

Second Regular Session 114th General Assembly (2006)

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 2005 Regular Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1339

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 25-34.1-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. (a) Except as provided in subsection (b), all funds collected under this article shall, at the end of each month, be reported to the auditor of state and deposited with the treasurer of state for deposit in the general fund. All expenses incurred in the administration of this article shall be paid from the general fund.

(b) The commission shall establish a fee of not ~~more~~ less than ten dollars (\$10) for real estate brokers and salespersons to provide funds for the purpose of administering and enforcing the provisions of this article, including investigating and taking enforcement action against real estate fraud and real estate appraisal fraud. All funds collected under this subsection shall be deposited in the investigative fund established by IC 25-34.1-8-7.5.

SECTION 2. IC 25-34.1-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) The commission shall establish fees under IC 25-1-8-2 to implement section 8 of this chapter.

(b) Notwithstanding IC 25-1-8-2, a fee established under IC 25-1-8-2 to implement section 8 of this chapter may not be less than fifty dollars (\$50).

(c) The commission shall establish fees to provide funding for the

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investigative fund established by IC 25-34.1-8-7.5. The fees under this subsection may not be ~~more~~ less than ten dollars (\$10).

(d) The board may collect a fee required by federal law and transmit the fees to the federal government as required by federal law.

(e) A fee described in subsection (a) is in addition to any fees required by federal law.

SECTION 3. IC 25-34.1-3-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 12. A licensee who is convicted of a crime (as defined in IC 33-23-1-4) shall send a copy of the:**

**(1) complaint or other information that describes the crime;**  
**and**

**(2) judgment of conviction;**

**to the commission not more than thirty (30) days after the date of the conviction.**

SECTION 4. IC 25-34.1-6-3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 3. A licensee who is convicted of a crime that substantially relates to the practice of real estate may be disciplined under IC 25-1-11. A certified copy of a judgment of a conviction from a court is presumptive evidence of a conviction for purposes of this section.**

SECTION 5. IC 25-34.1-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 6.** The board shall submit recommendations to the commission concerning the following:

(1) Implementation and operation of the real estate appraiser licensure and certification program under IC 25-34.1-3-8.

(2) Rules governing real estate appraisers licensed and certified under IC 25-34.1-3-8.

(3) Establishing a fee in an amount necessary to fund the investigative fund established by section 7.5 of this chapter but not ~~more~~ less than ten dollars (\$10).

(4) Rules governing the administration of the investigative fund established by section 7.5 of this chapter.

SECTION 6. IC 25-34.1-8-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 7.5.** (a) The investigative fund is established to provide funds for administering and enforcing the provisions of this article, including investigating and taking enforcement action against real estate fraud and real estate appraisal fraud. The fund shall be administered by the attorney general and the professional licensing agency.

(b) The expenses of administering the fund shall be paid from the

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money in the fund. The fund consists of money from a fee imposed upon licensed or certified appraisers and real estate brokers and salespersons under IC 25-34.1-2-6 and IC 25-34.1-3-9.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(d) **Except as otherwise provided in this subsection**, money in the fund at the end of a state fiscal year does not revert to the state general fund. If the total amount in the investigative fund exceeds ~~five hundred thousand dollars (\$500,000)~~ **seven hundred fifty thousand dollars (\$750,000)** at the end of a state fiscal year after payment of all claims and expenses, the amount that exceeds ~~five hundred thousand dollars (\$500,000)~~ **seven hundred fifty thousand dollars (\$750,000)** reverts to the state general fund.

(e) Money in the fund is continually appropriated for use by the attorney general and the ~~professional~~ licensing agency to administer and enforce the provisions of this article and to conduct investigations and take enforcement action against real estate and appraisal fraud under this article. The attorney general **shall receive five dollars (\$5) of each fee collected under IC 25-34.1-2-6 and IC 25-34.1-3-9**, and the ~~professional~~ licensing agency shall ~~divide the money in the fund equally~~ **receive any amount that exceeds five dollars (\$5) of each fee collected under IC 25-34.1-2-6 and IC 25-34.1-3-9**.

SECTION 7. IC 25-34.1-8-7.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 7.7. (a) The attorney general and the licensing agency shall enter into a memorandum of understanding to administer and enforce this article.**

**(b) The attorney general and the licensing agency shall present the memorandum of understanding annually to the commission for review.**

SECTION 8. IC 25-34.1-10-9.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 9.5. (a) A licensee has an agency relationship with, and is representing, the individual with whom the licensee is working unless:**

- (1) there is a written agreement to the contrary; or
- (2) the licensee is merely assisting the individual as a customer **without compensation.**

**(b) If a licensee, under subsection (a)(1), does not have an agency relationship with the individual with whom the licensee is working due to the existence of a written agreement to the contrary, the licensee must perform at least the following duties**

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**under the written agreement:**

**(1) Be available to receive and timely present offers and counteroffers for the purchase or lease of:**

**(A) the property of the individual, if the individual is a seller or landlord; or**

**(B) the property that the individual seeks to purchase or lease, if the individual is a buyer or tenant.**

**(2) Assist in negotiating, completing real estate forms, communicating, and timely presenting offers, counteroffers, notices, and various addenda relating to the offers and counteroffers until:**

**(A) a purchase agreement or lease is signed; and**

**(B) all contingencies are satisfied or waived.**

**(3) Timely respond to questions relating to offers, counteroffers, notices, various addenda, and contingencies from the seller, landlord, buyer, or tenant pertaining to the subject property.**

**(c) If:**

**(1) a licensee described in subsection (b) fails to perform the duties set forth in subsection (b); and**

**(2) another licensee performs those duties on behalf of or at the request of a seller, landlord, buyer, or tenant;**

**the performance of those duties by the other licensee referred to in subdivision (2) does not constitute an agency relationship.**

**(d) This section does not prohibit a licensee from performing duties in addition to the duties specified in this section on behalf of or at the request of a seller, landlord, buyer, or tenant in a real estate transaction.**

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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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