

# SENATE BILL No. 358

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 25-34.1-3.

**Synopsis:** Business associations of real estate agents. Allows a broker company to pay compensation directly to a business entity owned by a licensed broker that has been formed for the purpose of receiving compensation earned by the broker.

**Effective:** July 1, 2020.

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## Merritt

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January 13, 2020, read first time and referred to Committee on Commerce and Technology.

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Second Regular Session of the 121st General Assembly (2020)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2019 Regular Session of the General Assembly.

# SENATE BILL No. 358

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 25-34.1-3-4.1, AS AMENDED BY P.L.177-2015,  
2 SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2020]: Sec. 4.1. (a) To obtain a broker license, an individual  
4 must:  
5 (1) be at least eighteen (18) years of age before applying for a  
6 license and must not have a conviction for:  
7 (A) an act that would constitute a ground for disciplinary  
8 sanction under IC 25-1-11;  
9 (B) a crime that has a direct bearing on the individual's ability  
10 to practice competently; or  
11 (C) a crime that indicates the individual has the propensity to  
12 endanger the public;  
13 (2) have a high school diploma or a general educational  
14 development (GED) diploma under IC 20-20-6 (before its repeal)  
15 or IC 22-4.1-18;  
16 (3) have successfully completed an approved broker course of  
17 study as prescribed in IC 25-34.1-5-5;



- 1 (4) apply for a license by submitting the application fee  
 2 prescribed by the commission and an application specifying:  
 3 (A) the name, address, and age of the applicant;  
 4 (B) the broker company with which the applicant intends to  
 5 associate;  
 6 (C) the address of the broker company;  
 7 (D) proof of compliance with subdivisions (2) and (3); and  
 8 (E) any other information the commission requires;  
 9 (5) pass a written examination prepared and administered by the  
 10 commission or its duly appointed agent; and  
 11 (6) within one (1) year after passing the commission examination,  
 12 submit the license fee established by the commission under  
 13 IC 25-1-8-2. If an individual applicant fails to file a timely license  
 14 fee, the commission shall void the application and may not issue  
 15 a license to that applicant unless that applicant again complies  
 16 with the requirements of subdivisions (4) and (5) and this  
 17 subdivision.
- 18 (b) To obtain a broker license, a partnership must:  
 19 (1) have as partners only individuals who are licensed brokers;  
 20 (2) have at least one (1) partner who qualifies as a managing  
 21 broker under IC 25-34.1-4-0.5 and IC 25-34.1-4-3;  
 22 (3) cause each employee of the partnership who acts as a broker  
 23 to be licensed; and  
 24 (4) submit the license fee established by the commission under  
 25 IC 25-1-8-2 and an application setting forth the name and  
 26 residence address of each partner and the information prescribed  
 27 in subsection (a)(4).
- 28 (c) To obtain a broker license, a corporation must:  
 29 (1) have a licensed broker who qualifies as a managing broker  
 30 under IC 25-34.1-4-0.5 and IC 25-34.1-4-3;  
 31 (2) cause each employee of the corporation who acts as a broker  
 32 to be licensed; and  
 33 (3) submit the license fee established by the commission under  
 34 IC 25-1-8-2, an application setting forth the name and residence  
 35 address of each officer and the information prescribed in  
 36 subsection (a)(4), a copy of the certificate of incorporation, and a  
 37 certificate of good standing of the corporation issued by the  
 38 secretary of state.
- 39 (d) To obtain a broker license, a limited liability company must:  
 40 (1) if a member-managed limited liability company:  
 41 (A) have as members only individuals who are licensed  
 42 brokers; and



- 1 (B) have at least one (1) member who qualifies as a managing  
 2 broker under IC 25-34.1-4-0.5 and IC 25-34.1-4-3;
- 3 (2) if a manager-managed limited liability company, have a  
 4 licensed broker who qualifies as a managing broker under  
 5 IC 25-34.1-4-0.5 and IC 25-34.1-4-3;
- 6 (3) cause each employee of the limited liability company who acts  
 7 as a broker to be licensed; and
- 8 (4) submit the license fee established by the commission under  
 9 IC 25-1-8-2 and an application setting forth the information  
 10 prescribed in subsection (a)(4), together with:
- 11 (A) if a member-managed company, the name and residence  
 12 address of each member; or
- 13 (B) if a manager-managed company, the name and residence  
 14 address of each manager, or of each officer if the company has  
 15 officers.
- 16 (e) Licenses granted to partnerships, corporations, and limited  
 17 liability companies are issued, expire, are renewed, and are effective on  
 18 the same terms as licenses granted to individual brokers, except as  
 19 provided in subsection (h), and except that expiration or revocation of  
 20 the license of:
- 21 (1) any partner in a partnership or all individuals in a corporation  
 22 satisfying subsection (c)(1); or
- 23 (2) a member in a member-managed limited liability company or  
 24 all individuals in a manager-managed limited liability company  
 25 satisfying subsection (d)(2);
- 26 terminates the license of that partnership, corporation, or limited  
 27 liability company.
- 28 (f) Upon the applicant's compliance with the requirements of  
 29 subsection (a), (b), or (c), the commission shall issue the applicant a  
 30 broker license and an identification card which certifies the issuance  
 31 of the license and indicates the expiration date of the license. The  
 32 license shall be displayed at the broker's place of business. For at least  
 33 two (2) years after the issuance of a license, the individual cannot be a  
 34 managing broker. An individual who applies for a broker's license after  
 35 June 30, 2014, must, during the first two (2) years after the license is  
 36 issued, take and pass at least thirty (30) hours of postlicensing  
 37 education focused on the practical matters of real estate transactions  
 38 instead of the continuing education requirements under IC 25-34.1-9.
- 39 (g) Subject to IC 25-1-2-6(e), unless the license is renewed, a broker  
 40 license expires, for individuals, on a date specified by the licensing  
 41 agency under IC 25-1-6-4 and expires three (3) years after the initial  
 42 expiration date. An applicant for renewal shall submit an application



1 in the manner prescribed by the commission and pay the renewal fee  
 2 established by the commission under IC 25-1-8-2 on or before the  
 3 renewal date specified by the licensing agency. If the holder of a  
 4 license does not renew the license by the date specified by the licensing  
 5 agency, the license expires and becomes invalid without the  
 6 commission taking any action.

7 (h) Subject to IC 25-1-2-6(e), if the holder of a license under this  
 8 section fails to renew the license on or before the date specified by the  
 9 licensing agency, the license may be reinstated by the commission if  
 10 the holder of the license, not later than three (3) years after the  
 11 expiration of the license, meets the requirements of IC 25-1-8-6(c).

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

15 (j) **Subject to section 4.5 of this chapter**, a partnership,  
 16 corporation, or limited liability company may be only a broker  
 17 company, except as authorized in IC 23-1.5. An individual broker who  
 18 associates with a broker company shall immediately notify the  
 19 commission:

20 (1) of the name and business address of the broker company with  
 21 which the individual broker is associating; and

22 (2) of any changes of the broker company with which the  
 23 individual broker is associated that may occur.

24 Upon receiving notice under subdivision (1) or (2), the commission  
 25 shall change the address of the individual broker on its records to that  
 26 of the broker company.

27 SECTION 2. IC 25-34.1-3-4.5 IS ADDED TO THE INDIANA  
 28 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 29 [EFFECTIVE JULY 1, 2020]: **Sec. 4.5. (a) A broker company may**  
 30 **pay compensation directly to a business entity owned by a licensee**  
 31 **that has been formed for the purpose of receiving compensation**  
 32 **earned by the licensee.**

33 **(b) A business entity that receives compensation from a broker**  
 34 **company as provided for in this section:**

35 **(1) is not required to be licensed as a broker company; and**

36 **(2) must be owned:**

37 **(A) solely by the licensee;**

38 **(B) by the licensee and the licensee's spouse, if the spouse**  
 39 **and licensee are both licensed and sponsored by the same**  
 40 **broker company; or**

41 **(C) by the licensee and the licensee's spouse, if the spouse**  
 42 **is not licensed.**

