



January 24, 2020

SENATE BILL No. 358

DIGEST OF SB 358 (Updated January 23, 2020 12:09 pm - DI 119)

Citations Affected: IC 25-34.1.

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.

Merritt

January 13, 2020, read first time and referred to Committee on Commerce and Technology.
January 23, 2020, amended, reported favorably — Do Pass.

SB 358—LS 6860/DI 77



January 24, 2020

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;

SB 358—LS 6860/DI 77



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

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

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

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

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

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 broker; or**

38 **(B) by the broker and the broker's spouse, if the spouse is**
 39 **not licensed.**



COMMITTEE REPORT

Madam President: The Senate Committee on Commerce and Technology, to which was referred Senate Bill No. 358, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 4, line 15, delete "Subject to section 4.5 of this chapter, a" and insert "A".

Page 4, line 17, delete "IC 23-1.5." and insert "IC 23-1.5 **and subject to section 4.5 of this chapter.**".

Page 4, line 30, after "entity" insert "**that is**".

Page 4, line 30, delete "licensee" and insert "**broker and associated with the broker company and**".

Page 4, line 32, delete "licensee." and insert "**broker.**".

Page 4, line 37, delete "licensee;" and insert "**broker; or**".

Page 4, delete lines 38 through 40.

Page 4, line 41, delete "(C)" and insert "**(B)**".

Page 4, line 41, delete "licensee and the licensee's" and insert "**broker and the broker's**".

and when so amended that said bill do pass.

(Reference is to SB 358 as introduced.)

PERFECT, Chairperson

Committee Vote: Yeas 8, Nays 0.

