

HOUSE BILL No. 1338

DIGEST OF INTRODUCED BILL

Citations Affected: IC 25-34.1; IC 32-25; IC 32-25.5-3-4.5.

Synopsis: Broker licensure for property managers. Specifies that a person that, for consideration, manages the common areas and facilities or other property of: (1) a subdivision or neighborhood on behalf of a homeowners association; or (2) a condominium on behalf of an association of co-owners; must obtain and maintain a real estate broker license (license) regardless of whether the person or any of the person's partners, members, or employees is engaged in the actual sale or lease of real estate or units of real estate in the subdivision, neighborhood, or condominium. Provides that the same requirement applies to at least one member of the board of directors of: (1) a homeowners association; or (2) an association of co-owners; in the case of a subdivision, neighborhood, or condominium that is self-managed with respect to the common areas, facilities, and other property of the subdivision, neighborhood, or condominium. Specifies that a person or board member engaging in such management activities is subject to all applicable statutory provisions concerning: (1) the requirements for the issuance and renewal of a license; (2) the standards of practice for licensees, including sanctions for violations of the standards; (3) enforcement proceedings and penalties for performing management activities without a license; and (4) the investigation and prosecution by the attorney general of complaints made against the person with respect to such management activities. Requires the attorney general and the real estate commission to seek to achieve consistency in conducting investigations and prosecutions and in applying sanctions, as applicable. Specifies that a person or board member engaging in such management activities acts, and is obligated to be licensed, on

(Continued next page)

Effective: July 1, 2019.

Speedy

January 14, 2019, read first time and referred to Committee on Employment, Labor and Pensions.



Digest Continued

behalf of both: (1) the homeowners association or the association of co-owners as a corporation or an entity; and (2) the individual members of the homeowners association or the association of co-owners. Makes conforming amendments in the statutes governing: (1) condominiums; and (2) homeowners associations.



First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

HOUSE BILL No. 1338



A BILL FOR AN ACT to amend the Indiana Code concerning property.

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

1 SECTION 1. IC 25-34.1-1-2, AS AMENDED BY P.L.116-2015,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2019]: Sec. 2. As used in this article:
4 (1) "Person" means an individual, a partnership, a corporation, or
5 a limited liability company.
6 (2) "Commission" means the Indiana real estate commission.
7 (3) "Real estate" means any right, title, or interest in real property.
8 (4) "Broker" means a person who:
9 (A) for consideration, sells, buys, trades, exchanges, options,
10 leases, rents, manages, lists, or appraises real estate or
11 negotiates or offers to perform any of those acts; and
12 (B) is acting in association with and under the auspices of a
13 managing broker and broker company.
14 (5) "License" means a broker license issued under this article and
15 which is not expired, suspended, or revoked.



- 1 (6) "Licensee" means a person who holds a license issued under
 2 this article. The term does not include a person who holds a real
 3 estate appraiser license or certificate issued under the real estate
 4 appraiser licensure and certification program established under
 5 IC 25-34.1-3-8.
- 6 (7) "Course approval" means approval of a broker course granted
 7 under this article which is not expired, suspended, or revoked.
- 8 (8) "Licensing agency" means the Indiana professional licensing
 9 agency established by IC 25-1-5-3.
- 10 (9) "Board" refers to the real estate appraiser licensure and
 11 certification board established under IC 25-34.1-8-1.
- 12 (10) "Commercial real estate" means a parcel of real estate other
 13 than real estate containing one (1) to four (4) residential units.
 14 This term does not include single family residential units such as:
 15 (A) condominiums;
 16 (B) townhouses;
 17 (C) manufactured homes; or
 18 (D) homes in a subdivision;
 19 when sold, leased, or otherwise conveyed on a unit-by-unit basis,
 20 even if those units are part of a larger building or parcel of real
 21 estate containing more than four (4) residential units.
- 22 (11) "Out-of-state commercial broker" includes a person, a
 23 partnership, an association, a limited liability company, a limited
 24 liability partnership, or a corporation that is licensed to do
 25 business as a broker in a jurisdiction other than Indiana.
- 26 (12) "Out-of-state commercial salesperson" includes a person
 27 affiliated with an out-of-state commercial broker who is not
 28 licensed as a broker under this article.
- 29 (13) "Managing broker" refers to an individual broker whom the
 30 commission holds responsible for the actions of licensees who are
 31 affiliated with the broker company.
- 32 (14) "Broker company" means a licensee that is a business
 33 engaged in the activities described in IC 25-34.1-3-2(a), whether
 34 as a sole proprietorship, a partnership, a limited liability company,
 35 or a corporation. In the case of a broker company that is a sole
 36 proprietorship, the individual broker who is the sole proprietor is
 37 the broker company and the managing broker for the broker
 38 company.
- 39 **(15) "Association of co-owners", with respect to a**
 40 **condominium, has the meaning set forth in IC 32-25-2-2.**
- 41 **(16) "Condominium" has the meaning set forth in**
 42 **IC 32-25-2-7.**



- 1 **(17) "Homeowners association" has the meaning set forth in**
 2 **IC 32-25.5-2-4. The term includes similar associations of**
 3 **property owners, whether designated as homeowners**
 4 **associations or property owners associations, or by any other**
 5 **term.**
 6 SECTION 2. IC 25-34.1-3-2, AS AMENDED BY P.L.45-2016,
 7 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2019]: Sec. 2. (a) **Subject to section 2.1 of this chapter, and**
 9 except as provided in:
 10 (1) subsection (b);
 11 (2) section 8(i) of this chapter; and
 12 (3) section 11 of this chapter;
 13 no person shall, for consideration, sell, buy, trade, exchange, option,
 14 lease, rent, manage, list, or appraise real estate or negotiate or offer to
 15 perform any of those acts in Indiana or with respect to real estate
 16 situated in Indiana, without a license.
 17 (b) This article does not apply to:
 18 (1) acts of an attorney which constitute the practice of law;
 19 (2) performance by a public official of acts authorized by law;
 20 (3) acts of a receiver, executor, administrator, commissioner,
 21 trustee, or guardian, respecting real estate owned or leased by the
 22 person represented, performed pursuant to court order or a will;
 23 (4) rental, for periods of less than thirty (30) days, of rooms,
 24 lodging, or other accommodations, by any commercial hotel,
 25 motel, tourist facility, or similar establishment which regularly
 26 furnishes such accommodations for consideration;
 27 (5) rental of residential apartment units by an individual
 28 employed or supervised by a licensed broker;
 29 (6) rental of apartment units which are owned and managed by a
 30 person whose only activities regulated by this article are in
 31 relation to a maximum of twelve (12) apartment units which are
 32 located on a single parcel of real estate or on contiguous parcels
 33 of real estate;
 34 (7) referral of real estate business by a broker or referral company
 35 which is licensed under the laws of another state, to or from
 36 brokers licensed by this state;
 37 (8) acts performed by a person in relation to real estate owned by
 38 that person unless that person is licensed under this article, in
 39 which case the article does apply to that person;
 40 (9) acts performed by a regular, full-time, salaried employee of a
 41 person in relation to real estate owned or leased by that person
 42 unless the employee is licensed under this article, in which case



1 the article does apply to that person;

2 (10) conduct of a sale at public auction by a licensed auctioneer
3 pursuant to IC 25-6.1;

4 (11) sale, lease, or other transfer of interests in cemetery lots;

5 (12) acts of a broker, who is licensed under the laws of another
6 state, which are performed pursuant to, and under restrictions
7 provided by, written permission that is granted by the commission
8 in its sole discretion, except that such a person shall comply with
9 the requirements of section 5(c) of this chapter; and

10 (13) the performance of an evaluation of real property by an
11 employee, an officer, a director, or a member of a credit or loan
12 committee of a financial institution, or by any other person
13 engaged by a financial institution, in a transaction for which the
14 financial institution would not be required to use the services of
15 a state licensed appraiser under regulations adopted under Title
16 XI of the Financial Institutions Reform, Recovery, and
17 Enforcement Act of 1989 (12 U.S.C. 3331 et seq.).

18 SECTION 3. IC 25-34.1-3-2.1 IS ADDED TO THE INDIANA
19 CODE AS A NEW SECTION TO READ AS FOLLOWS
20 [EFFECTIVE JULY 1, 2019]: **Sec. 2.1. (a) Section 2(a) of this
21 chapter applies to the following:**

22 **(1) A person (other than a person described in subdivision (2))
23 that, for consideration, manages the common areas and
24 facilities or other property of:**

25 **(A) a subdivision or neighborhood on behalf of a
26 homeowners association; or**

27 **(B) a condominium on behalf of an association of
28 co-owners;**

29 **regardless of whether the person or any of the person's
30 partners, members, or employees is engaged in the actual sale
31 or lease of real estate or units of real estate in the subdivision,
32 neighborhood, or condominium, as applicable.**

33 **(2) At least one (1) member of the board of directors of:**

34 **(A) a homeowners association, if the management of the
35 common areas and facilities or other property of a
36 subdivision or neighborhood is performed by the
37 homeowners association for the subdivision or
38 neighborhood; or**

39 **(B) an association of co-owners, if the management of the
40 common areas and facilities or other property of a
41 condominium is performed by the association of co-owners
42 for the condominium;**



- 1 regardless of the whether the member is engaged in the actual
 2 sale or lease of real estate or units of real estate in the
 3 subdivision, neighborhood, or condominium, as applicable.
- 4 (b) A person described in this section:
- 5 (1) must obtain a broker license under:
- 6 (A) section 4.1(a) of this chapter, in the case of an
 7 individual;
- 8 (B) section 4.1(b) of this chapter, in the case of a
 9 partnership;
- 10 (C) section 4.1(c) of this chapter, in the case of a
 11 corporation; or
- 12 (D) section 4.1 (d) of this chapter, in the case of a limited
 13 liability company;
- 14 before engaging in management activities described in
 15 subsection (a);
- 16 (2) must maintain the license throughout the time the person
 17 engages in management activities described in subsection (a);
 18 and
- 19 (3) is subject to the following:
- 20 (A) All requirements for the issuance and renewal of a
 21 license under this article, including:
- 22 (i) all examination and continuing education
 23 requirements; and
- 24 (ii) the payment of all required fees.
- 25 (B) The standards of practice set forth in IC 25-1-11,
 26 including:
- 27 (i) sanctions for violations of the standards, as set forth
 28 in IC 25-1-11-12; and
- 29 (ii) the denial of a license, or the issuance of a
 30 probationary license, under IC 25-1-11-19(b) to an
 31 applicant for licensure if the applicant has engaged in
 32 management activities described in subsection (a)
 33 without a license in violation of the law.
- 34 The commission shall seek to achieve consistency in the
 35 application of sanctions authorized under IC 25-1-11 with
 36 respect to persons required to be licensed under section
 37 2(a) of this chapter for management activities described in
 38 subsection (a). Significant departures from prior decisions
 39 involving similar conduct must be explained in the
 40 commission's findings or orders.
- 41 (C) The enforcement procedures and penalties set forth in
 42 IC 25-34.1-6.



1 **(D) The investigation and prosecution by the attorney**
 2 **general under IC 25-1-7 of complaints made against the**
 3 **person with respect to management activities described in**
 4 **subsection (a), including the issuance of cease and desist**
 5 **orders under IC 25-1-7-14, in the case of a person engaging**
 6 **in management activities described in subsection (a)**
 7 **without a license. The attorney general and the commission**
 8 **shall seek to achieve consistency in conducting**
 9 **investigations and prosecutions under IC 25-1-7 with**
 10 **respect to persons required to be licensed under section**
 11 **2(a) of this chapter for management activities described in**
 12 **subsection (a). Significant departures from prior actions**
 13 **and decisions involving similar conduct must be explained**
 14 **in the attorney general's or the commission's findings or**
 15 **orders, as applicable.**

16 **(c) Notwithstanding the requirements for licensure with respect**
 17 **to:**

- 18 **(1) partnerships under section 4.1(b) of this chapter;**
 19 **(2) corporations under section 4.1(c) of this chapter; and**
 20 **(3) limited liability companies under section 4.1 (d) of this**
 21 **chapter;**

22 **in the case of a board of directors of a homeowners association or**
 23 **an association of co-owners that manages the common areas and**
 24 **facilities or other property of a subdivision, neighborhood, or**
 25 **condominium, as described in subsection (a)(2), at least one (1)**
 26 **member of the board must qualify as a managing broker under**
 27 **IC 25-34.1-4-0.5 and IC 25-34.1-4-3. No additional member of the**
 28 **board is required to be licensed under section 2(a) of this chapter**
 29 **unless the member is personally engaged in management activities**
 30 **for the subdivision, neighborhood, or condominium.**

31 **(d) A person or board member described in subsection (a):**

- 32 **(1) acts on behalf of both:**
 33 **(A) the homeowners association or the association of**
 34 **co-owners as a corporation or an entity; and**
 35 **(B) the individual members of:**
 36 **(i) the homeowners association; or**
 37 **(ii) the association of co-owners;**

38 **in performing the management activities described in this**
 39 **section; and**

40 **(2) is obligated to satisfy the requirements for license under**
 41 **this article on behalf of both:**

- 42 **(A) the homeowners association or the association of**



1 **co-owners as a corporation or an entity; and**

2 **(B) the individual members of:**

3 **(i) the homeowners association; or**

4 **(ii) the association of co-owners.**

5 SECTION 4. IC 32-25-4-3, AS AMENDED BY P.L.181-2007,
6 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2019]: Sec. 3. (a) Each condominium unit owner is entitled to
8 an undivided interest in the common areas and facilities as designated
9 in the declaration. Except as provided in subsection (b), the undivided
10 interest must be expressed as a percentage interest based on:

11 (1) the size of the unit in relation to the size of all units in the
12 condominium;

13 (2) the value of each condominium unit in relation to the value of
14 all condominium units in the condominium; or

15 (3) the assignment of an equal percentage undivided interest to
16 each condominium unit.

17 An undivided interest allocated to each condominium unit in
18 accordance with this subsection must be indicated in a schedule of
19 undivided interests in the declaration. However, if the declaration does
20 not specify the method of allocating the percentage undivided interests,
21 an equal percentage undivided interest applies to each condominium
22 unit. The total undivided interests allocated in accordance with
23 subdivision (1) or (2) must equal one hundred percent (100%).

24 (b) With respect to an expandable condominium, the declaration
25 may allocate undivided interests in the common area on the basis of
26 value if:

27 (1) the declaration prohibits the creation of any condominium
28 units not substantially identical to the condominium units
29 depicted on the recorded plans of the declaration; or

30 (2) the declaration:

31 (A) prohibits the creation of any condominium units not
32 described in the initial declaration; and

33 (B) contains a statement on the value to be assigned to each
34 condominium unit created after the date of the declaration.

35 (c) Interests in the common areas may not be allocated to any
36 condominium units to be created within any additional land until the
37 plats and plans and supplemental declaration depicting the
38 condominium units to be created are recorded. Simultaneously with the
39 recording of the plats and plans for the condominium units to be
40 created, the declarant must execute and record an amendment to the
41 initial declaration reallocating undivided interests in the common areas
42 so that the future condominium units depicted on the plats and plans



1 will be allocated undivided interests in the common areas on the same
 2 basis as the condominium units depicted in the prior recorded plats and
 3 plans.

4 (d) Except as provided in section 3.5 of this chapter and in
 5 IC 32-25-8-3, the undivided interest of the owner of the condominium
 6 unit in the common areas and facilities, as expressed in the declaration,
 7 is permanent and may not be altered without the consent of the
 8 co-owners. A consent to alteration must be stated in an amended
 9 declaration, and the amended declaration must be recorded. The
 10 undivided interest may not be transferred, encumbered, disposed of, or
 11 separated from the condominium unit to which it appertains, and any
 12 purported transfer, encumbrance, or other disposition is void. The
 13 undivided interest is considered to be conveyed or encumbered with the
 14 condominium unit to which it appertains even though the undivided
 15 interest is not expressly mentioned or described in the conveyance or
 16 other instrument.

17 (e) The common areas and facilities shall remain undivided. A
 18 condominium unit owner or any other person may bring an action for
 19 partition or division of any part of the common areas and facilities if
 20 the property has been removed from this chapter as provided in
 21 IC 32-25-8-12 and IC 32-25-8-16. Any covenant to the contrary is void.

22 (f) Each condominium unit owner:

23 (1) may use the common areas and facilities in accordance with
 24 the purpose for which the common areas and facilities were
 25 intended; and

26 (2) may not, in the owner's use of the common areas and facilities,
 27 hinder or encroach upon the lawful rights of the other co-owners.

28 (g) The:

29 (1) necessary work of:

30 (A) maintenance;

31 (B) repair; and

32 (C) replacement;

33 of the common areas and facilities; and

34 (2) making of any additions or improvements to the common
 35 areas and facilities;

36 may be carried out only as provided in this chapter and in the bylaws.

37 **If the board engages the services of a manager or managing agent**
 38 **for the maintenance, repair, and replacement of the common areas**
 39 **and facilities, as authorized by the bylaws, the person engaged by**
 40 **the board must be licensed under IC 25-34.1-3-2, as required by**
 41 **IC 25-34.1-3-2.1. If the responsibility for the maintenance, repair,**
 42 **and replacement of the common areas and facilities rests with the**



1 **association of co-owners, at least one (1) member of the board must**
 2 **be licensed under IC 25-34.1-3-2, as required by IC 25-34.1-3-2.1.**

3 (h) The association of condominium unit owners has the irrevocable
 4 right, to be exercised by the manager or board of directors, to have
 5 access to each condominium unit from time to time during reasonable
 6 hours as is necessary for:

7 (1) the maintenance, repair, or replacement of any of the common
 8 areas and facilities:

9 (A) in the condominium unit; or

10 (B) accessible from the condominium unit; or

11 (2) making emergency repairs in the condominium unit necessary
 12 to prevent damage to:

13 (A) the common areas and facilities; or

14 (B) another condominium unit.

15 SECTION 5. IC 32-25-4-3.5, AS AMENDED BY P.L.119-2012,
 16 SECTION 161, IS AMENDED TO READ AS FOLLOWS
 17 [EFFECTIVE JULY 1, 2019]: Sec. 3.5. (a) This section applies only to
 18 a condominium located on the shore of a lake located in a township
 19 with a population of more than three thousand (3,000) but less than
 20 three thousand one hundred (3,100) located in a county having a
 21 population of more than forty-seven thousand (47,000) but less than
 22 forty-seven thousand five hundred (47,500).

23 (b) Except as otherwise provided in a statement described in:

24 (1) IC 32-25-7-1(a)(10) and included in:

25 (A) the declaration; or

26 (B) an amendment to the declaration, if the amendment is
 27 approved by at least ninety-five percent (95%) of co-owners;
 28 or

29 (2) ~~IC 32-25-8-2(12)~~ **IC 32-25-8-2(a)(12)** and included in:

30 (A) the bylaws; or

31 (B) an amendment to the bylaws, if the amendment is
 32 approved by the percentage of votes set forth in the bylaws
 33 under ~~IC 32-25-8-2(11)~~; **IC 32-25-8-2(a)(11)**;

34 part or all of the common areas and facilities of a condominium may be
 35 conveyed or subjected to a security interest by the association of
 36 co-owners if at least ninety-five percent (95%) of the co-owners,
 37 including at least ninety-five percent (95%) of the co-owners of
 38 condominium units not owned by the declarant, agree to the action.
 39 However, if the common areas and facilities proposed to be conveyed
 40 or encumbered under this section include any limited common areas
 41 and facilities, all the owners of the limited common areas and facilities
 42 to be conveyed or encumbered must agree to the conveyance or



- 1 encumbrance.
- 2 (c) An agreement to convey or encumber common areas and
3 facilities under this section must be evidenced by an agreement:
- 4 (1) executed in the same manner as a deed or any other instrument
5 recognized by the state for the conveyance or transfer of interests
6 in title; and
7 (2) signed by:
- 8 (A) at least ninety-five percent (95%) of the co-owners, as
9 required by this section; or
10 (B) another percentage of the co-owners specified in a
11 statement described in subsection (b)(1) or (b)(2).
- 12 An agreement under this subsection is effective upon being recorded.
- 13 (d) Proceeds from the conveyance or encumbrance of common areas
14 and facilities under this section shall be distributed to co-owners as
15 common profits under IC 32-25-8-6. However, if the common areas
16 and facilities conveyed or encumbered under this section include
17 limited common areas and facilities, proceeds from the conveyance or
18 encumbrance of the limited common areas and facilities shall be
19 distributed to the owners of the limited common areas and facilities
20 according to the percentage of the owners' undivided interest in the
21 limited common areas and facilities.
- 22 (e) A conveyance or encumbrance of common areas and facilities
23 not made in accordance with:
- 24 (1) this section; or
25 (2) a statement described in subsection (b)(1) or (b)(2);
26 is void.
- 27 SECTION 6. IC 32-25-8-2, AS AMENDED BY P.L.141-2015,
28 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
29 JULY 1, 2019]: Sec. 2. **(a)** The bylaws must provide for the following:
- 30 (1) With respect to the board of directors:
- 31 (A) the election of the board from among the co-owners;
32 (B) the number of persons constituting the board;
33 (C) the expiration of the terms of at least one-third (1/3) of the
34 directors annually;
35 (D) the powers and duties of the board, including whether the
36 board may engage the services of a manager or managing
37 agent;
38 (E) the compensation, if any, of the directors; and
39 (F) the method of removal from office of directors.
- 40 (2) The method of calling meetings of the co-owners and the
41 percentage, if other than a majority of co-owners, that constitutes
42 a quorum.



- 1 (3) The election from among the board of directors of a president,
 2 who shall preside over the meetings of:
 3 (A) the board of directors; and
 4 (B) the association of co-owners.
- 5 (4) The election of a secretary, who shall keep the minute book in
 6 which resolutions shall be recorded.
- 7 (5) The election of a treasurer, who shall keep the financial
 8 records and books of account.
- 9 (6) The maintenance, repair, and replacement of the common
 10 areas and facilities and payments for that maintenance, repair, and
 11 replacement, including the method of approving payment
 12 vouchers.
- 13 (7) The manner of collecting from each condominium owner the
 14 owner's share of the common expenses.
- 15 (8) The designation and removal of personnel necessary for the
 16 maintenance, repair, and replacement of the common areas and
 17 facilities.
- 18 (9) The method of adopting and of amending administrative rules
 19 governing the details of the operation and use of the common
 20 areas and facilities.
- 21 (10) The restrictions on and requirements respecting the use and
 22 maintenance of the condominium units and the use of the
 23 common areas and facilities that are:
 24 (A) not set forth in the declaration; and
 25 (B) designed to prevent unreasonable interference with the use
 26 of their respective units and of the common areas and facilities
 27 by the several co-owners.
- 28 (11) The percentage of votes required to amend the bylaws. The
 29 percentage may not exceed seventy-five percent (75%).
- 30 (12) A statement of the percentage of votes by the condominium
 31 unit owners required to convey or encumber part or all of the
 32 common areas and facilities. A statement under this subdivision
 33 may not allow less than ninety-five percent (95%) of the
 34 condominium unit owners, or less than ninety-five percent (95%)
 35 of the owners of condominium units not owned by the declarant,
 36 to convey or encumber part or all of the common areas and
 37 facilities. If the bylaws do not include a statement under this
 38 subdivision, IC 32-25-4-3.5 applies.
- 39 (13) Other provisions consistent with this article considered
 40 necessary for the administration of the property.
- 41 **(b) If the board engages the services of a manager or managing**
 42 **agent for the maintenance, repair, and replacement of the common**



1 areas and facilities, as authorized by the bylaws, the person
2 engaged by the board must be licensed under IC 25-34.1-3-2, as
3 required by IC 25-34.1-3-2.1. If the responsibility for the
4 maintenance, repair, and replacement of the common areas and
5 facilities rests with the association of co-owners, at least one (1)
6 member of the board must be licensed under IC 25-34.1-3-2, as
7 required by IC 25-34.1-3-2.1.

8 SECTION 7. IC 32-25.5-3-4.5 IS ADDED TO THE INDIANA
9 CODE AS A NEW SECTION TO READ AS FOLLOWS
10 [EFFECTIVE JULY 1, 2019]: **Sec. 4.5. Except as otherwise provided**
11 **in the governing documents of the homeowners association, a**
12 **homeowners association may engage the services of a manager or**
13 **managing agent to manage the common areas and facilities or**
14 **other property of the subdivision or neighborhood. If the**
15 **homeowners association, or the board acting on behalf of the**
16 **homeowners association, engages the services of a manager or**
17 **managing agent as described in this section, the person engaged by**
18 **the homeowners association, or by the board acting on behalf of**
19 **the homeowners association, must be licensed under**
20 **IC 25-34.1-3-2, as required by IC 25-34.1-3-2.1. However, if the**
21 **responsibility for the maintenance, repair, and replacement of the**
22 **common areas and facilities or other property of the subdivision or**
23 **neighborhood rests with the homeowners association, at least one**
24 **(1) member of the board must be licensed under IC 25-34.1-3-2, as**
25 **required by IC 25-34.1-3-2.1.**

