

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 2008 Regular Session of the General Assembly.

## SENATE ENROLLED ACT No. 492

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AN ACT to amend the Indiana Code concerning trade regulation, property, and courts and court officers.

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

SECTION 1. IC 5-20-1-4, AS AMENDED BY P.L.133-2008, SECTION 1, AND AS AMENDED BY P.L.145-2008, SECTION 3, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The authority has all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter, including the power:

(1) to make or participate in the making of construction loans *to sponsors of for* multiple family residential housing *that is federally assisted or assisted by a government sponsored enterprise, such as the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Federal Agricultural Mortgage Corporation, the Federal Home Loan Bank, and other similar entities under terms that are approved by* the authority;

(2) to make or participate in the making of mortgage loans *to sponsors of for* multiple family residential housing *that is federally assisted or assisted by a government sponsored enterprise, such as the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or the Federal Agricultural Mortgage Corporation, the Federal Home Loan*

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*Bank, and other similar entities under terms that are approved by the authority;*

(3) to purchase or participate in the purchase from mortgage lenders of mortgage loans made to persons of low and moderate income for residential housing;

(4) to make loans to mortgage lenders for the purpose of furnishing funds to such mortgage lenders to be used for making mortgage loans for persons and families of low and moderate income. However, the obligation to repay loans to mortgage lenders shall be general obligations of the respective mortgage lenders and shall bear such date or dates, shall mature at such time or times, shall be evidenced by such note, bond, or other certificate of indebtedness, shall be subject to prepayment, and shall contain such other provisions consistent with the purposes of this chapter as the authority shall by rule or resolution determine;

(5) to collect and pay reasonable fees and charges in connection with making, purchasing, and servicing of its loans, notes, bonds, commitments, and other evidences of indebtedness;

(6) to acquire real property, or any interest in real property, by conveyance, including purchase in lieu of foreclosure, or foreclosure, to own, manage, operate, hold, clear, improve, and rehabilitate such real property and sell, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber such real property where such use of real property is necessary or appropriate to the purposes of the authority;

(7) to sell, at public or private sale, all or any part of any mortgage or other instrument or document securing a construction loan, a land development loan, a mortgage loan, or a loan of any type permitted by this chapter;

(8) to procure insurance against any loss in connection with its operations in such amounts and from such insurers as it may deem necessary or desirable;

(9) to consent, subject to the provisions of any contract with noteholders or bondholders which may then exist, whenever it deems it necessary or desirable in the fulfillment of its purposes to the modification of the rate of interest, time of payment of any installment of principal or interest, or any other terms of any mortgage loan, mortgage loan commitment, construction loan, loan to lender, or contract or agreement of any kind to which the authority is a party;

(10) to enter into agreements or other transactions with any

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federal, state, or local governmental agency for the purpose of providing adequate living quarters for such persons and families in cities and counties where a need has been found for such housing;

(11) to include in any borrowing such amounts as may be deemed necessary by the authority to pay financing charges, interest on the obligations (for a period not exceeding the period of construction and a reasonable time thereafter or if the housing is completed, two (2) years from the date of issue of the obligations), consultant, advisory, and legal fees and such other expenses as are necessary or incident to such borrowing;

(12) to make and publish rules respecting its lending programs and such other rules as are necessary to effectuate the purposes of this chapter;

(13) to provide technical and advisory services to sponsors, builders, and developers of residential housing and to residents and potential residents, including housing selection and purchase procedures, family budgeting, property use and maintenance, household management, and utilization of community resources;

(14) to promote research and development in scientific methods of constructing low cost residential housing of high durability;

(15) to encourage community organizations to participate in residential housing development;

(16) to make, execute, and effectuate any and all agreements or other documents with any governmental agency or any person, corporation, association, partnership, limited liability company, or other organization or entity necessary or convenient to accomplish the purposes of this chapter;

(17) to accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance and any other aid from any source whatsoever and to agree to, and to comply with, conditions attached thereto;

(18) to sue and be sued in its own name, plead and be impleaded;

(19) to maintain an office in the city of Indianapolis and at such other place or places as it may determine;

(20) to adopt an official seal and alter the same at pleasure;

(21) to adopt and from time to time amend and repeal bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules and policies in connection with the performance of its functions and duties;

(22) to employ fiscal consultants, engineers, attorneys, real estate counselors, appraisers, and such other consultants and employees

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as may be required in the judgment of the authority and to fix and pay their compensation from funds available to the authority therefor;

(23) notwithstanding IC 5-13, but subject to the requirements of any trust agreement entered into by the authority, to invest:

- (A) the authority's money, funds, and accounts;
- (B) any money, funds, and accounts in the authority's custody; and
- (C) proceeds of bonds or notes;

in the manner provided by an investment policy established by resolution of the authority;

(24) to make or participate in the making of construction loans, mortgage loans, or both, to individuals, partnerships, limited liability companies, corporations, and organizations for the construction of residential facilities for individuals with a developmental disability or for individuals with a mental illness or for the acquisition or renovation, or both, of a facility to make it suitable for use as a new residential facility for individuals with a developmental disability or for individuals with a mental illness;

(25) to make or participate in the making of construction and mortgage loans to individuals, partnerships, corporations, limited liability companies, and organizations for the construction, rehabilitation, or acquisition of residential facilities for children;

(26) to purchase or participate in the purchase of mortgage loans from:

- (A) public utilities (as defined in IC 8-1-2-1); or
- (B) municipally owned gas utility systems organized under IC 8-1.5;

if those mortgage loans were made for the purpose of insulating and otherwise weatherizing single family residences in order to conserve energy used to heat and cool those residences;

(27) to provide financial assistance to mutual housing associations (IC 5-20-3) in the form of grants, loans, or a combination of grants and loans for the development of housing for low and moderate income families;

(28) to service mortgage loans made or acquired by the authority and to impose and collect reasonable fees and charges in connection with such servicing;

(29) subject to the authority's investment policy, to enter into swap agreements (as defined in IC 8-9.5-9-4) in accordance with IC 8-9.5-9-5 and IC 8-9.5-9-7;

(30) to promote and foster community revitalization through

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community services and real estate development;

(31) to coordinate and establish linkages between governmental and other social services programs to ensure the effective delivery of services to low income individuals *and families, including individuals or families facing or experiencing homelessness*;

(32) to cooperate with local housing officials and plan commissions in the development of projects that the officials or commissions have under consideration;

(33) to take actions necessary to implement its powers that the authority determines to be appropriate and necessary to ensure the availability of state or federal financial assistance; and

(34) to administer any program or money designated by the state or available from the federal government or other sources that is consistent with the authority's powers and duties.

The omission of a power from the list in this subsection does not imply that the authority lacks that power. The authority may exercise any power that is not listed in this subsection but is consistent with the powers listed in this subsection to the extent that the power is not expressly denied by the Constitution of the State of Indiana or by another statute.

(b) The authority shall *structure and administer any program conducted ensure that a mortgage loan acquired by the authority under subsection (a)(3) or made by a mortgage lender with funds provided by the authority under subsection (a)(4) in order to assure that no mortgage loan shall is not knowingly be made to a person whose adjusted family income, shall exceed as determined by the authority, exceeds one hundred twenty-five percent (125%) of the median income for the geographic area within which the person resides and at least forty percent (40%) of the mortgage loans so financed shall be for persons whose adjusted family income shall be below eighty percent (80%) of the median income for such area. involved. However, if the authority determines that additional encouragement is needed for the development of the geographic area involved, a mortgage loan acquired or made under subsection (a)(3) or (a)(4) may be made to a person whose adjusted family income, as determined by the authority, does not exceed one hundred forty percent (140%) of the median income for the geographic area involved. The authority shall establish procedures that the authority determines are appropriate to structure and administer any program conducted under subsection (a)(3) or (a)(4) for the purpose of acquiring or making mortgage loans to persons of low or moderate income. In determining what constitutes low income, moderate income, or median income for purposes of any*

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program conducted under subsection (a)(3) or (a)(4), the authority shall consider:

- (1) the appropriate geographic area in which to measure income levels; and
- (2) the appropriate method of calculating low income, moderate income, or median income levels including:
  - (A) sources of;
  - (B) exclusions from; and
  - (C) adjustments to;
 income.

(c) In addition to the powers set forth in subsection (a), the authority may, with the proceeds of bonds and notes sold to retirement plans covered by IC 5-10-1.7, structure and administer a program of purchasing or participating in the purchasing from mortgage lenders of mortgage loans made to qualified members of retirement plans and other individuals. The authority shall structure and administer any program conducted under this subsection to assure that:

- (1) each mortgage loan is made as a first mortgage loan for real property:
  - (A) that is a single family dwelling, including a condominium or townhouse, located in Indiana;
  - (B) for a purchase price of not more than ninety-five thousand dollars (\$95,000);
  - (C) to be used as the purchaser's principal residence; and
  - (D) for which the purchaser has made a down payment in an amount determined by the authority;
- (2) no mortgage loan exceeds seventy-five thousand dollars (\$75,000);
- (3) any bonds or notes issued which are backed by mortgage loans purchased by the authority under this subsection shall be offered for sale to the retirement plans covered by IC 5-10-1.7; and
- (4) qualified members of a retirement plan shall be given preference with respect to the mortgage loans that in the aggregate do not exceed the amount invested by their retirement plan in bonds and notes issued by the authority that are backed by mortgage loans purchased by the authority under this subsection.

(d) As used in this section, "a qualified member of a retirement plan" means an active or retired member:

- (1) of a retirement plan covered by IC 5-10-1.7 that has invested in bonds and notes issued by the authority that are backed by

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~~mortgage loans purchased by the authority under subsection (c); and~~

~~(2) who for a minimum of two (2) years preceding the member's application for a mortgage loan has:~~

~~(A) been a full-time state employee, teacher, judge, police officer, or firefighter;~~

~~(B) been a full-time employee of a political subdivision participating in the public employees' retirement fund;~~

~~(C) been receiving retirement benefits from the retirement plan, or~~

~~(D) a combination of employment and receipt of retirement benefits equating at least two (2) years.~~

~~(c)~~ (c) The authority, when directed by the governor, shall administer programs and funds under 42 U.S.C. 1437 et seq.

~~(d)~~ (d) The authority shall identify, promote, assist, and fund:

- (1) home ownership education programs; **and**
- (2) mortgage foreclosure counseling and education programs under IC 5-20-6;**

conducted throughout Indiana by nonprofit counseling agencies **that the authority has certified, by the authority, or by any other public, private, or nonprofit entity in partnership with a nonprofit agency that the authority has certified,** using funds appropriated under section 27 of this chapter. The attorney general and the entities listed in IC 4-6-12-4(a)(1) through IC 4-6-12-4(a)(10) shall cooperate with the authority in implementing this subsection.

~~(e)~~ (e) The authority shall:

(1) *oversee and encourage a regional homeless delivery system that:*

*(A) considers the need for housing and support services;*

*(B) implements strategies to respond to gaps in the delivery system; and*

*(C) ensures individuals and families are matched with optimal housing solutions;*

(2) *facilitate the dissemination of information to assist individuals and families accessing local resources, programs, and services related to homelessness, housing, and community development; and*

(3) *each year, estimate and reasonably determine the number of the following:*

*(A) Individuals in Indiana who are homeless.*

*(B) Individuals in Indiana who are homeless and less than eighteen (18) years of age.*

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*(C) Individuals in Indiana who are homeless and not residents of Indiana.*

SECTION 2. IC 5-20-1-27, AS AMENDED BY P.L.145-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27. (a) The home ownership education account within the state general fund is established to support: ~~the~~

- (1) home ownership education programs established under section 4(d) of this chapter; **and**
- (2) mortgage foreclosure counseling and education programs established under IC 5-20-6-2.**

The account is administered by the authority.

(b) The home ownership education account consists of:

- (1) **court** fees collected under ~~IC 24-9-9~~; **IC 33-37-5-30 (before its expiration on January 1, 2013)**; and
- (2) civil penalties imposed and collected under:
  - (A) IC 6-1.1-12-43(g)(2)(B); or
  - (B) IC 27-7-3-15.5(e).

(c) The expenses of administering the home ownership education account shall be paid from money in the account.

(d) The treasurer of state shall invest the money in the home ownership education account not currently needed to meet the obligations of the account in the same manner as other public money may be invested.

SECTION 3. IC 5-20-6-3, AS ADDED BY P.L.176-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. **In addition to using money provided for the program from court fees under IC 33-37-5-30 (before its expiration on January 1, 2013)**, the authority may solicit contributions and grants from the private sector, nonprofit entities, and the federal government to assist in carrying out the purposes of this chapter.

SECTION 4. IC 24-5.5-1-1, AS ADDED BY P.L.209-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. **Except for IC 24-5.5-3-1**, this article does not apply to the following:

- (1) A person organized or chartered under the laws of this state, any other state, or the United States that relate to a bank, a trust company, a savings association, a savings bank, a credit union, or an industrial loan and investment company.
- (2) The Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or a Federal Home Loan Bank.

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- (3) A department or agency of the United States or of Indiana.
- (4) A person that is servicing or enforcing a loan that it owns.
- (5) A person that is servicing a loan:
  - (A) for a person described in subdivisions (1) through (4); ~~of this section~~; or
  - (B) insured by the Department of Housing and Urban Development or guaranteed by the Veterans Administration.
- (6) An attorney licensed to practice law in Indiana who is representing a mortgagor.

SECTION 5. IC 24-5.5-3-1, AS ADDED BY P.L.209-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. In addition to any other notice required by law, a mortgagee, or the mortgagee's assignee, that proceeds under IC 32-30-10 to foreclose a mortgage or deed of trust shall, ~~at the time of~~ **not later than thirty (30) days before** filing the complaint in the action, provide the following written notice, **on a form prescribed by the Indiana housing and community development authority under IC 32-30-10.5-8(a)**, to the mortgagor in a statement printed in at least 14 point boldface type:

"NOTICE REQUIRED BY STATE LAW

Mortgage foreclosure is a complex process. People may approach you about "saving" your home. You should be careful about any such promises. There are government agencies and nonprofit organizations you may contact for helpful information about the foreclosure process. For the name and telephone number of an organization near you, please call the Indiana housing and community development authority."

Service of the written notice required by this chapter shall be made as provided in the Indiana Rules of Trial Procedure governing service of process upon a person.

SECTION 6. IC 24-5.5-5-7.2 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 7.2. A foreclosure consultant shall retain all records and documents, including the foreclosure consultant contract, related to services performed on behalf of a homeowner for at least three (3) years after the termination or conclusion of the foreclosure consultant contract entered into by the foreclosure consultant and the homeowner.**

SECTION 7. IC 24-9-1-1, AS AMENDED BY HEA 1176-2009, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. Except for IC 24-9-3-7(c)(3), ~~and~~

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IC 24-9-3-7(c)(4), **and IC 24-9-3-7(c)(5)**, this article does not apply to:

(1) a loan made or acquired by a person organized or chartered under the laws of this state, any other state, or the United States relating to banks, trust companies, savings associations, savings banks, credit unions, or industrial loan and investment companies; or

(2) a loan:

(A) that can be purchased by the Federal National Mortgage Association, the Federal Home Loan Mortgage Association, or the Federal Home Loan Bank;

(B) to be insured by the United States Department of Housing and Urban Development;

(C) to be guaranteed by the United States Department of Veterans Affairs;

(D) to be made or guaranteed by the United States Department of Agriculture Rural Housing Service;

(E) to be funded by the Indiana housing and community development authority; or

(F) with a principal amount that exceeds the conforming loan size limit for a single family dwelling as established by the Federal National Mortgage Association.

SECTION 8. IC 24-9-3-7, AS AMENDED BY HEA 1176-2009, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) As used in this section, "mortgage transaction" includes the following:

(1) A home loan subject to this article.

(2) A loan described in IC 24-9-1-1 **that is secured by a mortgage or deed of trust on real estate in Indiana on which there is located or will be located a structure or structures:**

**(A) designed primarily for occupancy of one (1) to four (4) families; and**

**(B) that is or will be occupied by a borrower as the borrower's principal dwelling.**

(3) A first lien mortgage transaction (as defined in IC 24-4.4-1-301) subject to IC 24-4.4.

(4) A consumer credit sale subject to IC 24-4.5-2 in which a mortgage, deed of trust, or land contract that constitutes a lien is created or retained against land upon which there is a dwelling that is or will be used by the debtor primarily for personal, family, or household purposes.

(5) A consumer credit loan subject to IC 24-4.5-3 in which a mortgage, deed of trust, or land contract that constitutes a lien is

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created or retained against land upon which there is a dwelling that is or will be used by the debtor primarily for personal, family, or household purposes.

(6) A loan in which a mortgage, deed of trust, or land contract that constitutes a lien is created or retained against land:

- (A) that is located in Indiana;
- (B) upon which there is a dwelling that is not or will not be used by the borrower primarily for personal, family, or household purposes; and
- (C) that is classified as residential for property tax purposes.

The term includes a loan that is secured by land in Indiana upon which there is a dwelling that is purchased by or through the borrower for investment or other business purposes.

**(7) A reverse mortgage transaction that is secured by real estate in Indiana on which there is located a structure that is occupied by a borrower as the borrower's principal dwelling.**

(b) As used in this section, "real estate transaction" means the sale or lease of any legal or equitable interest in real estate:

- (1) that is located in Indiana;
- (2) upon which there is a dwelling; and
- (3) that is classified as residential for property tax purposes.

(c) A person may not:

- (1) divide a loan transaction into separate parts with the intent of evading a provision of this article;
- (2) structure a home loan transaction as an open-end loan with the intent of evading the provisions of this article if the loan would be a high cost home loan if the home loan had been structured as a closed-end loan;

**(3) engage in a deceptive act in connection with a mortgage transaction or a real estate transaction;**

~~(3)~~ **(4) engage in, or solicit to engage in, a real estate transaction or a mortgage transaction without a permit or license required by law; or**

~~(4)~~ **(5) with respect to a real estate transaction or a mortgage transaction, represent that:**

- (A) the transaction has:
  - (i) certain terms or conditions; or**
  - (ii) the sponsorship or approval of a particular person or entity;**

that it does not have and that the person knows or reasonably should know it does not have; or

(B) the real estate or property that is the subject of the

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transaction has any improvements, appurtenances, uses, characteristics, or associated benefits that it does not have and that the person knows or reasonably should know it does not have.

SECTION 9. IC 24-9-3-8, AS AMENDED BY HEA 1176-2009, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. A person seeking to enforce section 7(c)(3), or 7(c)(4), or 7(c)(5) of this chapter may not knowingly or intentionally intimidate, coerce, or harass another person.

SECTION 10. IC 24-9-5-4, AS AMENDED BY P.L.3-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) **This section does not apply to a violation of IC 24-9-3-7(c)(4) or IC 24-9-3-7(c)(5).** A person who violates this article is liable to a person who is a party to the home loan transaction that gave rise to the violation for the following:

- (1) Actual damages, including consequential damages. A person is not required to demonstrate reliance in order to receive actual damages.
- (2) Statutory damages equal to two (2) times the finance charges agreed to in the home loan agreement.
- (3) Costs and reasonable attorney's fees.

(b) A person may be granted injunctive, declaratory, and other equitable relief as the court determines appropriate in an action to enforce compliance with this chapter.

(c) The right of rescission granted under 15 U.S.C. 1601 et seq. for a violation of the federal Truth in Lending Act (15 U.S.C. 1601 et seq.) is available to a person acting only in an individual capacity by way of recoupment as a defense against a party foreclosing on a home loan at any time during the term of the loan. Any recoupment claim asserted under this provision is limited to the amount required to reduce or extinguish the person's liability under the home loan plus amounts required to recover costs, including reasonable attorney's fees. This article shall not be construed to limit the recoupment rights available to a person under any other law.

(d) The remedies provided in this section are cumulative but are not intended to be the exclusive remedies available to a person. Except as provided in subsection (e), a person is not required to exhaust any administrative remedies under this article or under any other applicable law.

(e) Before bringing an action regarding an alleged deceptive act under this chapter, a person must:

- (1) notify the homeowner protection unit established by

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IC 4-6-12-2 of the alleged violation giving rise to the action; and  
(2) allow the homeowner protection unit at least ninety (90) days to institute appropriate administrative and civil action to redress a violation.

(f) An action under this chapter must be brought within five (5) years after the date that the person knew, or by the exercise of reasonable diligence should have known, of the violation of this article.

(g) An award of damages under subsection (a) has priority over a civil penalty imposed under this article.

SECTION 11. IC 24-9-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. A person who knowingly or intentionally violates this article commits:

- (1) a Class A misdemeanor; and
- (2) **except for a violation of IC 24-9-7-3(c)(4) by a person required to be licensed by the department of financial institutions**, an act that is actionable by the attorney general under IC 24-5-0.5 and is subject to the penalties listed in IC 24-5-0.5.

SECTION 12. IC 24-9-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) **This section does not apply to a violation of IC 24-9-7-3(c)(4) by a person required to be licensed by the department of financial institutions.** The attorney general may bring an action to enjoin a violation of this article. A court in which the action is brought may:

- (1) issue an injunction;
- (2) order a person to make restitution;
- (3) order a person to reimburse the state for reasonable costs of the attorney general's investigation and prosecution of the violation of this article; and
- (4) impose a civil penalty of not more than ten thousand dollars (\$10,000) per violation.

(b) A person who violates an injunction under this section is subject to a civil penalty of not more than ten thousand dollars (\$10,000) per violation.

(c) The court that issues an injunction retains jurisdiction over a proceeding seeking the imposition of a civil penalty under this section.

SECTION 13. IC 25-1-11-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 17. (a) **Except as provided in subsection (b)**, a practitioner may petition the board to accept the surrender of the practitioner's license instead of having a hearing before the board. The practitioner may not surrender the practitioner's license without the written approval of the board, and the

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board may impose any conditions appropriate to the surrender or reinstatement of a surrendered license.

**(b) The board may not approve the surrender of a practitioner's license under subsection (a) if the office of the attorney general:**

**(1) has filed an administrative complaint concerning the practitioner's license; and**

**(2) opposes the surrender of the practitioner's license.**

SECTION 14. IC 25-1-11-18, AS AMENDED BY P.L.194-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 18. A practitioner who has been subjected to disciplinary sanctions may be required by a board to pay the costs of the proceeding. The practitioner's ability to pay shall be considered when costs are assessed. If the practitioner fails to pay the costs, a suspension may not be imposed solely upon the practitioner's inability to pay the amount assessed. These costs are limited to costs for the following:

- (1) Court reporters.
- (2) Transcripts.
- (3) Certification of documents.
- (4) Photo duplication.
- (5) Witness attendance and mileage fees.
- (6) Postage.
- (7) Expert witnesses.
- (8) Depositions.
- (9) Notarizations.
- (10) Administrative law judges.

**(11) Real estate review appraisals, if applicable.**

SECTION 15. IC 25-34.1-6-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2.5. (a) A violation of:

- (1) IC 24-5-15; or
- (2) IC 24-5.5;

by a person licensed or required to be licensed under this article is a violation of this article.

**(b) A person who commits a violation described in subsection (a) commits a Class A infraction and is subject to:**

- (1) the enforcement procedures described in section 2 of this chapter; and**
- (2) any sanction that may be imposed by the commission under IC 25-1-11-12 for an act described in IC 25-1-11-11.**

SECTION 16. IC 27-7-3-15.5, AS ADDED BY P.L.145-2008, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JANUARY 1, 2010]: Sec. 15.5. (a) This section applies to a transaction that:

- (1) is a single family residential:
  - (A) first lien purchase money mortgage transaction; or
  - (B) refinancing transaction; and
- (2) is closed after December 31, 2009.

(b) Not later than September 1, 2009, the department shall establish and maintain an electronic system for the collection and storage of the following information concerning any of the following persons that have participated in or assisted with a transaction to which this section applies, or that will participate in or assist with a transaction to which this section applies:

- (1) The name and license number (under IC 23-2-5) of each loan brokerage business involved in the transaction.
- (2) The name and registration number (under IC 23-2-5) of each originator involved in the transaction.
- (3) The name and license number (under IC 25-34.1) of each:
  - (A) principal broker; and
  - (B) salesperson or broker-salesperson, if any;
 involved in the transaction.
- (4) The:
  - (A) name of; and
  - (B) code assigned by the National Association of Insurance Commissioners (NAIC) to;
 each title insurance underwriter involved in the transaction.
- (5) The name and license number (under IC 27-1-15.6) of each title insurance agency and agent involved in the transaction as a closing agent (as defined in IC 6-1.1-12-43(a)(2)).
- (6) The name and:
  - (A) license or certificate number (under IC 25-34.1-3-8) of each licensed or certified real estate appraiser; or
  - (B) license number (under IC 25-34.1) of each broker;
 who appraises the property that is the subject of the transaction.
- (7) The name of the mortgagee and, if the mortgagee is required to be licensed under:
  - (A) IC 24-4.4; or
  - (B) IC 24-4.5-3-502;
 the license number of the mortgagee.
- (8) In the case of a first lien purchase money mortgage transaction, the name of the seller of the property that is the subject of the transaction.**
- (9) In the case of a first lien purchase money mortgage**

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**transaction, the name of the buyer of the property that is the subject of the transaction.**

**(10) The:**

**(A) name; and**

**(B) license number, certificate number, registration number, or other code, as appropriate;**

**of any other person that participates in or assists with a transaction to which this section applies, as the department may prescribe.**

(c) The system established by the department under this section must include a form that:

(1) is uniformly accessible in an electronic format to the closing agent (as defined in IC 6-1.1-12-43(a)(2)) in the transaction; and

(2) allows the closing agent to do the following:

(A) Input information identifying the property that is the subject of the transaction by lot or parcel number, street address, or some other means of identification that the department determines:

(i) is sufficient to identify the property; and

(ii) is determinable by the closing agent.

(B) Subject to subsection (d) and to the extent determinable, input the information described in subsection (b) with respect to each person described in subsection (b) that participates in or assists with the transaction.

(C) Respond to the following questions:

(i) "On what date did you receive the closing instructions from the creditor in the transaction?"

(ii) "On what date did the transaction close?"

(D) Submit the form electronically to a data base maintained by the department.

(d) Not later than the time of the closing, each person described in subsection (b), **other than a person described in subsection (b)(8) or (b)(9)**, shall provide to the closing agent in the transaction the person's:

(1) legal name; and

(2) license number, certificate number, registration number, or NAIC code, as appropriate;

to allow the closing agent to comply with subsection (c)(2)(B). A person described in subsection (b)(7) shall provide the information required by this subsection for any person described in subsection (b)(6) that appraises the property that is the subject of the transaction on behalf of the person described in subsection (b)(7). A person described in subsection (b)(3)(B) who is involved in the transaction

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may provide the information required by this subsection for a person described in subsection (b)(3)(A) that serves as the principal broker for the person described in subsection (b)(3)(B). **In the case of a first lien purchase money mortgage transaction, the closing agent shall determine the information described in subsection (b)(8) and (b)(9) from the HUD-1 settlement statement.**

(e) **Except for a person described in subsection (b)(8) or (b)(9),** a person described in subsection (b) who fails to comply with subsection (d) is subject to a civil penalty of one hundred dollars (\$100) for each closing with respect to which the person fails to comply with subsection (d). The penalty:

- (1) may be enforced by the state agency that has administrative jurisdiction over the person in the same manner that the agency enforces the payment of fees or other penalties payable to the agency; and
- (2) shall be paid into the home ownership education account established by IC 5-20-1-27.

(f) Subject to subsection (g), the department shall make the information stored in the data base described in subsection (c)(2)(D) accessible to:

- (1) each entity described in IC 4-6-12-4; and
- (2) the homeowner protection unit established under IC 4-6-12-2.

(g) The department, a closing agent who submits a form under subsection (c), each entity described in IC 4-6-12-4, and the homeowner protection unit established under IC 4-6-12-2 shall exercise all necessary caution to avoid disclosure of any information:

- (1) concerning a person described in subsection (b), including the person's license, registration, or certificate number; and
  - (2) contained in the data base described in subsection (c)(2)(D);
- except to the extent required or authorized by state or federal law.

(h) The department may adopt rules under IC 4-22-2 to implement this section. Rules adopted by the department under this subsection may establish procedures for the department to:

- (1) establish;
- (2) collect; and
- (3) change as necessary;

an administrative fee to cover the department's expenses in establishing and maintaining the electronic system required by this section.

(i) If the department adopts a rule under IC 4-22-2 to establish an administrative fee to cover the department's expenses in establishing and maintaining the electronic system required by this section, as allowed under subsection (h), the department may:

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- (1) require the fee to be paid:
  - (A) to the closing agent responsible for inputting the information and submitting the form described in subsection (c)(2); and
  - (B) by the borrower in the transaction;
- (2) allow the closing agent described in subdivision (1)(A) to retain a part of the fee collected to cover the closing agent's costs in inputting the information and submitting the form described in subsection (c)(2); and
- (3) require the closing agent to pay the remainder of the fee collected to the department for deposit in the title insurance enforcement fund established by IC 27-7-3.6-1, for the department's use in establishing and maintaining the electronic system required by this section.

SECTION 17. IC 32-29-7-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. (a) Immediately after a foreclosure sale under this chapter, the sheriff shall:

- (1) execute and deliver to the purchaser; **and**
- (2) **except as provided in subsection (b), record with the recorder of the county in which the premises are located;**

a deed of conveyance for the premises, which must be valid to convey all the right, title, and interest held or claimed by all of the parties to the action and all persons claiming under them. The sheriff shall file a return with the clerk of the court.

**(b) The sheriff is not required to record the deed of conveyance for the premises under subsection (a)(2) if the mortgage involved in the foreclosure action resulting in the foreclosure sale under this chapter was insured by the United States Department of Housing and Urban Development.**

SECTION 18. IC 32-30-10-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) **Subject to IC 32-30-10.5 with respect to mortgage transactions described in IC 32-30-10.5-5**, if a mortgagor defaults in the performance of any condition contained in a mortgage, the mortgagee or the mortgagee's assigns may proceed in the circuit court of the county where the real estate is located to foreclose the equity of redemption contained in the mortgage.

(b) If the real estate is located in more than one (1) county, the circuit court of any county in which the real estate is located has jurisdiction for an action for the foreclosure of the equity of redemption contained in the mortgage.

SECTION 19. IC 32-30-10-10 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. A plaintiff may not:

- (1) proceed to foreclose the mortgagee's mortgage:
  - (A) while the plaintiff is prosecuting any other action for the same debt or matter that is secured by the mortgage; or
  - (B) while the plaintiff is seeking to obtain execution of any judgment in any other action; or
  - (C) **until the notice under IC 32-30-10.5-8(a) has been sent, if required, in the case of a mortgage transaction described in IC 32-30-10.5-5; or**
- (2) prosecute any other action for the same matter while the plaintiff is foreclosing the mortgagee's mortgage or prosecuting a judgment of foreclosure.

SECTION 20. IC 32-30-10.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

**Chapter 10.5. Foreclosure Prevention Agreements for Residential Mortgages**

**Sec. 1. (a) The general assembly makes the following findings:**

- (1) **Indiana faces a serious threat to its state economy and to the economies of its political subdivisions because of Indiana's high rate of residential mortgage foreclosures, which constitutes an emergency.**
- (2) **Indiana's high rate of residential mortgage foreclosures has adversely affected property values in Indiana, and may have an even greater adverse effect on property values if the foreclosure rate continues to rise.**
- (3) **It is in the public interest for the state to modify the foreclosure process to encourage mortgage modification alternatives.**

**(b) The purpose of this chapter is to avoid unnecessary foreclosures of residential properties and thereby provide stability to Indiana's statewide and local economies by:**

- (1) **requiring early contact and communications among creditors, their authorized agents, and debtors in order to engage in negotiations that could avoid foreclosure; and**
- (2) **facilitating the modification of residential mortgages in appropriate circumstances.**

**Sec. 2. (a) As used in this chapter, "creditor" means a person:**

- (1) **that regularly engages in the extension of mortgages that are subject to a credit service charge or loan finance charge, as applicable, or are payable by written agreement in more than four (4) installments (not including a down payment);**

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(2) to which the obligation is initially payable, either on the face of the note or contract, or by agreement if there is not a note or contract.

(b) The term includes a mortgage servicer.

Sec. 3. As used in this chapter, "debtor", with respect to a mortgage, refers to the maker of the note secured by the mortgage.

Sec. 4. As used in this chapter, "foreclosure prevention agreement" means a written agreement that:

- (1) is executed by both the creditor and the debtor; and
- (2) offers the debtor an individualized plan that may include:
  - (A) a temporary forbearance with respect to the mortgage;
  - (B) a reduction of any arrearage owed by the debtor;
  - (C) a reduction of the interest rate that applies to the mortgage;
  - (D) a repayment plan;
  - (E) a deed in lieu of foreclosure;
  - (F) reinstatement of the mortgage upon the debtor's payment of any arrearage;
  - (G) a sale of the property; or
  - (H) any loss mitigation arrangement or debtor relief plan established by federal law, rule, regulation, or guideline.

Sec. 5. As used in this chapter, "mortgage" means a loan in which a first mortgage, or a land contract that constitutes a first lien, is created or retained against land upon which there is a dwelling that is or will be used by the debtor primarily for personal, family, or household purposes.

Sec. 6. As used in this chapter, "mortgage foreclosure counselor" means a foreclosure prevention counselor who is part of, or has been trained or certified by, the Indiana Foreclosure Prevention Network.

Sec. 7. As used in this chapter, "mortgage servicer" means the last person to whom:

- (1) a debtor in a mortgage; or
- (2) the debtor's successor in interest;

has been instructed to send payments on the mortgage.

Sec. 8. (a) This section applies to a foreclosure action that is filed after June 30, 2009. Except as provided in subsection (e) and section 10(g) of this chapter, not later than thirty (30) days before a creditor files an action for foreclosure, the creditor shall send to the debtor by certified mail a presuit notice on a form prescribed by the Indiana housing and community development authority

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created by IC 5-20-1-3. In prescribing the form required by this section, the Indiana housing and community development authority shall include in the notice the statement set forth in IC 24-5.5-3-1. In addition, the notice required by this subsection must:

(1) inform the debtor that:

(A) the debtor is in default; and

(B) the debtor is encouraged to obtain assistance from a mortgage foreclosure counselor; and

(2) provide the contact information for the Indiana Foreclosure Prevention Network.

(b) The notice required by subsection (a) shall be sent to:

(1) the address of the mortgaged property; or

(2) the last known mailing address of the debtor if the creditor's records indicate that the mailing address of the debtor is other than the address of the mortgaged property.

If the creditor provides evidence that the notice required by subsection (a) was sent by certified mail, return receipt requested, and as prescribed by this subsection, it is not necessary that the debtor accept receipt of the notice for an action to proceed as allowed under this chapter.

(c) Except as provided in subsection (e) and section 10(g) of this chapter, if a creditor files an action to foreclose a mortgage, the creditor shall include with the complaint served on the debtor a notice that informs the debtor of the debtor's right to participate in a settlement conference. The notice must be in a form prescribed by the Indiana housing and community development authority created by IC 5-20-1-3. The notice must inform the debtor that the debtor may schedule a settlement conference by notifying the court, not later than thirty (30) days after the notice is served, of the debtor's intent to participate in a settlement conference.

(d) In a foreclosure action filed under IC 32-30-10-3 after June 30, 2009, the creditor shall attach to the complaint filed with the court a copy of the notices sent to the debtor under subsections (a) and (c).

(e) A creditor is not required to send the notices described in this section if:

(1) the loan is secured by a dwelling that is not the debtor's primary residence;

(2) the loan has been the subject of a prior foreclosure prevention agreement under this chapter and the debtor has defaulted with respect to the terms of that foreclosure

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prevention agreement; or

(3) bankruptcy law prohibits the creditor from participating in a settlement conference under this chapter with respect to the loan.

**Sec. 9. (a) Except as provided in subsection (b), after June 30, 2009, a court may not issue a judgment of foreclosure under IC 32-30-10 on a mortgage subject to this chapter unless all of the following apply:**

(1) The creditor has given the notice required under section 8(c) of this chapter.

(2) The debtor either:

(A) does not contact the court within the thirty (30) day period described in section 8(c) of this chapter to schedule a settlement conference under section 8(c) of this chapter; or

(B) contacts the court within the thirty (30) day period described in section 8(c) of this chapter to schedule a conference under section 8(c) of this chapter and, upon conclusion of the conference, the parties are unable to reach agreement on the terms of a foreclosure prevention agreement.

(3) At least sixty (60) days have elapsed since the date the notice required by section 8(a) of this chapter was sent, unless the mortgaged property is abandoned.

**(b) If the court finds that a settlement conference would be of limited value based on the result of a prior loss mitigation effort between the creditor and the debtor:**

(1) a settlement conference is not required under this chapter; and

(2) the conditions set forth in subsection (a) do not apply, and the foreclosure action may proceed as otherwise allowed by law.

**Sec. 10. (a) Unless a settlement conference is not required under this chapter, the court shall issue a notice of a settlement conference if the debtor contacts the court to schedule a settlement conference as described in section 8(c) of this chapter. The court's notice of a settlement conference must do the following:**

(1) Order the creditor and the debtor to conduct a settlement conference on or before a date and time specified in the notice, which date must not be earlier than twenty-five (25) days after the date of the notice or later than sixty (60) days after the date of the notice, for the purpose of attempting to

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negotiate a foreclosure prevention agreement.

(2) Encourage the debtor to contact a mortgage foreclosure counselor before the date of the settlement conference. The notice must provide the contact information for the Indiana Foreclosure Prevention Network.

(3) Require the debtor to bring to the settlement conference the following documents needed to engage in good faith negotiations with the creditor:

(A) Documentation of the debtor's present and projected future income, expenses, assets, and liabilities, including documentation of the debtor's employment history.

(B) Any other documentation or information that the court determines is needed for the debtor to engage in good faith negotiations with the creditor. The court shall identify any documents required under this clause with enough specificity to allow the debtor to obtain the documents before the scheduled settlement conference.

(4) Require the creditor to bring to the settlement conference the following transaction history for the mortgage:

(A) A copy of the original note and mortgage.

(B) A payment record substantiating the default.

(C) An itemization of all amounts claimed by the creditor as being owed on the mortgage.

(D) Any other documentation that the court determines is needed.

(5) Inform the parties that:

(A) each party has the right to be represented by an attorney or assisted by a mortgage foreclosure counselor at the settlement conference; and

(B) an attorney or a mortgage foreclosure counselor may participate in the settlement conference in person or by telephone.

(6) Inform the parties that the settlement conference will be conducted at the county courthouse, or at another place designated by the court, on the date and time specified in the notice under subdivision (1) unless the parties submit to the court a stipulation to:

(A) modify the date, time, and place of the settlement conference; or

(B) hold the settlement conference by telephone at a date and time agreed to by the parties.

If the parties stipulate under clause (B) to conduct the

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settlement conference by telephone, the parties shall ensure the availability of any technology needed to allow simultaneous participation in the settlement conference by all participants.

(b) An attorney for the creditor shall attend the settlement conference, and an authorized representative of the creditor shall be available by telephone during the settlement conference. In addition, the court may require any person that is a party to the foreclosure action to appear at or participate in a settlement conference held under this section, and, for cause shown, the court may order the creditor and the debtor to reconvene a settlement conference at any time before judgment is entered.

(c) At the court's discretion, a settlement conference may or may not be attended by a judicial officer.

(d) The creditor shall ensure that any person representing the creditor:

- (1) at a settlement conference scheduled under subsection (a); or
- (2) in any negotiations with the debtor designed to reach agreement on the terms of a foreclosure prevention agreement;

has authority to represent the creditor in negotiating a foreclosure prevention agreement with the debtor.

(e) If, as a result of a settlement conference held under this section, the debtor and the creditor agree to enter into a foreclosure prevention agreement, the agreement shall be reduced to writing and signed by both parties, and each party shall retain a copy of the signed agreement. Not later than seven (7) business days after the signing of the foreclosure prevention agreement, the creditor shall file with the court a copy of the signed agreement. At the election of the creditor, the foreclosure shall be dismissed or stayed for as long as the debtor complies with the terms of the foreclosure prevention agreement.

(f) If, as a result of a settlement conference held under this section, the debtor and the creditor are unable to agree on the terms of a foreclosure prevention agreement:

- (1) the creditor shall, not later than seven (7) business days after the conclusion of the settlement conference, file with the court a notice indicating that the settlement conference held under this section has concluded and a foreclosure prevention agreement was not reached; and
- (2) the foreclosure action filed by the creditor may proceed as

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otherwise allowed by law.

(g) If:

- (1) a foreclosure is dismissed by the creditor under subsection (e) after a foreclosure prevention agreement is reached; and
- (2) a default in the terms of the foreclosure prevention agreement later occurs;

the creditor or its assigns may bring a foreclosure action under IC 32-30-10-3 without sending the notices described in section 8 of this chapter.

(h) Participation in a settlement conference under this section satisfies any mediation or alternative dispute resolution requirement established by court rule.

Sec. 11. (a) This section applies to a mortgage foreclosure action with respect to which the creditor has filed the complaint in the proceeding before July 1, 2009, and the court having jurisdiction over the proceeding has not rendered a judgment of foreclosure before July 1, 2009.

(b) In a mortgage foreclosure action to which this section applies, the court having jurisdiction of the action shall serve notice of the availability of a settlement conference under section 8(c) of this chapter.

SECTION 21. IC 32-30-12-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. **Except as provided in IC 32-30-10.5 for mortgage transactions described in IC 32-30-10.5-5,** it is not necessary in any action upon a mortgage or lien to give time for:

- (1) the payment of money; or
- (2) performing any other act.

Final judgment may be given in the first instance.

SECTION 22. IC 33-37-4-4, AS AMENDED BY P.L.174-2006, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The clerk shall collect a civil costs fee of one hundred dollars (\$100) from a party filing a civil action. This subsection does not apply to the following civil actions:

- (1) Proceedings to enforce a statute defining an infraction under IC 34-28-5 (or IC 34-4-32 before its repeal).
- (2) Proceedings to enforce an ordinance under IC 34-28-5 (or IC 34-4-32 before its repeal).
- (3) Proceedings in juvenile court under IC 31-34 or IC 31-37.
- (4) Proceedings in paternity under IC 31-14.
- (5) Proceedings in small claims court under IC 33-34.
- (6) Proceedings in actions described in section 7 of this chapter.

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(b) In addition to the civil costs fee collected under this section, the clerk shall collect the following fees, if they are required under IC 33-37-5:

- (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or IC 33-37-5-4).
- (2) A support and maintenance fee (IC 33-37-5-6).
- (3) A document storage fee (IC 33-37-5-20).
- (4) An automated record keeping fee (IC 33-37-5-21).
- (5) A public defense administration fee (IC 33-37-5-21.2).
- (6) A judicial insurance adjustment fee (IC 33-37-5-25).
- (7) A judicial salaries fee (IC 33-37-5-26).
- (8) A court administration fee (IC 33-37-5-27).
- (9) A service fee (IC 33-37-5-28(b)(1) or IC 33-37-5-28(b)(2)).
- (10) A garnishee service fee (IC 33-37-5-28(b)(3) or IC 33-37-5-28(b)(4)).
- (11) For a mortgage foreclosure action filed after June 30, 2009, and before January 1, 2013, a mortgage foreclosure counseling and education fee (IC 33-37-5-30 (before its expiration on January 1, 2013)).**

SECTION 23. IC 33-37-5-30 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 30. (a) This section applies to a civil action in which the clerk is required to collect a civil costs fee under IC 33-37-4-4(a). The clerk shall collect a fifty dollar (\$50) mortgage foreclosure counseling and education fee from a party filing an action to foreclose a mortgage after June 30, 2009, and before January 1, 2013.**

**(b) This section expires January 1, 2013.**

SECTION 24. IC 33-37-7-2, AS AMENDED BY P.L.122-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2. (a) The clerk of a circuit court shall distribute semiannually to the auditor of state as the state share for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:**

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-3(a) (juvenile costs fees).
- (4) IC 33-37-4-4(a) (civil costs fees).
- (5) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- (6) IC 33-37-4-7(a) (probate costs fees).
- (7) IC 33-37-5-17 (deferred prosecution fees).

(b) The clerk of a circuit court shall distribute semiannually to the

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auditor of state for deposit in the state user fee fund established in IC 33-37-9-2 the following:

- (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).
- (2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- (3) Fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7).
- (4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-37-4-1(b)(8).
- (5) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
- (6) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.
- (7) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21).

(c) The clerk of a circuit court shall distribute monthly to the county auditor the following:

- (1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).
- (2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(d) The clerk of a circuit court shall distribute monthly to the county auditor fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7). The county auditor shall deposit fees distributed by a clerk under this subsection into the county child advocacy fund established under IC 12-17-17.

(e) The clerk of a circuit court shall distribute monthly to the county auditor one hundred percent (100%) of the late payment fees collected under IC 33-37-5-22. The county auditor shall deposit fees distributed by a clerk under this subsection as follows:

- (1) If directed to do so by an ordinance adopted by the county fiscal body, the county auditor shall deposit forty percent (40%) of the fees in the clerk's record perpetuation fund established under IC 33-37-5-2 and sixty percent (60%) of the fees in the

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county general fund.

(2) If the county fiscal body has not adopted an ordinance described in subdivision (1), the county auditor shall deposit all the fees in the county general fund.

(f) The clerk of the circuit court shall distribute semiannually to the auditor of state for deposit in the sexual assault victims assistance account established by IC 5-2-6-23(h) one hundred percent (100%) of the sexual assault victims assistance fees collected under IC 33-37-5-23.

(g) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) One hundred percent (100%) of the support and maintenance fees for cases designated as non-Title IV-D child support cases in the Indiana support enforcement tracking system (ISETS) collected under IC 33-37-5-6.

(2) The percentage share of the support and maintenance fees for cases designated as IV-D child support cases in ISETS collected under IC 33-37-5-6 that is reimbursable to the county at the federal financial participation rate.

The county clerk shall distribute monthly to the office of the secretary of family and social services the percentage share of the support and maintenance fees for cases designated as Title IV-D child support cases in ISETS collected under IC 33-37-5-6 that is not reimbursable to the county at the applicable federal financial participation rate.

(h) The clerk of a circuit court shall distribute monthly to the county auditor the following:

(1) One hundred percent (100%) of the small claims service fee under IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2) for deposit in the county general fund.

(2) One hundred percent (100%) of the small claims garnishee service fee under IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3) for deposit in the county general fund.

(i) This subsection does not apply to court administration fees collected in small claims actions filed in a court described in IC 33-34. The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the following:

(1) The public defense administration fee collected under IC 33-37-5-21.2.

(2) The judicial salaries fees collected under IC 33-37-5-26.

(3) The DNA sample processing fees collected under IC 33-37-5-26.2.

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(4) The court administration fees collected under IC 33-37-5-27.

(j) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2 one hundred percent (100%) of the judicial insurance adjustment fee collected under IC 33-37-5-25.

(k) The proceeds of the service fee collected under IC 33-37-5-28(b)(1) or IC 33-37-5-28(b)(2) shall be distributed as follows:

(1) The clerk shall distribute one hundred percent (100%) of the service fees collected in a circuit, superior, county, or probate court to the county auditor for deposit in the county general fund.

(2) The clerk shall distribute one hundred percent (100%) of the service fees collected in a city or town court to the city or town fiscal officer for deposit in the city or town general fund.

(l) The proceeds of the garnishee service fee collected under IC 33-37-5-28(b)(3) or IC 33-37-5-28(b)(4) shall be distributed as follows:

(1) The clerk shall distribute one hundred percent (100%) of the garnishee service fees collected in a circuit, superior, county, or probate court to the county auditor for deposit in the county general fund.

(2) The clerk shall distribute one hundred percent (100%) of the garnishee service fees collected in a city or town court to the city or town fiscal officer for deposit in the city or town general fund.

**(m) The clerk of the circuit court shall distribute semiannually to the auditor of state for deposit in the home ownership education account established by IC 5-20-1-27 one hundred percent (100%) of the mortgage foreclosure counseling and education fees collected under IC 33-37-5-30 (before its expiration on January 1, 2013).**

SECTION 25. An emergency is declared for this act.

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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

**C**  
**O**  
**P**  
**Y**

