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# **STARTING A NEW REAL ESTATE BROKERAGE COMPANY**



Prepared by the IAR Legal Department and the Real Estate Certification Program (RECP)

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## Welcome to Real Estate Broker Company Ownership

Starting your own real estate Company involves reams of paperwork and a lot of planning; however, managing your Company can be one of the most rewarding experiences of your professional career. The Real Estate Commission holds the person who has all the licensee's licenses is called the Managing Broker of the Company. The owner of the company may or may not be the Managing Broker.

To become a Managing Broker, you must meet the following qualifications:

- Hold a broker's license for at least two years
- Complete a 24-hour Managing Broker Course

The Real Estate Certification Program (RECP) offers live and on-demand courses. Find more information at <https://recp.org/managing-brokers>.

## Moving to your new Brokerage Company

Suppose your Real Estate license is currently associated with another Broker's company, your first step to starting your Company. Business arrangements can vary significantly from Company to Company, so you will want to review your contract of association for the following:

- Will your current listings remain with your previous Company? Indiana law says they will unless there is a written agreement otherwise. 876 IAC 8-1-6.
- What about the buyers with whom you are currently working?
- Can you tell them about your new business, or are you contractually obligated to refer them to one of its other agents?
- Will you receive a referral fee in this instance?
- Will you be a direct competitor of your former employer, or are you transitioning to a specialized niche market?

Every Company is different, so you will have to consider your situation and decide on the appropriate and ethical way you inform your Managing Broker that you are starting your Company.

The Golden Rule is always a good starting point. You want to make the transition as seamless as possible while minimizing hurt feelings. If you stay active in the industry, you are guaranteed to have a cross-deal with your former Company someday. Consult your attorney if you have any legal questions concerning the above.

## Creating the Business Organization

Next, you can start creating the business organization. You can create a name doing business under a different name (DBA- "Doing Business As"). You want to reserve that name with the State of Indiana.

- You can perform a preliminary name check for availability on the Indiana Secretary of State's website <https://bsd.sos.in.gov/publicbusinesssearch>
- Once you have chosen a name, you can reserve it with the State for a small application fee. <https://inbiz.in.gov/start-business>
- When you have a business name reserved, you should decide on your new Company's type of business organization (i.e., a sole proprietorship, partnership, LLC, etc.)
  - Speak to a lawyer and an accountant about the relative legal and tax advantages and disadvantages of each form of organization. An accountant can handle your finances, or you might look for a business accounting solution. Either way, properly account for all business disbursements, payments received, invoices, accounts receivable/accounts payable, etc.
- After you decide, file the appropriate forms of organization with the State <https://www.in.gov/sos/business/division-forms/business-forms/>

When deciding on a business name, you may want to check for domain availability for your website simultaneously. You do not want to pay money to reserve a business name only to find that you cannot somehow reserve a domain name that references your business name. There are dozens of companies that offer web domain registration, such as [NetworkSolutions.com](https://NetworkSolutions.com), [GoDaddy.com](https://GoDaddy.com), [Domains.com](https://Domains.com), etc. Shop around as domain registration pricing can vary with the length of the reservation, the domain extension you select (.com, .net, .biz, etc.), and the additional services you choose with your domain, such as email web-hosting and analytics.

You will want to make sure that the web host you select can support the IDX vendor of your choice. The Internet Data Exchange (IDX) is the computer feed that allows your website to display listings from your local Multiple Listing Service and for users to conduct searches of those properties in real-time based on selected criteria. If you want an all-in-one solution, several vendors are available who sell IDX-enabled customized websites to get you up and running quickly. Just read the fine print and make sure you maintain ultimate ownership over your company's domain and your internet identity.

## Your Banking Needs

Next, you will need to open a business account at your local bank or credit union. You will need your DBA form and your articles of organization from the State along with an EIN from the Internal Revenue Service to open an account.

- You can obtain an EIN online or by phone. <https://www.irs.gov/businesses/small-businesses-self-employed/apply-for-an-employer-identification-number-ein-online>

Develop the habit of using the funds in your business account to pay only business expenses. While the intricacies of paying yourself out of your business funds will vary depending on how your business is organized, the commingling of business and individual funds is never wise whether you are a corporation or a solo practitioner. Along with your standard business account, out of which you will pay your day-to-day business expenses, you are also required under Indiana Code to create an identified trust account to keep all funds belonging to others that come into your possession during a transaction. (IC 25-34.1-4-5). This includes earnest money deposits, escrow funds, undisbursed sales proceeds, etc.

## Insurance

Errors and Omissions insurance is a must for any new Company in the face of our increasingly litigious society. Although it is not legally required, insurance is highly recommended for real estate practitioners. Visit our website for E & O Companies: <https://indianarealtors.com/about-us/member-benefits/>.

Insurance carriers offer various plans with coverage levels appropriate to the number of anticipated agents in your office and your business volume. Check the rating of any insurance company you consider using for free through a company like A.M. Best ([www.ambest.com](https://www.ambest.com)) before committing to a particular policy.

Your company should have general liability insurance to provide legal defense and coverage for third-party Bodily Injury or Property Damage claims. Property insurance protects you whether you rent or own for fire, vandalism, theft, smoke damage, etc. You may also want to consider business interruption or loss of earning insurance.

Although you probably won't be providing vehicles, you may want to look at commercial auto insurance. You may need non-owned auto liability coverage to protect the company if administrative staff or other employees do not have insurance or have inadequate coverage.

Worker's compensation insurance might be required if you have any employees. Penalties for non-compliance can be very stiff. The key is to discuss all your insurance needs with an insurance professional.

## Your Brand

You can now start building your business identity. Contract with a graphic designer (or a family friend knowledgeable in Photoshop or Illustrator) to create a company logo. Make sure you save a high-resolution version of the logo

in printed materials and a low-res version for use on the web. Ideally, you want at least one version of your logo saved in formats, such as .psd (Photoshop) or .ai (Adobe Illustrator). These formats allow graphic designers to easily tweak and modify your logo to be used in several different promotional and advertising media forms. Once you have your logo, you can order your business cards, for sale signs, open house signs, and all other promotional printed materials required by your company.

When designing your promotional material, remember to review the restrictions on real estate advertising for your area and the Realtor®'s Code of Ethics and Standards of Practice. <https://www.nar.realtor/logos-and-trademark-rules> You do not want to have hundred-yard signs made only to find that they are non-compliant.

## Joining the REALTOR® Family

Now that you have your identity, you want to make yourself known to your local REALTOR® Association. Contact your local Association of Realtors® and register your company with the association with yourself as the Managing Broker. You can buy/lease/borrow lockboxes from your local association, depending on their rules, and establish an account with the local Multiple Listing Service. Get to know the staff at your local association. You are going to be seeing them now more than ever. You will also want to allow time for the mandatory orientation meeting most associations require. While you are waiting for the stamp of approval from your local association to be “official,” you can get started on setting up your office. Whether working from home or renting some commercial space, every modern real estate office needs a scanner (preferably one that can scan legal-sized documents) and an all-in-one copier/printer. If you elect to have a business phone number, ask if they have discounts for members of the Indiana Association of REALTORS® or National Association of Realtors®. A small number of agents still use fax machines, so you will want to choose a secure and trusting fax-to-email vendor to receive offers, counter-offers, and, most importantly, acceptances across every available form of media.

Legal Benefits provided to Members of the Indiana Association of REALTORS® include Zipforms. This electronic platform provides legal documents vetted by real estate attorneys and industry-wide experts for use in your real estate transactions. Also, the IAR Legal Hotline is a free member benefit available to all Managing Brokers, Monday through Friday, 9 am-5 pm. Another legal benefit of joining the REALTOR® family is the availability of the IAR Legal Library, which contains sample templates for many necessary official documents to reduce the risk of lawsuits. <https://indianarealtors.com/legal/legal-library/>.

In addition, IAR offers Affinity programs; visit <https://indianarealtors.com/about-us/member-benefits/> for more information.

## Building Your Team

You are almost ready to start selling real estate finally. The last step is to build your team of professionals. These are experts in other industries, so you don't have to be. At a minimum, you will need a trusted accountant, a structural engineer, a mortgage broker, an insurance agent, and a real estate attorney. Having a person who can provide tech support in a pinch would not hurt either. You may go months without having to call on the expertise of any one of these professionals, but it is good to start building your network early. It is better to have a trusted resource on call when you need them rather than trying to find an expert under a tight deadline.

Building your team extends to all agents in your office who will associate themselves with your Company. What documents are necessary now that your Company has staff? Documents such as a staff handbook, a commission policy, a technology policy, office policies discussing agency relationships, a data retention policy, and social media policy are just a few of the documents you will need for risk reduction. It is always good to have your attorney prepare or review these documents. As mentioned above, IAR Legal has made sample templates for many of these documents available to its members at <https://indianarealtors.com/legal/legal-library/>.

## Continuing Education

State law requires Indiana Real Estate Brokers and Managing Brokers to complete 12 hours of continuing education each year between July 1 and June 30. IAR makes the task cost-effective and easy for members. Your dues include

an annual CE package by the Real Estate Certification Program (RECP), which means you can complete CE at no additional cost. Plus, our CE is online and on-demand, so you can complete it at a time that works for you. Managing Brokers must have 4 of the 12 hours of CE from the state-approved Managing Broker curriculum. The Member Benefit CE includes the four hours required for Managing Brokers.

## **Good Luck**

Last but not least, get out there and sell. Tell your network of friends and professional acquaintances that you have ventured out on your own. Ask for referrals. Remember the Golden Rule: Do unto others as you would have them do unto you. In short, open the two doors of opportunity: your front door and your car door. Get out there and build your real estate empire.