To reinstate an expired license, a licensee must have obtained thirty-six (36) hours of continuing education within the three (3) years prior to applying for reinstatement. However, if the application for reinstatement is filed three (3) years or less after the expiration of the license, any continuing education obtained during the last licensure period the licensee was licensed may count toward this requirement.

(Indiana Real Estate Commission; 876 IAC 7-5-10)

Rule 6. Distance Learning Continuing Education

876 IAC 7-6-1 "Distance learning continuing education" defined

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

Sec. 1. "Distance learning continuing education" means education designed for licensed professional learners who choose to complete continuing education outside the normal classroom setting as allowed

by this rule. The term includes enrollment and study with an educational institution that provides organized, formal learning opportunities for professionals seeking to remain current on the high standards of their profession and abreast of the changes in their field. Presented in a sequential and logical order, the instruction:

(1) is offered wholly or primarily by distance study, through virtually any media; and

(2) may incorporate or make use of various media formats, including, but not limited to:

(A) printed materials;

(B) communication technologies; and

(C) Internet based delivery systems.

(Indiana Real Estate Commission; 876 IAC 7-6-1)

876 IAC 7-6-2 Distance learning continuing education requirements

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

Sec. 2. Distance learning courses must be approved by the commission and meet the requirements of section 3 of this rule.

(Indiana Real Estate Commission; 876 IAC 7-6-2)

876 IAC 7-6-3 Distance learning continuing education courses

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

Sec. 3. The commission shall approve a distance learning continuing education course if the commission determines to its satisfaction the following:

(1) The distance learning continuing education course serves to protect the public by contributing to the maintenance and improvement of the quality of the real estate services provided by the real estate licensees to the public.

(2) An appropriate and complete application has been filed with the commission.

(3) The distance learning continuing education course meets the content requirements as prescribed in 876 IAC 7-5-4.

(4) The course complies with sections 5 through 7 of this rule as applicable.

(5) The distance learning continuing education course meets all other requirements as prescribed in IC 25-34.1-9 and this article.

(Indiana Real Estate Commission; 876 IAC 7-6-3)

876 IAC 7-6-4 Approval of distance learning continuing education

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

Sec. 4. In order for a distance learning continuing education course to meet the requirements of this rule, the provider shall submit the following information:

(1) Mission and objectives, as follows:

(A) A statement that clearly defines the mission of the provider's educational programs.

(B) The specific curricular objectives for the course.

(C) A plan for periodic review of the following:

(i) The mission statement.

(ii) Curricular objectives.

(2) Course design, as follows:

(A) A course outline that clearly states the following:

(i) The course objectives.

(ii) The desired student outcomes.

(B) A plan to ensure that the course content is:

(i) updated in a timely manner; and

(ii) distributed to:
(AA) students who are currently enrolled; and
(BB) future registrants.
(C) A plan for submitting substantial changes in the course to the commission. Substantial changes include, but are not limited to, the following:
(i) Expanded or reduced course content.
(ii) Changes in the time allotments for portions of the course.
(iii) Changes or redirected learning objectives.
(iv) A change of instructor.
(v) Changes in the course delivery method.
(D) The course disk or CD-ROM, if applicable.
(E) A list of reference materials provided to the students.
(F) A list of any prerequisites for the course and evidence that students are properly advised of the prerequisites before registration.
(G) Evidence that the course is structured in a mastery learning format that ensures mastery accomplishment.
(H) Evidence that the number of hours claimed is the number of hours it takes the average student to complete the course. This requirement can be met by submitting the results of the studies or field tests, or both, that will verify the claims.
(3) Interactivity, as follows:
(A) A description of how interaction is accomplished in the course.
(B) An explanation of how:
(i) interactivity is evaluated; and
(ii) feedback is gathered from students;
throughout the course.
(4) Course delivery, as follows:
(A) A plan that shows evidence that technical support will be available when needed.
(B) Evidence that instructor-student ratios are acceptable for the delivery method used.
(C) The name or names and qualifications of the instructor or instructors of the course, submitting their credentials, including any specific training for teaching, via the specified delivery method, and a plan for their continued professional development.
(D) A list of remote sites if applicable. "Remote site" means one that receives a broadcast whether by:
(i) satellite; or
(ii) teleconferencing.
(E) A list of any site facilitators and the qualifications and credentials for each.
(5) Equipment and learning environment, as follows:
(A) A list of equipment that the student will need and evidence that this information is made available to the student before registration.
(B) An acceptable plan for dealing with equipment failures.
(6) Student support services, as follows:
(A) A copy of a student information package that contains all the necessary information about the course. This information includes, but is not limited to, the following:
(i) Information about broadcasts and distance site locations.
(ii) Faculty contact information.
(iii) The course outline and learning objectives.
(iv) Guidelines regarding what constitutes successful completion of the course.
(v) Deadlines.
(vi) Fees and refunds.
(vii) Prerequisites.
(viii) Illness policy.
(ix) A list of required student materials, including required software.
(B) An explanation of how student orientation sessions are accomplished. Each student is required to have an orientation before the student begins the course.
(C) An acceptable list of other support services made available to the students.
(7) Evaluation and assessment, as follows:
(A) An evaluation form that solicits student feedback on the following:
(i) The delivery approach.
(ii) The equipment.
(iii) Suggestions for class improvement.
(iv) The student's overall satisfaction with the course.

An evaluation form is required to be given to every student in a distance learning continuing education course at the conclusion of the course.
(B) A plan for verifying student identity. The provider of any distance learning continuing education course must have an acceptable plan in place that verifies that the student enrolled in the course is the one that completes the following:
(i) The course.
(ii) Any required tests.
(8) Commitment to support, as follows:
(A) A copy of the provider's business plan that shows ongoing commitment to provide adequate financial and technical resources to support the distance learning continuing education course.
(B) A statement of how long the provider has been offering distance learning continuing education courses.

(Indiana Real Estate Commission; 876 IAC 7-6-4)

876 IAC 7-6-5 Distance learning continuing education courses by correspondence

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

Sec. 5. Licensees may take distance learning continuing education courses by correspondence so long as the courses meet the following criteria:
(1) All courses must provide a test, and the participant must score at least seventy-five percent (75%) to pass and receive credit for the course.
(2) Tests must have multiple choice questions with at least twenty (20) questions per two (2) hours of instruction. The following types of questions are not allowed:
(A) True or false.
(B) Essay.
(3) The organization and presentation of the instructional materials shall be in accord with sound principles of learning.
(4) Correspondence courses must have sufficient security to assure against fraudulent practices.

(Indiana Real Estate Commission; 876 IAC 7-6-5)

876 IAC 7-6-6 Video instruction distance learning continuing education

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

Sec. 6. Licensees may take distance learning continuing education courses by video instruction so long as the courses meet the following criteria:
(1) All courses must provide a test, and the participant must score at least seventy-five percent (75%) to pass and receive credit for the course.
(2) Tests must have multiple choice questions with at least twenty (20) questions per two (2) hours of instruction. The following types of questions are not allowed:
(A) True or false.
(B) Essay.
(3) The organization and presentation of the instructional materials shall be in accord with sound principles of learning.
(4) Video instruction classes must have a monitor in the room at all times to assure proper attendance.

(Indiana Real Estate Commission; 876 IAC 7-6-6)

876 IAC 7-6-7 Internet distance learning continuing education

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

Sec. 7. Licensees may take continuing education courses via the Internet so long as the courses meet the following criteria:
(1) Courses shall be timed so that licensees taking the course must be engaged for the entire length of

time for which the course is approved. A licensee shall not be able to fast forward or speed through a course in less time. This subdivision does not alter the time calculation for courses of fifty (50) minute hours as provided for in 876 IAC 7-5-1(c).
(2) All courses must provide a test, and the participant must score at least seventy-five percent (75%) to pass and receive credit for the course.
(3) Tests must have multiple choice questions with at least twenty (20) questions per two (2) hours of instruction. The following types of questions are not allowed:
(A) True or false.
(B) Essay.
(4) The organization and presentation of the instructional materials shall be in accord with sound principles of learning.
(5) Internet courses must have sufficient security to assure against fraudulent practices.

(Indiana Real Estate Commission; 876 IAC 7-6-7)

Rule 7. Continuing Education; Waiver

876 IAC 7-7-1 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. 1. (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 at least one (1) year of the three (3) 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 three (3) 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 broker company for the sole purpose of making referrals to a licensed 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 7-7-1)

SECTION 4. 876 IAC 8 IS ADDED TO READ AS FOLLOWS:

ARTICLE 8. OPERATION OF BROKER COMPANIES AND OTHER PROVISIONS CONCERNING REAL ESTATE PRACTICE

Rule 1. Operation of Broker Companies

876 IAC 8-1-1 Supervision of office by licensed broker; branch offices; notice by managing broker

Authority: IC 25-34.1-2-5
Affected: IC 25-34.1-3-4.1; IC 25-34.1-4-2

Sec. 1. (a) Every broker company shall be directed and supervised by an individual broker. For a sole proprietorship, the sole proprietor shall be the individual broker. For partnerships, limited liability companies, and corporations, the individual broker shall be the licensed individual broker designated to the commission under IC 25-34.1-4-2. The broker company shall constitute the individual broker's principal and sole place of real estate business.

(b) A sole proprietor individual broker, and, as provided for in IC 25-34.1-4-2, the designated individual broker described in subsection (a) shall be primarily responsible to the commission for the broker company's actions.

(c) The individual broker described in subsection (a) may also be a branch manager under section 2 of this rule.

(Indiana Real Estate Commission; 876 IAC 8-1-1)

876 IAC 8-1-2 Supervision of office by licensed broker; branch offices; notice by managing broker

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

Sec. 2. (a) Any branch office that a broker company maintains shall be managed by a branch manager. The broker company shall submit to the commission a Branch Office Registration Form prior to opening any branch office. The broker company shall notify the commission when:
(1) a branch office has a new branch manager; and
(2) any individual broker associated with the broker company transfers from one (1) branch office to another branch office within that broker company.

(b) An individual broker may be a branch manager of more than one (1) branch office under this section.

(Indiana Real Estate Commission; 876 IAC 8-1-2)

876 IAC 8-1-3 Association with broker company; duties of parties

Authority: IC 25-1-8-2; IC 25-34.1-2-5
Affected: IC 25-34.1-3-4.1

Sec. 3. (a) An individual newly licensed as a broker shall choose either to be unassigned or to be assigned to a broker company.

(b) If the broker wishes to be assigned, the broker's licensure application shall also be signed by the broker company's individual broker described in section 1(a) of this rule attesting to the assignment.

(c) If an unassigned broker subsequently wishes to be assigned, it shall be the responsibility of the broker to have a reassignment application signed by the broker and the new broker company's designated individual broker described in section 1(a) of this rule and to pay the reassignment fee established in 876 IAC 5-3-1.

(d) An inactive broker who reactivates the inactive license and qualifies for reactivation shall be treated in the same manner provided for in subsections (a) through (c).

(e) A broker who reinstates an expired license and qualifies for reinstatement shall be treated in the same manner as provided for in subsections (a) through (c).

(f) A broker in referral status who wishes to resume active status (and therefore be eligible to perform acts that require a broker's license under IC 25-34.1 beyond making referrals to brokers) and qualifies to resume active status shall be treated in the same manner as provided for in subsections (a) through (c).

(Indiana Real Estate Commission; 876 IAC 8-1-3)

876 IAC 8-1-4 Termination of association with broker company; duties of parties

Authority: IC 25-1-8-2; IC 25-34.1-2-5
Affected: IC 25-34.1-3-4.1

Sec. 4. (a) Any broker, upon termination of the broker's association with a broker company, shall submit to the commission within five (5) business days of the termination, a reassignment application attesting to the termination and electing either to be unassigned or to be assigned to a new broker company. An unassigned broker may not practice real estate until the broker is assigned under the provisions of subsection (c).

(b) Subsection (a) shall not prohibit an unassigned broker from practicing real estate as a sole proprietor broker company if eligible to do so under IC 25-34.1-3-4.1(f)

(c) If a terminated broker is transferring to a new broker company upon departure from the broker's previous broker company, it shall be the responsibility of the broker to have the reassignment application signed by the broker and the new broker company's designated individual broker described in section 1(a) of this rule attesting to the assignment and to pay the reassignment fee established in 876 IAC 5-3-1.

(d) If a broker who has become unassigned under subsection (a) is subsequently transferring to a new broker company, it shall be the responsibility of the broker to have the reassignment application signed by the broker and the new broker company's individual broker described in section 1(a) of this rule attesting to the assignment and to pay the reassignment fee established in 876 IAC 5-3-1.

(Indiana Real Estate Commission; 876 IAC 8-1-4)

876 IAC 8-1-5 Association with broker company; duties of parties

Authority: IC 25-1-8-2; IC 25-34.1-2-5
Affected: IC 25-34.1-3-4.1

Sec. 5. A broker may not be associated with more than one (1) Indiana broker company at the same time.

(Indiana Real Estate Commission; 876 IAC 8-1-5)

876 IAC 8-1-6 Termination of association with broker company; disposition of listings

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. 6. Any broker, upon termination of the broker's association with a broker company, shall turn over to the broker company any listings obtained during the broker's association unless otherwise stipulated by a written contract. The listings shall remain the property of the broker company.

(Indiana Real Estate Commission; 876 IAC 8-1-6)

876 IAC 8-1-7 Unlicensed assistants; functions; responsibility of licensee

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

Sec. 7. 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, property features, or geographic directions.
(4) Discuss or explain a contract, listing, lease, agreement, or other real estate document with any person outside the licensee's broker company.
(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 8-1-7)

876 IAC 8-1-8 Advertising requirements; name of broker company; prohibitions

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

Sec. 8. (a) Any display, classified advertising, signs, Internet advertising, or business cards that carry a licensee's name must contain the name of the broker company with whom the licensee is associated, and said broker company's name must be clearly visible. All advertising shall be under the direct supervision and in the name of the broker company.

(b) Any advertising by a broker company must reveal the name of the broker company either as it appears on the broker company's license issued by the commission or by its publicly known name.

(c) Any Internet, television, or radio advertising that carries the name of any licensee associated with a broker company must carry the name of the broker company either as it appears on the broker company's license issued by the commission or by its publicly known name. However, if disclosing the name of the broker company is not practical in electronic displays of limited information (such as thumbnails, text messages, and tweets) the broker company's name does not need to be included if the electronic display is linked to a display that includes the broker company's name.

(d) 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

(e) Advertising where only a post office box number, telephone number, or street address appears shall not be used.

(f) 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 owner or the owner's authorized agent.

(Indiana Real Estate Commission; 876 IAC 8-1-8)

876 IAC 8-1-9 Splitting commissions

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

Sec. 9. A listing broker may offer a portion of the broker's commission as an inducement to selling brokers to sell a particular property. Such commission must be paid to the selling broker, and in no case shall it be paid directly to a licensee associated with the selling broker.

(Indiana Real Estate Commission; 876 IAC 8-1-9)

876 IAC 8-1-10 Referral service participation; written agreement

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

Sec. 10. A broker company may participate in a referral service, or a franchise that provides a referral service, provided the participating broker company possesses a written agreement with the client and has a written agreement with the cooperating broker or brokers as to the fees to be paid.

(Indiana Real Estate Commission; 876 IAC 8-1-10)

876 IAC 8-1-11 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. 11. Notwithstanding any provision contained within this title 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 8-2-7(12).

(Indiana Real Estate Commission; 876 IAC 8-1-11)

876 IAC 8-1-12 Associating with unlicensed person; penalty

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

Sec. 12. A broker shall not knowingly associate with any unlicensed person who is required to have a license, or allow such an unlicensed person to perform any of the acts that require a license.

(Indiana Real Estate Commission; 876 IAC 8-1-12)

876 IAC 8-1-13 Investigation of escrow or trust accounts

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

Sec. 13. (a) A broker company shall provide a detailed summary of the broker company's escrow/trust account upon request by an authorized representative of the commission or by the office of the attorney general for investigative purposes.

(b) A broker company that engages in activities constituting acts as prescribed in IC 25-34.1 involving monies being collected in the performance of such activities shall establish an escrow/trust account with a federally insured financial institution as required by IC 25-34.1 and this title.

(Indiana Real Estate Commission; 876 IAC 8-1-13)

876 IAC 8-1-14 Licensee cooperation with investigation

Authority: IC 25-34.1-2-5
Affected: IC 25-1-7; IC 25-1-11; IC 25-34.1

Sec. 14. A licensee who is the subject of an investigation by the office of the attorney general into possible violations of IC 25-34.1, IC 25-1-11, or this title shall cooperate with the investigation. Lack of cooperation may include failure to submit a requested written response to a pending investigation or failure to comply with any lawful demand for information made by the office of the attorney general,

including failure to comply with any lawfully issued subpoena.

(Indiana Real Estate Commission, 876 IAC 8-1-14)

Rule 2. Listing Agreements, Offers to Purchase and Other Provisions Concerning Real Estate Practice

876 IAC 8-2-1 Listing agreements; prohibition

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

Sec. 1. (a) All listing agreements or any authority to sell shall show a definite date of expiration and shall be in writing, either on paper or in electronic format, with one (1) copy to go to the owner within three (3) business days of the time of signing, and the original and all electronic files shall be retained in the office of the listing broker.

(b) No listing agreements shall be accepted by a broker company or by an associated broker on the broker company's behalf that 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 broker company.

(Indiana Real Estate Commission; 876 IAC 8-2-1)

876 IAC 8-2-2 Written offers to purchase; disposition of money received

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

Sec. 2. (a) Any written offers to purchase or authorization to purchase shall be communicated to the seller for the seller's formal acceptance or rejection immediately upon receipt of the offer. The listing broker shall, on or before the next two (2) banking days after final acceptance of the offer to purchase, do one (1) of the following:
(1) Deposit all money received in connection with a transaction in the listing broker's escrow/trust account.
(2) Deposit money received in connection with a transaction to whoever is indicated in the purchase agreement to receive the deposit.
The commission shall hold any licensee with whom money is deposited responsible for the money.

(b) If the earnest money deposit is other than cash, this fact shall be:
(1) communicated to the seller before the seller's acceptance of the offer to purchase; and
(2) shown in the earnest money receipt.

(c) All money shall be retained in the escrow/trust account so designated until disbursement of the money is properly authorized. If the beneficiary agrees in writing, the listing or selling broker holding the earnest money may voluntarily transfer any interest earned on the broker's escrow/trust account to a fund established for the sole purpose of providing affordable housing opportunities in Indiana that meets the requirements of Internal Revenue Code 501(c)(3). The listing or selling 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 (d).

(d) Upon being notified that one (1) or more parties to an offer to purchase intend not to perform, the listing or selling 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 broker, holding the earnest money, may initiate the release process. The release process shall require the selling or listing 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 the buyer nor the 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; 876 IAC 8-2-2)

876 IAC 8-2-3 Closing statements

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

Sec. 3. Every listing and selling broker shall deliver to the broker's client in every real estate transaction at the time such transaction is consummated, a complete detailed closing statement showing all of the receipts and disbursements handled by such broker. The listing and selling broker shall retain copies of such statements for at least five (5) years.

(Indiana Real Estate Commission; 876 IAC 8-2-3)

876 IAC 8-2-4 Attendance at closings

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

Sec. 4. (a) Except as provided for in subsections (b) through (d), the listing and selling broker shall attend all closings. Instead of attending, the listing and selling broker both may send an associated broker or designate another broker to act on the broker's behalf.

(b) This section shall not apply to closings of commercial property. For purposes of this subsection, "commercial property" shall refer to any property other than one (1) to four (4) family residential.

(c) This section shall not apply if the broker is representing an institutional client such as a financial institution.

(d) This section shall not apply if the party represented by the broker or the party's authorized representative does not personally appear at the closing.

(Indiana Real Estate Commission, 876 IAC 8-2-4)

876 IAC 8-2-5 Restriction on licensee acquiring interest in property

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

Sec. 5. A licensee shall not directly or indirectly buy, offer to buy, sell, offer to sell, for the licensee property listed with the licensee or the broker with whom the licensee is associated, nor shall the licensee acquire any interest in the property without first making the licensee's true position clearly known to the owner or owners.

(Indiana Real Estate Commission; 876 IAC 8-2-5)

876 IAC 8-2-6 Disclosure of interest by licensee

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

Sec. 6. A licensee shall not directly or indirectly buy, offer to buy, sell, offer to sell, or receive compensation for real estate in which the licensee owns an interest, unless the licensee discloses in writing the:
(1) licensee's interest in the real estate to all parties to the transaction; and

(2) fact that the licensee holds a valid real estate license.

(Indiana Real Estate Commission; 876 IAC 8-2-6)

876 IAC 8-2-7 Incompetent practice

Authority: IC 25-34.1-2-5; IC 25-34.1-2-5.1
Affected: IC 22-9; IC 25-34.1

Sec. 7. 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 written agency agreement or a contract of sale to breach such agreement or 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 holds an interest and fails to disclose the interest in writing to all parties.
(10) Soliciting or negotiating, or both, a written agency agreement, a sale, exchange, or lease of real property directly with lessor, lessee, seller, or buyer if the licensee knows that the party has a written contract in connection with the property that guarantees an exclusive agency to another licensee unless the seller, buyer, lessor, or lessee initiates the action in writing prior to expiration of the agreement.
(11) As a licensee representing, or attempting to represent, more than one (1) Indiana broker company.
(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) Committing any act of fraud or material deception while engaged in acts that, by law, require a license.
(14) Otherwise violating IC 25-34.1 or this title.
(15) Having been finally determined to have engaged in an unlawful discriminatory practice under the Indiana Civil Rights Act, IC 22-9.

(Indiana Real Estate Commission; 876 IAC 8-2-7)

876 IAC 8-2-8 Fee appraisals conducted by licensed brokers

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

Sec. 8. 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 8-2-8)

SECTION 5. 876 IAC 9 IS ADDED TO READ AS FOLLOWS:

ARTICLE 9. RESIDENTIAL REAL ESTATE SALES DISCLOSURE

876 IAC 9-1-1 Residential real estate sales disclosure

Authority: IC 32-21-5-7
Affected: IC 32-21-5-7

Sec. 1. (a) This rule establishes the seller's residential real estate sales disclosure form provided for in IC 32-21-5-7.

(b) The form appears in section 2 of this rule.

(Indiana Real Estate Commission; 876 IAC 9-1-1)

876 IAC 9-1-2 Residential sales disclosure; form

Authority: IC 32-21-5-7
Affected: IC 32-21-5

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

SELLER'S RESIDENTIAL REAL ESTATE SALES DISCLOSURE

Date (month, day, year)

State Form 46234 (R/1293)

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 32-21-5) 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					Septic and Holding Tank/Septic Mound				
TV Antenna/Dish					Geothermal and Heat Pump				
TV Antenna/Dish					Other Sewer System (Explain)				
Other:					Swimming Pool and Pool				

Have there been or are there any 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, mold, other biological contaminants, asbestos insulation, or PCB's? Explain:				**Is the access to your property via an easement?**			
				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, crawl space area, or any other area?			
				Is there any damage due to wind, flood, termites, or rodents?			
				Have any structures 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 storage tank(s)?			
				Is the homeowner a licensed real estate 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)

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 (at closing):	**Date:**	**Signature of Seller (at closing):**	**Date:**

(Indiana Real Estate Commission; 876 IAC 9-1-2)

SECTION 6. THE FOLLOWING ARE REPEALED: 876 IAC 1-1-1; 876 IAC 1-1-3; 876 IAC 1-1-11; 876 IAC 1-1-17; 876 IAC 1-1-18; 876 IAC 1-1-19; 876 IAC 1-1-20; 876 IAC 1-1-21; 876 IAC 1-1-22; 876 IAC 1-1-23; 876 IAC 1-1-24; 876 IAC 1-1-25; 876 IAC 1-1-26; 876 IAC 1-1-30.1; 876 IAC 1-1-33; 876 IAC 1-1-36; 876 IAC 1-1-37; 876 IAC 1-1-39; 876 IAC 1-1-40; 876 IAC 1-1-41; 876 IAC 1-1-42; 876 IAC 1-1-43; 876 IAC 1-4; 876 IAC 2-1; 876 IAC 2-2-1; 876 IAC 2-2-3; 876 IAC 2-2-4; 876 IAC 2-2-6; 876 IAC 2-2-7; 876 IAC 2-2-8; 876 IAC 2-2-9; 876 IAC 2-2-10; 876 IAC 2-2-11; 876 IAC 2-2-12; 876 IAC 2-3; 876 IAC 2-4-1; 876 IAC 2-4-3; 876 IAC 2-4-4; 876 IAC 2-4-5; 876 IAC 2-4-6; 876 IAC 2-4-7; 876 IAC 2-5; 876 IAC 2-6-1; 876 IAC 2-6-2; 876 IAC 2-6-3; 876 IAC 2-6-5; 876 IAC 2-6-6; 876 IAC 2-6-7; 876 IAC 2-6-8; 876 IAC 2-6-9; 876 IAC 2-6-10; 876 IAC 2-7; 876 IAC 2-8; 876 IAC 2-9-1; 876 IAC 2-15.1; 876 IAC 2-16; 876 IAC 2-17; 876 IAC 2-18; 876 IAC 4.

SECTION 7. SECTIONS 1 through 6 of this document take effect July 1, 2014.

Notice of Public Hearing

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