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**TITLE 50 DEPARTMENT OF LOCAL
GOVERNMENT FINANCE**

NOTE: Under IC 6-1.1-31-1, the name of the State Board of Tax Commissioners is changed to Department of Local Government Finance, effective January 1, 2002.

LSA Document #01-266(F)

DIGEST

Amends 50 IAC 15 concerning the certification of assessor-appraisers, professional appraisers, and tax representatives. Makes changes recognizing the new department of local government finance and the Indiana board of tax review as entities that will succeed the state board of tax commissioners effective January 1, 2002 (pursuant to P.L.198-2001.) Makes other changes required under P.L.198-2001, including the deletion of testing requirements in connection with continuing education and adding provisions regarding procedures for the revocation of a certification. Effective 30 days after filing with the secretary of state.

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SECTION 1. 50 IAC 15-1-1.5 IS ADDED TO READ AS FOLLOWS:

ARTICLE 15. ASSESSOR-APPRAISERS, PROFESSIONAL APPRAISERS, AND TAX REPRESENTATIVES

50 IAC 15-1-1.5 “Clarification of the authority of Indiana board of tax review” defined

Authority: IC 6-1.1-30-1.1; IC 6-1.1-35.5-8.5

Affected: IC 6-1.1-31-1; IC 6-1.1-35.5-6

Sec. 1.5. The department of local government finance, as successor agency to the state board of tax commissioners and under the authority of IC 6-1.1-35.5-8.5, adopts these amendments to the rules as they pertain to the department of local government finance and proceedings before the department and the property tax assessment board of appeals. Pursuant to IC 6-1.1-31-1(c), this rulemaking action does not repeal or supersede the rules of the state board of tax commissioners until the Indiana board of tax review adopts rules to repeal or supersede the rules of the state board of tax commissioners as they pertain to rules of practice before the Indiana board. (Department of Local Government Finance; 50 IAC 15-4-1.5; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1516)

SECTION 2. 50 IAC 15-1-2.5 IS ADDED TO READ AS FOLLOWS:

50 IAC 15-1-2.5 “Commissioner” defined

Authority: IC 6-1.1-30-1.1; IC 6-1.1-31-1

Affected: IC 6-1.1-35.5-6

Sec. 2.5. "Commissioner" is the commissioner of the department of local government finance established under IC 6-1.1-30-1.1. (*Department of Local Government Finance; 50 IAC 15-1-2.5; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1516*)

SECTION 3. 50 IAC 15-1-2.6 IS ADDED TO READ AS FOLLOWS:

50 IAC 15-1-2.6 "Department" defined

Authority: IC 6-1.1-30-1.1

Affected: IC 6-1.1-35.5-6

Sec. 2.6. "Department" is the department of local government finance established under IC 6-1.1-30-1.1. References to the department in this rule shall where necessary include its predecessor agency, the state board of tax commissioners. (*Department of Local Government Finance; 50 IAC 15-1-2.6; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1516*)

SECTION 4. 50 IAC 15-3-1 IS AMENDED TO READ AS FOLLOWS:

50 IAC 15-3-1 Level One requirements

Authority: IC 6-1.1-31-1; IC 6-1.1-35.5-8

Affected: IC 6-1.1

Sec. 1. In order to be certified as a Level One assessor-appraiser, an individual must:

(1) ~~after December 31, 1999;~~ complete six (6) hours of Level One preexamination course work designated by the ~~board;~~ **department;**

(2) pass the Level One examination designated by the ~~board;~~ **department;** and

(3) complete the continuing education requirements specified in section 2 of this rule.

(*Department of Local Government Finance; 50 IAC 15-3-1; filed Mar 31, 1999, 10:31 a.m.: 22 IR 2482; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1516*)

SECTION 5. 50 IAC 15-3-2 IS AMENDED TO READ AS FOLLOWS:

50 IAC 15-3-2 Level One continuing education

Authority: IC 6-1.1-31-1; IC 6-1.1-35.5-8

Affected: IC 6-1.1

Sec. 2. (a) The continuing education requirements for Level One certification are ~~as follows:~~

(1) ~~For certification cycles that begin after December 31, 1998, thirty (30) hours of course work approved by the board; six (6) hours of which must be evidenced by passage of the associated course examination.~~ **department.**

(2) ~~For certification cycles that begin after December 31, 2002, thirty (30) hours of course work approved by the board; twelve (12) hours of which must be evidenced by passage of the associated course examination.~~

(3) ~~For certification cycles that begin after December 31, 2006, thirty (30) hours of course work approved by the board; fifteen (15) hours of which must be evidenced by passage of the associated course examination.~~

(b) After eight (8) years of continuous certification, accrued after December 31, 1998, as an assessor-appraiser under section 1 of this rule, the continuing education requirements of subsection (a) are reduced to fifteen (15) hours of course work approved by the ~~board; three (3) hours of which must be evidenced by passage of the associated course examination.~~ **department.**

(c) The continuing education requirements specified in this section must be obtained in forty-eight (48) month cycles, beginning

(1) ~~if first certified before January 1, 1999; January 1, 1999; or~~

(2) ~~if first certified after December 31, 1998; January 1 of the first year following certification.~~

(*Department of Local Government Finance; 50 IAC 15-3-2; filed Mar 31, 1999, 10:31 a.m.: 22 IR 2482; filed Dec 18, 2000, 11:01 a.m.: 24 IR 1302; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1516*)

SECTION 6. 50 IAC 15-3-3 IS AMENDED TO READ AS FOLLOWS:

50 IAC 15-3-3 Level Two requirements

Authority: IC 6-1.1-31-1; IC 6-1.1-35.5-8

Affected: IC 6-1.1

Sec. 3. In order to be certified as a Level Two assessor-appraiser, an individual must:

- (1) ~~after December 31, 1999~~, complete six (6) hours of Level Two preexamination course work designated by the ~~board~~; **department**;
- (2) pass the Level Two examination designated by the ~~board~~; **department**; and
- (3) complete the continuing education requirements specified in section 4 of this rule.

(Department of Local Government Finance; 50 IAC 15-3-3; filed Mar 31, 1999, 10:31 a.m.: 22 IR 2483; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1517)

SECTION 7. 50 IAC 15-3-4 IS AMENDED TO READ AS FOLLOWS:

50 IAC 15-3-4 Level Two continuing education

Authority: IC 6-1.1-31-1; IC 6-1.1-35.5-8

Affected: IC 6-1.1

Sec. 4. (a) The continuing education requirements for Level Two certification are ~~as follows~~:

- (1) ~~For certification cycles that begin after December 31, 1998~~, forty-five (45) hours of course work approved by the ~~board~~; twelve (12) of which must be evidenced by passage of the associated course examination. **department.**
- (2) ~~For certification cycles that begin after December 31, 2002~~, forty-five (45) hours of course work approved by the ~~board~~; eighteen (18) hours of which must be evidenced by passage of the associated course examination.
- (3) ~~For certification cycles that begin after December 31, 2006~~, forty-five (45) hours of course work approved by the ~~board~~; twenty-two (22) hours of which must be evidenced by passage of the associated course examination.

(b) After eight (8) years of continuous certification, accrued after December 31, 1998, as an assessor-appraiser under section 3 of this rule, the continuing education requirements of subsection (a) are reduced to eighteen (18) hours of course work approved by the ~~board~~; six (6) hours of which must be evidenced by passage of the associated course examination. **department.**

(c) The continuing education requirements specified in this section must be obtained ~~every in~~ forty-eight (48) ~~months~~ **month** cycles, beginning

- (1) ~~if first certified before January 1, 1999~~; January 1, 1999; or
- (2) ~~if first certified after December 31, 1998~~; January 1 of the first year following certification.

(Department of Local Government Finance; 50 IAC 15-3-4; filed Mar 31, 1999, 10:31 a.m.: 22 IR 2483; filed Dec 18, 2000, 11:01 a.m.: 24 IR 1302; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1517)

SECTION 8. 50 IAC 15-3-5 IS AMENDED TO READ AS FOLLOWS:

50 IAC 15-3-5 Miscellaneous provisions

Authority: IC 6-1.1-31-1; IC 6-1.1-35.5-8

Affected: IC 6-1.1-4

Sec. 5. (a) ~~The board may, after proper notice and hearing, revoke an assessor-appraiser certification for noncompliance with:~~

- (1) ~~this article;~~
- (2) ~~the provisions of the contract entered under IC 6-1.1-4; or~~
- (3) ~~assessing laws and rules of the board.~~

(b) The ~~board~~ **department** shall maintain, publish, and distribute to each assessor-appraiser, a list of courses that have been accredited as approved assessor-appraiser continuing education courses. Courses that are not included on the list may be submitted for inclusion and will, at the discretion of the ~~board~~; **department**, be accredited.

(c) ~~(b)~~ A certified assessor-appraiser that meets the continuing education requirements of section 4 of this rule is not required

to meet the continuing education requirements of section 2 3 of this rule in order to maintain their Level One certification.

~~(d)~~ (c) An assessor-appraiser holding a valid certification on January 1, 1999, shall be deemed certified under this rule. *(Department of Local Government Finance; 50 IAC 15-3-5; filed Mar 31, 1999, 10:31 a.m.: 22 IR 2483; filed Dec 18, 2000, 11:01 a.m.: 24 IR 1302; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1517)*

SECTION 9. 50 IAC 15-3-6 IS ADDED TO READ AS FOLLOWS:

50 IAC 15-3-6 Revocation of certification

Authority: IC 6-1.1-31-1

Affected: IC 6-1.1-4; IC 6-1.1-35.5-6

Sec. 6. (a) The department may revoke the Level One or Level Two assessor-appraiser certification of an individual for:

- (1) conduct proscribed by IC 6-1.1-35.5-6(b);**
- (2) noncompliance with:**
 - (A) the continuing education provisions of this article;**
 - (B) the provisions of the contract entered under IC 6-1.1-4; or**
 - (C) assessing laws pursuant to IC 6-1.1, and rules of the department.**

(b) The revocation procedure shall be initiated by the department's issuance of a notice to the respondent. The notice shall:

- (1) be sent by certified mail, return receipt requested;**
- (2) contain a clear and concise statement detailing the alleged misconduct;**
- (3) state the time and place for a hearing not less than ninety (90) days from the date of mailing the notice;**
- (4) inform respondent of the information contained in subsections (d) and (g); and**
- (5) inform the respondent that the failure to attend the hearing without good cause may constitute grounds for default entered in favor of the department, as well as the sanction imposed.**

(c) The department shall appoint a hearing officer for purposes of these proceedings. The hearing officer may by prior written notice:

- (1) conduct any prehearing proceedings requested by either party, or which the hearing officer determines may aid in the ultimate resolution of the proceedings; and**
- (2) allow informal discovery subject to any terms and conditions the hearing officer deems to be appropriate.**

(d) The revocation hearing shall be conducted on the record.

- (1) The respondent may be represented by counsel, and shall have the right to present witnesses and evidence on the respondent's own behalf and to cross-examine the department's witnesses or evidence.**
- (2) The burden of proof shall be on the department to prove the violation or violations alleged by a preponderance of the evidence.**
- (3) No continuance shall be granted except upon a showing of good cause.**

(e) The hearing officer may consider any of the following in recommending to the commissioner whether respondent's Level One or Level Two assessor-appraiser certification should be revoked:

- (1) The seriousness of the violation that gave rise to these proceedings.**
- (2) Whether the violation is likely to recur.**
- (3) Respondent's character, including remorse, if any,**
- (4) Whether respondent's continued status as a Level One or Level Two assessor-appraiser would pose an undue risk to the public.**
- (5) Any other factor the hearing officer determines to be appropriate under the circumstances.**

(f) The hearing officer shall submit a written recommendation for final action to the commissioner. The recommendation shall contain the reasons for the hearing officer's determination of the sanction, if any, to be imposed. The commissioner is not bound by the hearing officer's recommendation.

(g) If the commissioner determines that a violation of section 2(a) of this rule has occurred, the commissioner may take any of the following remedies with respect to the respondent:

- (1) Decline to issue any sanction.
- (2) Issue a written reprimand admonishing the respondent for the violation.
- (3) Suspend the respondent's Level One or Level Two assessor-appraiser certification for a period of up to one (1) year, at the conclusion of which the respondent shall be automatically reinstated, provided that respondent meets all educational requirements for a Level One or Level Two assessor-appraiser certification, as applicable to the proceedings.

(h) The determination of the commissioner constitutes a final appealable order of the department. *(Department of Local Government Finance; 50 IAC 15-3-6; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1518)*

SECTION 10. 50 IAC 15-4-1 IS AMENDED TO READ AS FOLLOWS:

50 IAC 15-4-1 Certification requirements

Authority: IC 6-1.1-31-1; IC 6-1.1-31.7-3

Affected: IC 6-1.1-4-19.5; IC 6-1.1-31.7; IC 6-1.1-35.5

Sec. 1. (a) **To be designated as a professional appraiser, an individual** must:

- (1) be a certified Level Two assessor-appraiser under IC 6-1.1-35.5;
- (2) enter a contract that contains all applicable standard contract provisions developed by the **board department** under ~~IC 6-1.1-4-19~~; **IC 6-1.1-4-19.5**;
- (3) specify in the contract entered under ~~IC 6-1.1-4-19~~ **IC 6-1.1-4-19.5** that the contract is void if the individual's appraiser certification, issued under IC 6-1.1-31.7, is revoked; and
- (4) specify in the contract entered under ~~IC 6-1.1-4-19~~ **IC 6-1.1-4-19.5** the precise contractual duties that:
 - (A) the professional appraiser will personally fulfill;
 - (B) the professional appraiser will personally review, direct, administer, supervise, or oversee;
 - (C) will be conducted by an administrative assistant or any person other than the professional appraiser; and
 - (D) will remain the responsibility of the township or county.

(b) Professional appraisers that are firms must:

- (1) employ a certified Level Two assessor-appraiser under IC 6-1.1-35.5;
- (2) enter a contract that contains all applicable standard contract provisions developed by the **board department** under ~~IC 6-1.1-4-19~~; **IC 6-1.1-4-19.5**, including, specifically, provisions for sanctions;
- (3) specify in the contract entered under ~~IC 6-1.1-4-19~~ **IC 6-1.1-4-19.5** that the contract is void if the firm's appraiser certification, issued under IC 6-1.1-31.7, is revoked; and
- (4) specify in the contract entered under IC 6-1.1-4 the precise contractual duties that:
 - (A) a certified Level Two assessor-appraiser will personally fulfill;
 - (B) a certified Level Two assessor-appraiser will personally review, direct, administer, supervise, or oversee;
 - (C) will be conducted by administrative personnel or any person other than a certified Level Two assessor-appraiser; and
 - (D) will remain the responsibility of the township or county.

(c) ~~The board may revoke the Level Two assessor-appraiser certification of a professional appraiser or employee of a professional appraiser for noncompliance with:~~

- ~~(1) this article;~~
- ~~(2) the provisions of the contract entered under IC 6-1.1-4; or~~
- ~~(3) assessing laws and rules of the board.~~

(Department of Local Government Finance; 50 IAC 15-4-1; filed Mar 31, 1999, 10:31 a.m.: 22 IR 2483; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1518)

SECTION 11. 50 IAC 15-5-1 IS AMENDED TO READ AS FOLLOWS:

50 IAC 15-5-1 Definitions

Authority: IC 6-1.1-31-1; IC 6-1.1-31-11

Affected: IC 6-1.1-2-4; IC 6-1.1-15; IC 6-1.1-28-1; IC 6-1.1-30-11; IC 6-1.5

Sec. 1. The following definitions apply throughout this rule:

~~(1) “Division of appeals” means the division of appeals of the board established under IC 6-1.1-30-11.~~

~~(2) (1) “Practice before the property tax assessment board of appeals the division of appeals, or the board” means~~ **department” is the participation in any all matters connected with a presentation to the property tax assessment board of appeals, the division of appeals, the board, department, or any of their officers or employees relating to a client’s rights, privileges, or liabilities under Indiana’s property tax laws or rules. Such presentations include but are not limited to, the following:**

(A) Preparing and filing necessary documents, except personal property returns.

(B) Corresponding and communicating with the property tax assessment board of appeals ~~the division of appeals, or the board.~~ **department.**

(C) Representing a client at hearings, on-site inspections, and meetings.

~~Practice before the property tax assessment board of appeals, the division of appeals, or the board does not include the activities of any local unit of government participating before the property tax assessment board of appeals, the division of appeals, or the board.~~

~~(3) (2) “Property tax assessment board of appeals” means is the county property tax assessment board of appeals established under IC 6-1.1-28-1.~~

~~(4) (3) “Tax representative” means is a person who represents another person at a proceeding before the property tax assessment board of appeals the division of appeals, or the board under IC 6-1.1-15.~~ **department.** The term does not include:

(A) the owner of the property (or person liable for the taxes under IC 6-1.1-2-4) that is the subject of the appeal;

(B) a permanent full-time employee of the owner of the property (or person liable for the taxes under IC 6-1.1-2-4) who is the subject of the appeal;

(C) representatives of local units of government appearing on behalf of the unit;

(D) a certified public accountant, when the certified public accountant is representing a client in a matter that relates only to personal property taxation; or

(E) an attorney who is a member in good standing of the Indiana bar or any person who is a member in good standing of any other state bar and who has been granted leave by the ~~board~~ **department** to appear pro hac vice.

(4) “Indiana board” means the Indiana board of tax review established under IC 6-1.5, et seq.

(Department of Local Government Finance; 50 IAC 15-5-1; filed Dec 5, 2000, 2:32 p.m.: 24 IR 947; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1519)

SECTION 12. 50 IAC 15-5-2 IS AMENDED TO READ AS FOLLOWS:

50 IAC 15-5-2 Practice requirements

Authority: IC 6-1.1-31-1; IC 6-1.1-31-11

Affected: IC 6-1.1-15-1; IC 6-1.1-15-12; IC 6-1.1-26-1

Sec. 2. (a) In order to practice before the property tax assessment board of appeals ~~the division of appeals, or the board,~~ **department,** a tax representative must:

(1) beginning July 1, 2001, be properly certified **in writing** by the ~~board,~~ **department;** and

(2) have a copy of a properly executed power of attorney from the taxpayer. **The power of attorney shall be on the form prescribed by the board on file with the entity conducting the hearing before a hearing will be scheduled. department and need not be refiled if the form is later revised.**

(b) Property tax representatives may not be certified to practice before the property tax assessment board of appeals ~~the division of appeals, or the board~~ **department** for:

(1) matters relating to real and personal property exemptions claimed on a Form 132 or 136;

(2) claims that assessments or taxes are “illegal as a matter of law”, whether brought on a Form 133 pursuant to IC 6-1.1-15-12(a)(6), on a Form 17-T pursuant to IC 6-1.1-26-1(4), a Form 130 pursuant to IC 6-1.1-15-1, or otherwise;

(3) claims regarding the constitutionality of an assessment; or

(4) ~~any~~ other representation that involves the practice of law.

(c) Individuals who apply for certification or recertification as a tax representative must furnish evidence to the **board department** that they:

- (1) are at least eighteen (18) years of age;
- (2) hold a high school diploma or equivalent credential;
- (3) are a certified Level Two assessor-appraiser;
- (4) have completed the educational course requirements of all rules adopted by the **board department** related to procedures for practice before the property tax assessment board of appeals ~~the division of appeals~~; or the **board department**;
- (5) have fully complied with all rules adopted by the **board department** regarding professional conduct and ethical considerations; and
- (6) have fully complied with all rules adopted by the **board department** regarding client solicitation.

(d) A person who fulfills the requirements of subsection (c) shall be granted a written certification that shall be effective upon issuance by the department. (*Department of Local Government Finance; 50 IAC 15-5-2; filed Dec 5, 2000, 2:32 p.m.: 24 IR 947; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1520*)

SECTION 13. 50 IAC 15-5-4 IS AMENDED TO READ AS FOLLOWS:

50 IAC 15-5-4 Course work

Authority: IC 6-1.1-31-11

Affected: IC 6-1.1

Sec. 4. **(a)** Beginning January 1, 2002, a tax representative must, within each forty-eight (48) month continuing education certification cycle under 50 IAC 15-3-4, complete twelve (12) hours of course work that has been designated as tax representative practice course work approved by the **board department**. Of the twelve (12) hours of tax representative practice course work,

- ~~(1) six (6) hours must be evidenced by passage of the associated course work examination; and~~
- ~~(2) three (3) hours must relate to professional conduct, ethical considerations, or client communications.~~

(b) The course work completed under this section will be credited toward the total continuing education course work required to maintain a Level Two assessor-appraiser certification under 50 IAC 15-3-4. (*Department of Local Government Finance; 50 IAC 15-5-4; filed Dec 5, 2000, 2:32 p.m.: 24 IR 948; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1520*)

SECTION 14. 50 IAC 15-5-5 IS AMENDED TO READ AS FOLLOWS:

50 IAC 15-5-5 Communication with client or prospective client

Authority: IC 6-1.1-31-1; IC 6-1.1-31-11

Affected: IC 6-1.1-2-4

Sec. 5. ~~(a) No~~ **A** certified property tax representative shall ~~with respect to any matter relating to practice before the property tax assessment board of appeals, the division of appeals, or the board, in any way not~~ use or participate in the use of any form of public communication containing a:

- ~~(1) false, fraudulent, unduly influencing, coercive, or unfair, statement or claim; or~~
- ~~(2) misleading, or deceptive statement or claim.~~ **claims with respect to any matter relating to the practice before the property tax assessment board of appeals or the department.**

(b) Beginning January 1, 2001, a property tax representative shall advise the client or prospective client in writing, using a typeface of not less than 12-point, either on the power of attorney or in some other form that may be reasonably interpreted by the taxpayer (the property owner, or person liable for the taxes under IC 6-1.1-2-4) to set forth the rights of the taxpayer with regard to his or her appeal, the following:

"I understand that by authorizing _____ to serve as my certified property tax representative, I am aware of and accept the possibility that the property value may increase as a result of filing an administrative appeal with the property tax assessment board of appeals ~~the division of appeals of the state board of tax commissioners; or the state board of tax commissioners~~; and that I may be compelled to appear at a hearing before ~~any or all of these boards: the property tax~~

assessment board of appeals or the department of local government finance.

I further understand that the certified property tax representative is not an attorney and may not present arguments of a legal nature on my behalf.”. ~~I understand that legal issues relating to my assessment that may now exist or may be discovered at some time in the future will not and cannot be addressed by the certified property tax representative, and that if not raised before the property tax assessment board of appeals may not be raised at a later stage of my assessment appeal.”.~~

(c) The disclosure shall be signed by the taxpayer. The certified property tax representative shall provide the taxpayer with a copy of the disclosure and shall be required to provide a copy of the disclosure to the property tax assessment board of appeals. ~~the division of appeals, or the board, upon request.~~ Failure to provide a signed copy of disclosure upon request may be grounds for ~~dismissal of the appeal.~~ **an action for revocation of the tax representative’s certification under 50 IAC 15-5-8.** (*Department of Local Government Finance; 50 IAC 15-5-5; filed Dec 5, 2000, 2:32 p.m.: 24 IR 948; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1520*)

SECTION 15. 50 IAC 15-5-6 IS AMENDED TO READ AS FOLLOWS:

50 IAC 15-5-6 Prohibitions; obligations

Authority: IC 6-1.1-31-1; IC 6-1.1-31-11

Affected: IC 6-1.1-2-4

Sec. 6. A certified tax representative shall:

- (1) not knowingly misrepresent any information or act in a fraudulent manner;
- (2) not prepare documents or provide evidence in a property assessment appeal unless the representative is authorized by the property owner (or person liable for the taxes under IC 6-1.1-2-4) to do so and any required authorization form has been filed;
- (3) not knowingly submit false or erroneous information in a property assessment appeal;
- (4) use the appraisal standards and methods required by rules adopted by the **department, Indiana board, or property tax assessment board of appeals** when the representative submits appraisal information in a property assessment appeal; and
- (5) notify the property owner (or person liable for the taxes under IC 6-1.1-2-4) of all matters relating to the review of the assessment of taxpayers’ property before the property tax assessment board of appeals ~~the division of appeals, or the board,~~ **department,** including, but not limited to, the following:

(A) The tax representative’s filing of all necessary documents, correspondence, and communications with the ~~division of appeals.~~ **property tax assessment board of appeal or department.**

(B) The dates and substance of all hearings, on-site inspections, and meetings.

(*Department of Local Government Finance; 50 IAC 15-5-6; filed Dec 5, 2000, 2:32 p.m.: 24 IR 948; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1521*)

SECTION 16. 50 IAC 15-5-7 IS AMENDED TO READ AS FOLLOWS:

50 IAC 15-5-7 Contingent fees

Authority: IC 6-1.1-31-1; IC 6-1.1-31-11

Affected: IC 6-1.1

Sec. 7. (a) In the event a tax representative **or the entity with which the tax representative is affiliated** charges a contingent fee for any matter relating to practice before the property tax assessment board of appeals, the ~~division of appeals, Indiana board or the board, department,~~ the tax representative ~~may not testify at hearings or on-site inspections without first disclosing the existence of the contingent fee arrangement.~~

~~(b) Failure to must disclose, upon request, the existence of a contingent fee arrangement may result in the exclusion of the certified tax representative’s testimony or in dismissal of the appeal.~~ **to the property tax assessment board of appeals, Indiana board, or department.**

~~(c)~~ **(b)** As used in this section, “contingent fee” includes a fee **charged by the tax representative or the entity with which the tax representative is affiliated** that is based on:

- (1) a percentage of the refund obtained;
- (2) a percentage of the taxes saved; or
- (3) a percentage of the reduction in property value.

(c) Failure to disclose the existence of a contingent fee arrangement may result in the presumption that a contingent fee arrangement exists, revocation of certification, or other discipline as provided in this article. *(Department of Local Government Finance; 50 IAC 15-5-7; filed Dec 5, 2000, 2:32 p.m.: 24 IR 949; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1521)*

SECTION 17. 50 IAC 15-5-8 IS AMENDED TO READ AS FOLLOWS:

50 IAC 15-5-8 Certification; revocation

Authority: IC 6-1.1-31-1; IC 6-1.1-31-11

Affected: IC 6-1.1

Sec. 8. (a) ~~After a hearing, the board may deny, suspend, or~~ **The department may** revoke the certification of a property tax representative ~~on the following grounds: for:~~

- (1) Violation of any rule applicable to certification ~~or practice before the department, Indiana board, or the property tax assessment board of appeals.~~
- (2) Gross incompetence in the performance of practicing before the property tax assessment board of appeals, the ~~division of appeals, department,~~ or the **Indiana** board.
- (3) Dishonesty or fraud committed while practicing before the property tax assessment board of appeals, ~~or the division of appeals, department,~~ or the **Indiana** board.
- (4) Violation of the standards of ethics or rules of solicitation adopted by the ~~board:~~ **department.**

~~(b) A hearing under subsection (a) will be conducted in a manner that affording the tax representative or applicant due process. Specifically, the tax representative or applicant will be given the opportunity to participate in the hearing process and may be represented by counsel, if desired. It shall be the burden of the board to show, by a preponderance of the evidence, that the denial, suspension, or revocation is justified under this rule.~~

~~(c) A certification may be suspended under this rule for a period of up to one (1) year. An applicant that has been denied certification, or a tax representative whose certification has been revoked, may reapply after one (1) year from the date the certification was denied or revoked.~~

(b) The revocation procedure shall be initiated by the department's issuance of a notice to the respondent. The notice shall:

- (1) be sent by certified mail, return receipt requested;**
- (2) contain a clear and concise statement detailing the alleged misconduct;**
- (3) state the time and place for a hearing that is not less than ninety (90) days from the date of mailing the notice;**
- (4) inform respondent of the information contained in subsections (d) and (g); and**
- (5) inform respondent that the failure to attend the hearing without good cause may constitute grounds for default entered in favor of the state board or the department, as well as the sanction imposed.**

(c) The department shall appoint a hearing officer for purposes of these proceedings. The hearing officer may, with prior written notice to the parties:

- (1) conduct any prehearing proceedings requested by either party, or which the hearing officer determines may aid in the ultimate resolution of the proceedings; and**
- (2) allow informal discovery subject to any terms and conditions the hearing officer deems to be appropriate.**

(d) The revocation hearing shall be conducted on the record subject to the following:

- (1) The respondent may be represented by counsel and shall have the right to present witnesses and evidence on the respondent's own behalf and to cross-examine the department's witnesses or evidence.**
- (2) The burden of proof shall be on the department to prove the violation or violations alleged by a preponderance of the evidence.**

(3) No continuance shall be granted except upon a showing of good cause.

(e) The hearing officer may consider any of the following in recommending to the commissioner whether respondent's tax representative certification should be revoked:

- (1) The seriousness of the violation that gave rise to these proceedings.**
- (2) Whether the violation is likely to recur.**
- (3) Respondent's character, including remorse, if any.**
- (4) Whether respondent's continued status as a tax representative would pose an undue risk to the public.**
- (5) Any other factor the hearing officer determines to be appropriate under the circumstances.**

(f) The hearing officer shall submit a recommendation for final action to the commissioner. The recommendation shall contain the reasons for the hearing officer's determination of the sanction, if any, to be imposed. The commissioner is not bound by the recommendation.

(g) If the commissioner determines that a violation of subsection 2(a) of this [section 2(a) of this rule] has occurred, the commissioner may take any of the following remedies with respect to the respondent:

- (1) Decline to issue any sanction.**
- (2) Issue a written reprimand, admonishing the respondent for the violation.**
- (3) Suspend of the respondent's Level One assessor-appraiser certification for a period of up to one (1) year, at the conclusion of which the respondent shall be automatically reinstated, provided that respondent meets all educational requirements for a tax representative certification.**
- (4) Revoke the certification of the respondent for a period of not less than one (1) year, and not more than three (3) years, at the conclusion of which respondent may petition the department for reinstatement provided that respondent meets all of the criteria for certification under this rule.**

(h) The determination of the commissioner constitutes a final appealable order of the department, respectively.
(Department of Local Government Finance; 50 IAC 15-5-8; filed Dec 5, 2000, 2:32 p.m.: 24 IR 949; filed Dec 13, 2002, 3:20 p.m.: 26 IR 1521)

SECTION 18. THE FOLLOWING ARE REPEALED: 50 IAC 15-1-3; 50 IAC 15-1-5.

LSA Document #01-266(F)

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