

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 ENROLLED ACT No. 358

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

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

SECTION 1. IC 25-34.1-3-4.1, AS AMENDED BY P.L.177-2015, SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 4.1. (a) To obtain a broker license, an individual must:

- (1) be at least eighteen (18) years of age before applying for a license and must not have a conviction for:
 - (A) an act that would constitute a ground for disciplinary sanction under IC 25-1-11;
 - (B) a crime that has a direct bearing on the individual's ability to practice competently; or
 - (C) a crime that indicates the individual has the propensity to endanger the public;
- (2) have a high school diploma or a general educational development (GED) diploma under IC 20-20-6 (before its repeal) or IC 22-4.1-18;
- (3) have successfully completed an approved broker course of study as prescribed in IC 25-34.1-5-5;
- (4) apply for a license by submitting the application fee prescribed by the commission and an application specifying:
 - (A) the name, address, and age of the applicant;
 - (B) the broker company with which the applicant intends to

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- associate;
- (C) the address of the broker company;
 - (D) proof of compliance with subdivisions (2) and (3); and
 - (E) any other information the commission requires;
- (5) pass a written examination prepared and administered by the commission or its duly appointed agent; and
- (6) within one (1) year after passing the commission examination, submit the license fee established by the commission under IC 25-1-8-2. If an individual applicant fails to file a timely license fee, the commission shall void the application and may not issue a license to that applicant unless that applicant again complies with the requirements of subdivisions (4) and (5) and this subdivision.
- (b) To obtain a broker license, a partnership must:
- (1) have as partners only individuals who are licensed brokers;
 - (2) have at least one (1) partner who qualifies as a managing broker under IC 25-34.1-4-0.5 and IC 25-34.1-4-3;
 - (3) cause each employee of the partnership who acts as a broker to be licensed; and
 - (4) submit the license fee established by the commission under IC 25-1-8-2 and an application setting forth the name and residence address of each partner and the information prescribed in subsection (a)(4).
- (c) To obtain a broker license, a corporation must:
- (1) have a licensed broker who qualifies as a managing broker under IC 25-34.1-4-0.5 and IC 25-34.1-4-3;
 - (2) cause each employee of the corporation who acts as a broker to be licensed; and
 - (3) submit the license fee established by the commission under IC 25-1-8-2, an application setting forth the name and residence address of each officer and the information prescribed in subsection (a)(4), a copy of the certificate of incorporation, and a certificate of good standing of the corporation issued by the secretary of state.
- (d) To obtain a broker license, a limited liability company must:
- (1) if a member-managed limited liability company:
 - (A) have as members only individuals who are licensed brokers; and
 - (B) have at least one (1) member who qualifies as a managing broker under IC 25-34.1-4-0.5 and IC 25-34.1-4-3;
 - (2) if a manager-managed limited liability company, have a licensed broker who qualifies as a managing broker under



IC 25-34.1-4-0.5 and IC 25-34.1-4-3;

(3) cause each employee of the limited liability company who acts as a broker to be licensed; and

(4) submit the license fee established by the commission under IC 25-1-8-2 and an application setting forth the information prescribed in subsection (a)(4), together with:

(A) if a member-managed company, the name and residence address of each member; or

(B) if a manager-managed company, the name and residence address of each manager, or of each officer if the company has officers.

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

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

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

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

(f) Upon the applicant's compliance with the requirements of subsection (a), (b), or (c), the commission shall issue the applicant a broker license and an identification card which certifies the issuance of the license and indicates the expiration date of the license. The license shall be displayed at the broker's place of business. For at least two (2) years after the issuance of a license, the individual cannot be a managing broker. An individual who applies for a broker's license after June 30, 2014, must, during the first two (2) years after the license is issued, take and pass at least thirty (30) hours of postlicensing education focused on the practical matters of real estate transactions instead of the continuing education requirements under IC 25-34.1-9.

(g) Subject to IC 25-1-2-6(e), unless the license is renewed, a broker license expires, for individuals, on a date specified by the licensing agency under IC 25-1-6-4 and expires three (3) years after the initial expiration date. An applicant for renewal shall submit an application in the manner prescribed by the commission and pay the renewal fee established by the commission under IC 25-1-8-2 on or before the renewal date specified by the licensing agency. If the holder of a license does not renew the license by the date specified by the licensing



agency, the license expires and becomes invalid without the commission taking any action.

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

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

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

- (1) of the name and business address of the broker company with which the individual broker is associating; and
- (2) of any changes of the broker company with which the individual broker is associated that may occur.

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

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

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

- (1) is not required to be licensed as a broker company; and**
- (2) must be owned:**
 - (A) solely by the broker; or**
 - (B) by the broker and the broker's spouse, if the spouse is not licensed.**



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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