

Document: Proposed Rule, **Register Page Number:** 26 IR 1730

Source: February 1, 2003, Indiana Register, Volume 26, Number 5

Disclaimer: This document was created from the files used to produce the official CD-ROM Indiana Register . However, this document is unofficial.

**TITLE 876 INDIANA REAL ESTATE
COMMISSION**

Proposed Rule
LSA Document #02-300

DIGEST

Adds 876 IAC 4-2-3.5 to establish an outline for the mandatory continuing education courses under IC 25-34.1-9-11(a)(1). Effective January 1, 2004.

876 IAC 4-2-3.5

SECTION 1. 876 IAC 4-2-3.5 IS ADDED TO READ AS FOLLOWS:

876 IAC 4-2-3.5 Outline for curricula for salespersons and brokers under IC 25-34.1-9-11(a)(1)

Authority: IC 25-34.1-9-21

Affected: IC 25-34.1-9-11

Sec. 3.5. (a) Except as allowed by subsection (b), the subject areas required in sections 2 and 3 of this rule shall be taught under the following recommended outlines:

(1) The following under the Indiana licensure and escrow law:

- (A) Purpose and basic provisions of licensing statutes and administrative rules.**
- (B) Real estate broker and salesperson licensure requirements.**
- (C) Educational requirements.**
- (D) Enforcement of statutes and rules.**
- (E) Seller agency.**
- (F) Buyer agency.**
- (G) Limited agency.**
- (H) Disclosure issues.**
- (I) Unlicensed assistants.**
- (J) Current topics of importance.**

(2) The following under the agency law:

- (A) General agency law.**
- (B) Agency relationships, including agent's duty to the following:**
 - (i) Principal.**
 - (ii) Third parties.**
- (C) Creation of an agency.**
- (D) Enforcement of agency, including the following:**
 - (i) Intentional misrepresentation.**
 - (ii) Negligent misrepresentation.**
 - (iii) Fraud.**
- (E) Liabilities and consequences of breach of duties, including the following:**
 - (i) Disciplinary action by the Indiana real estate commission.**
 - (ii) Civil liability.**
 - (iii) Criminal liability.**
- (F) Seller agency.**
- (G) Buyer agency.**
- (H) Limited agency.**

- (3) The following under the fair housing and civil rights laws:**
 - (A) Historical context of legislation.**
 - (B) Discriminatory acts and penalties, including the following:**
 - (i) Theories of discrimination.**
 - (ii) Items of specific prohibition.**
 - (iii) Definitions.**
 - (C) Exemptions.**
 - (D) Enforcement.**
 - (E) Testing for compliance.**
 - (F) Advertising.**
 - (G) Protected classes.**
 - (H) Record keeping.**
 - (I) Fair housing procedures.**
- (4) The following under the listing contracts and purchase agreements:**
 - (A) Basic contract law.**
 - (B) Statute of frauds.**
 - (C) Indiana license law.**
 - (D) Essential elements of a contract.**
 - (E) Enforcement and defenses to enforcement of contracts.**
 - (F) Listing contracts, including the following:**
 - (i) Types.**
 - (ii) Seller disclosure.**
 - (iii) Duties and responsibilities of both parties.**
 - (iv) Extension/protection clause.**
 - (G) Purchase agreement, including the following:**
 - (i) Duties and responsibilities of both parties.**
 - (ii) Contingencies.**
 - (iii) Real property and personal property issues.**
- (5) The following under the settlement procedures:**
 - (A) Principles and sources of contract law.**
 - (B) Contract terms and definitions.**
 - (C) Contract essentials.**
 - (D) Legal objective.**
 - (E) Performance and nonperformance.**
 - (F) Sources of contract law.**
 - (G) Listing contract and purchase agreements.**
 - (H) Agent's role in closing, including the following:**
 - (i) Financing.**
 - (ii) Inspections.**
 - (iii) Environmental.**
 - (iv) Insurance.**
 - (v) Appraisal and survey.**
 - (vi) Title.**
 - (vii) Closing and possession.**
 - (I) Escrow deposits and disbursement.**
 - (J) Controlling problems.**
- (6) The following under the antitrust laws:**
 - (A) Sherman act.**
 - (B) Clayton act.**
 - (C) Federal Trade Commission.**
 - (D) Indiana act.**
 - (E) Penalties for antitrust violations.**
 - (F) Potential violations with clients and customers.**
 - (G) Potential violations with competitors.**

- (H) Potential violations with providers and other organizations.
- (I) Enforcement.
- (J) Compliance policies.

(7) The following under environmental issues:

- (A) Historical perspective.
- (B) Federal environmental laws.
- (C) Indiana environmental laws, including the following:
 - (i) Insecticide and pesticide.
 - (ii) Wells.
 - (iii) Water quality.
 - (iv) Sewage disposal systems.
 - (v) Radon.
 - (vi) Asbestos.
 - (vii) Lead.
 - (viii) Storage tanks.
 - (ix) Electric and magnetic fields.
 - (x) Wet lands.
 - (xi) Mold and other biological contaminants.

(8) The following under ethics and standards:

- (A) Ethics, standards, regulations, and laws.
- (B) Business versus personal ethics.
- (C) Ethical considerations, including the following:
 - (i) Management.
 - (ii) Record keeping.
 - (iii) Confidentiality.
- (D) Standards discussions.
- (E) Duties and responsibilities of parties involved.
- (F) Meditation.
- (G) Arbitration.
- (H) Litigation with regulations.

(b) As an alternative to following the outlines in subsection (a), the subject areas required in sections 2 and 3 of this rule may be taught under outlines substantially similar under subsection (a). (*Indiana Real Estate Commission; 876 IAC 4-2-3.5*)

SECTION 2. SECTION 1 of this document takes effect January 1, 2004.

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on February 27, 2003 at 11:00 a.m., at the Indiana Government Center-South, 402 West Washington Street, Conference Center Room 12, Indianapolis, Indiana the Indiana Real Estate Commission will hold a public hearing on proposed amendments to establish an outline for the mandatory continuing education courses under IC 25-34.1-9-11(a)(1). Copies of these rules are now on file at the Indiana Government Center-South, 302 West Washington Street, Room E012 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.

Gerald H. Quigley
Executive Director
Indiana Professional Licensing Agency