

AGENCY RELATIONSHIPS IN INDIANA

STUDY SHEET

Summary

Indiana state law codifies the duties licensees must perform when representing a client in a real estate transaction. It defines the types of agency relationships allowed in the state, and the actions the licensee must take when acting as a limited agent or in an in-house agency relationship. Licensees are obligated to represent their clients' best interests throughout the agency relationship and should follow best practices when listing property and when writing and presenting offers.

Top Takeaways

- Indiana licensees must disclose their brokerage's office policy regarding agency relationships to prospective clients prior to receiving any confidential information from them. The disclosure must include the firm's position on the use of limited agency.
- Statutorily defined agency duties supersede common law agency duties.
- State law defines an agent's duties to the client. These include:
 - Fulfilling the terms of the agency agreement
 - Protecting the client's interests
 - Providing and ensuring proper disclosure
 - Protecting confidential client information
 - Accounting for money and property received from the client
 - Exercising reasonable skill and care
 - Complying with the law
- A seller's agent must seek a price and terms satisfactory to the client. The agent must present all offers immediately upon receipt, unless otherwise directed by the client.
- A buyer's agent must seek a property at the price and terms satisfactory to the client and must present offers immediately.
- A licensee may work with an individual without an agency relationship if they have a written agreement stating that the licensee isn't the individual's agent. State law describes the duties of this relationship, which include:
 - Being available to make and receive offers
 - Answering questions
 - Assisting in negotiations
 - Completing real estate forms until the transaction is complete
- Sub-agency is outlawed in Indiana.
- Limited agency requires all transaction parties' written informed consent. State law defines the information that must be included in the consent form, which includes a statement that the licensee is representing parties whose interests are adverse and a list of the types of information that the licensee isn't allowed to disclose without permission from the parties.
- An in-house agency relationship doesn't require informed consent from the parties, but does require strict care from the agents in protecting clients' confidential information from other licensees at the brokerage.
- In Indiana, the listing agent's broker typically holds the buyer's earnest money when the seller accepts the offer. Earnest money must be deposited in the brokerage trust account within two banking days of receipt.

- State law requires Indiana agents to provide clients with a statement of all funds disbursed and handled by the broker. The statement must be provided at, or shortly prior to, closing.
- Indiana agents (or another broker designated by the agent) must attend the closing with the client, unless the transaction is commercial or the client is a financial institution.

Limited agency: In Indiana, a licensee who, with all parties' written and informed consent, represents both sides in a real estate transaction

In-house agency: The buyer and seller in a transaction are represented by two licensees from the same brokerage (but not when one client is personally represented by the managing broker or a supervising broker)

Sub-agency: The buyer is unrepresented but is working with a licensee, who then becomes a sub-agent of the listing agent and represents the seller (illegal in Indiana)

Broker's closing statement: A statement the client's agent provides at closing listing all client funds the agent handled and disbursed

Take a look back at your notes for these items:

- Agency disclosures
- Definitions of agency relationships
- Statutory duties of an agent
- Requirements for written informed consent of limited agency
- Duties when acting in an in-house agency relationship
- Licensee obligations when entering into an agency agreement
- Best practices when writing, making, and presenting offers
- Licensee duties for handling earnest money
- Agent's responsibility to provide clients with a closing statement