

**CONFERENCE COMMITTEE REPORT
DIGEST FOR EHB 1336**

Citations Affected: IC 2-3.5-5-3; IC 5-10.2-2; IC 5-10.3-11-4.7; IC 5-13; IC 24-5-23.6; IC 28-1-2-40.

Synopsis: Mortgages and public deposits. Establishes a voluntary five star mortgage program for creditors (including mortgage brokers) that offer qualifying mortgages to Indiana customers after June 30, 2010. Requires the department of financial institutions (department) to adopt guidelines to implement the program. Provides that to qualify as a five star mortgage lender, a creditor must provide to the department a certification attesting that the creditor meets specified criteria. Provides that to qualify as a five star mortgage, a mortgage: (1) must require: (A) a down payment of at least 10% of the purchase price of the dwelling, in the case of a purchase money transaction; or (B) that the customer have equity of at least 10% in the dwelling, in the case of a refinancing; (2) must have a fixed rate of interest; (3) must provide for an escrow account for the payment of taxes and insurance, if the creditor regularly provides for such escrow accounts in the creditor's ordinary course of business; (4) may not have a term that exceeds 30 years; and (5) may not include a prepayment penalty or fee. Requires a five star mortgage lender to provide a written statement to any Indiana customer who: (1) applies for a five star mortgage offered by the lender; and (2) does not qualify for the mortgage based on the lender's underwriting standards. Provides that the statement must set forth the reasons why the customer did not qualify for the five star mortgage. Allows a creditor that qualifies as a five star mortgage lender to include that fact in marketing materials or solicitations directed at Indiana customers, subject to the department's guidelines. Requires the department to publish on the department's Internet web site a list of all creditors that have a current and accurate certification or renewal certification on file with the department. Requires the department to provide written notice to a creditor that the creditor does not qualify for the program whenever a creditor: (1) holds itself out as a five star mortgage lender when it does not qualify to participate in the program; or (2) fails to comply with any program requirement. Requires the department to remove such a creditor from the list of five star mortgage lenders on the department's Internet web site and to provide, on the same Internet web page on which the list is published, a link to the notice provided to the creditor. Provides that the authority of the boards of trustees of the public employees' retirement fund (PERF) and of the state teachers' retirement fund (TRF) to invest in pooled funds includes the authority to invest in pools consisting in part or entirely of five star mortgages. Allows the PERF board to maintain alternative investment programs within: (1) the PERF annuity savings account; and (2) the legislators' defined contribution plan; that invest in pooled funds consisting in part or entirely

of five star mortgages, or that otherwise invest in five star mortgages. Allows the TRF board to maintain alternative investment programs within the TRF annuity savings account that invest in pooled funds consisting in part or entirely of five star mortgages, or that otherwise invest in five star mortgages. Removes the discretion of a school corporation to determine whether a local board of finance meeting is needed on an annual basis. Permits local government investment officers to invest in municipal securities issued by an Indiana local governmental entity, a quasi-governmental entity related to the state, or a unit of government, municipal corporation, or special taxing district in Indiana so long as the issuer has not defaulted on an obligation within the 20 years preceding the date of the purchase. Permits counties and political subdivisions to invest public funds in certificates of deposit under certain conditions. Removes the prohibition against investing more than 50% of a unit's depository funds in money market mutual funds. Replaces the requirement that money be invested in transaction accounts and certificates of deposit with the depository quoting the highest interest rate with the authority to invest in a depository offering any one of the top three interest rates so long as the reason for choosing the alternate depository is noted in the memorandum of quotes. Changes the appointments to the board for depositories (board) to require one appointment by the speaker of the house of representatives, one appointment by the president pro tempore of the senate, and two appointments (instead of four) by the governor. Requires one of the appointees by the governor to be a chief executive officer or a chief financial officer of a depository that is a state chartered credit union in Indiana. Requires that each of the four appointed members be a chief executive officer or a chief financial officer of a depository and that each appointment represent a different segment of the financial institutions industry. Provides that if the depository is not domiciled in Indiana, the appointee must be the most senior corporate officer of the depository with management or operational responsibility or the person designated to manage public funds for the depository that is located in Indiana. Specifies that the term of an appointed member is four years. Permits the appointing authority to reappoint a member if the individual meets the requirements at the time of reappointment. Provides that a simple majority of the board members voting is required to approve an action by the board, instead of a unanimous vote. Requires the board to hold a public meeting at least once each calendar quarter. Requires that deliberations concerning a particular financial institution be held in executive session by the board and provides that records related to these matters are confidential. Requires the board to prepare a general summary semiannual report and present it to the budget committee. Changes the requirement for meeting notices from ten days to two days. Allows the board to fix the assessment rate at the times the board determines to be necessary instead of twice each year. Exempts certain certificates of deposit issued by a federally insured bank or savings and loan association from the assessment calculation. Provides that the board may consider capital adequacy, liquidity, and asset quality in addition to any study by actuaries in establishing any change in the reserve for losses. Increases from \$1,500,000 to \$300,000,000 the amount of anticipatory warrants the board may issue to pay immediate claims when the assets in the public deposit insurance fund (PDIF) are not sufficient to pay claims. Permits the board to accept as collateral bonds or other obligations that the board could not invest in if the board determines the obligations are acceptable collateral. Specifies United States treasury securities, federal agency securities, and irrevocable letters of credit issued by a Federal Home Loan Bank are acceptable collateral. Permits the board to determine whether a depository may withdraw collateral when the amount of public funds on deposit is at least 10% less than the market value of securities pledged as collateral. Allows the board to determine the amount and type of substituted securities a depository may provide to insure the insurance fund's solvency, consistent with the depository's pro rata share of total deposit accounts of public funds based on an average of the depository's total public deposits. Exempts federally insured deposits from the assessment calculation. Provides an exemption from assessment for a public depository if it pledges acceptable collateral equal to the public deposits it holds and the collateral level was continuously maintained for the 12 months immediately preceding an assessment. Provides that if the PDIF balance reaches zero, all depositories must pledge collateral equal to 100% of the depository's public fund holdings. Provides that the market value of the substituted securities as of the date of delivery may be less than, but may not exceed, the amount determined by the

board. Provides that a joint investment fund may be invested or reinvested only in investments that are permitted for political subdivisions. Provides that a financial institution may not have public funds on deposit if it issues a credit card as a card issuer and the institution is not in substantial compliance with the federal Credit Card Accountability Responsibility and Disclosure Act of 2009 and requires the department of financial institutions to investigate complaints and determine whether a financial institution is in substantial compliance with the act. Eliminates a report by the public employees' retirement fund to the board for depositories' secretary-investment manager and an interest calculation concerning the coverage of local police and firefighter pension funds. Changes the distribution from the pension distribution fund to local units into a distribution to the pension relief fund from which distributions are made to local units. **(This conference committee report does the following: (1) Establishes a voluntary five star mortgage program for creditors (including mortgage brokers) that offer qualifying mortgages to Indiana customers after June 30, 2010. Requires the department of financial institutions (department) to adopt guidelines to implement the program. Provides that to qualify as a five star mortgage lender, a creditor must provide to the department a certification attesting that the creditor meets specified criteria. Provides that to qualify as a five star mortgage, a mortgage: (A) must require: (i) a down payment of at least 10% of the purchase price of the dwelling, in the case of a purchase money transaction; or (ii) that the customer have equity of at least 10% in the dwelling, in the case of a refinancing; (B) must have a fixed rate of interest; (C) must provide for an escrow account for the payment of taxes and insurance, if the creditor regularly provides for such escrow accounts in the creditor's ordinary course of business; (D) may not have a term that exceeds 30 years; and (E) may not include a prepayment penalty or fee. (2) Requires a five star mortgage lender to provide a written statement to any Indiana customer who: (A) applies for a five star mortgage offered by the lender; and (B) does not qualify for the mortgage based on the lender's underwriting standards. Provides that the statement must set forth the reasons why the customer did not qualify for the five star mortgage. Allows a creditor that qualifies as a five star mortgage lender to include that fact in marketing materials or solicitations directed at Indiana customers, subject to the department's guidelines. Requires the department to publish on the department's Internet web site a list of all creditors that have a current and accurate certification or renewal certification on file with the department. (3) Requires the department to provide written notice to a creditor that the creditor does not qualify for the program whenever a creditor: (A) holds itself out as a five star mortgage lender when it does not qualify to participate in the program; or (B) fails to comply with any program requirement. Requires the department to remove such a creditor from the list of five star mortgage lenders on the department's Internet web site and to provide, on the same Internet web page on which the list is published, a link to the notice provided to the creditor. Provides that the authority of the boards of trustees of the public employees' retirement fund (PERF) and of the state teachers' retirement fund (TRF) to invest in pooled funds includes the authority to invest in pools consisting in part or entirely of five star mortgages. (3) Allows the PERF board to maintain alternative investment programs within: (A) the PERF annuity savings account; and (B) the legislators' defined contribution plan; that invest in pooled funds consisting in part or entirely of five star mortgages, or that otherwise invest in five star mortgages. Allows the TRF board to maintain alternative investment programs within the TRF annuity savings account that invest in pooled funds consisting in part or entirely of five star mortgages, or that otherwise invest in five star mortgages. (4) Changes the distribution from the pension distribution fund to local units into a distribution to the pension relief fund from which distributions are made to local units. (5) Deletes the language that eliminated the power of the conservancy district in Lawrenceburg and Danville (Hendricks County) to invest in equity securities and the provision limiting investments to a maturity of no more than five years. (6) Changes the appointments to the board for depositories to require one appointment by the speaker of the house of representatives, one appointment by the president pro tempore of the senate, and two appointments (instead of four) by the governor. (7) Requires deliberations concerning a particular financial institution be held in executive session by the board and provide that records related to these matters are confidential. (8) Requires the board for**

public depositories to hold a public meeting at least once each calendar quarter. (9) Requires the board to prepare a semiannual report and present it to the state budget committee. (10) Requires the department of financial institutions to investigate complaints and determine whether a financial institution is in substantial compliance with the federal Credit Card Accountability Responsibility and Disclosure Act of 2009.)

Effective: Upon passage; July 1, 2010; January 1, 2011.

CONFERENCE COMMITTEE REPORT

MR. SPEAKER:

Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill No. 1336 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
 2 SECTION 1. IC 2-3.5-5-3, AS AMENDED BY SEA 222-2010,
 3 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 4 JULY 1, 2010]: Sec. 3. (a) The PERF board shall establish alternative
 5 investment programs within the fund, based on the following
 6 requirements:
 7 (1) The PERF board shall maintain at least one (1) alternative
 8 investment program that is an indexed stock fund, one (1)
 9 alternative investment program that is a bond fund, and one (1)
 10 alternative investment program that is a stable value fund. **The**
 11 **PERF board may maintain one (1) or more alternative**
 12 **investment programs that:**
 13 **(A) invest in one (1) or more commingled or pooled funds**
 14 **that consist in part or entirely of mortgages that qualify as**
 15 **five star mortgages under the program established by**
 16 **IC 24-5-23.6; or**
 17 **(B) otherwise invest in mortgages that qualify as five star**
 18 **mortgages under the program established by IC 24-5-23.6.**
 19 (2) The programs should represent a variety of investment
 20 objectives.
 21 (3) The programs may not permit a member to withdraw money

1 from the member's account, except as provided in section 6 of this
2 chapter.

3 (4) All administrative costs of each alternative program shall be
4 paid from the earnings on that program.

5 (5) A valuation of each member's account must be completed as
6 of:

7 (A) the last day of each quarter; or

8 (B) a time that the board may specify by rule.

9 (b) A member shall direct the allocation of the amount credited to
10 the member among the available alternative investment funds, subject
11 to the following conditions:

12 (1) A member may make a selection or change an existing
13 selection under rules established by the PERF board. The PERF
14 board shall allow a member to make a selection or change any
15 existing selection at least once each quarter.

16 (2) The PERF board shall implement the member's selection
17 beginning on the first day of the next calendar quarter that begins
18 at least thirty (30) days after the selection is received by the PERF
19 board or on an alternate date established by the rules of the board.
20 This date is the effective date of the member's selection.

21 (3) A member may select any combination of the available
22 investment funds, in ten percent (10%) increments or smaller
23 increments that may be established by the rules of the board.

24 (4) A member's selection remains in effect until a new selection
25 is made.

26 (5) On the effective date of a member's selection, the board shall
27 reallocate the member's existing balance or balances in
28 accordance with the member's direction, based on the market
29 value on the effective date.

30 (6) If a member does not make an investment selection of the
31 alternative investment programs, the member's account shall be
32 invested in the PERF board's general investment fund.

33 (7) All contributions to the member's account shall be allocated
34 as of the last day of the quarter in which the contributions are
35 received or at an alternate time established by the rules of the
36 board in accordance with the member's most recent effective
37 direction. The PERF board shall not reallocate the member's
38 account at any other time.

39 (c) When a member transfers the amount credited to the member
40 from one (1) alternative investment program to another alternative
41 investment program, the amount credited to the member shall be
42 valued at the market value of the member's investment, as of the day
43 before the effective date of the member's selection or at an alternate
44 time established by the rules of the board. When a member retires,
45 becomes disabled, dies, or withdraws from the fund, the amount
46 credited to the member shall be the market value of the member's
47 investment as of the last day of the quarter preceding the member's
48 distribution or annuitization at retirement, disability, death, or
49 withdrawal, plus contributions received after that date or at an alternate
50 time established by the rules of the board.

51 (d) The PERF board shall determine the value of each alternative

1 program in the defined contribution fund, as of the last day of each
2 calendar quarter, as follows:

3 (1) The market value shall exclude the employer contributions
4 and employee contributions received during the quarter ending on
5 the current allocation date.

6 (2) The market value as of the immediately preceding quarter end
7 date shall include the employer contributions and employee
8 contributions received during that preceding quarter.

9 (3) The market value as of the immediately preceding quarter end
10 date shall exclude benefits paid from the fund during the quarter
11 ending on the current quarter end date.

12 SECTION 2. IC 5-10.2-2-2.5, AS AMENDED BY P.L.2-2006,
13 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 2010]: Sec. 2.5. (a) Each board may establish investment
15 guidelines and limits on all types of investments (including, but not
16 limited to, stocks and bonds) and take other actions necessary to fulfill
17 its duty as a fiduciary for all assets under its control, subject to the
18 limitations and restrictions set forth in section 18 of this chapter,
19 IC 5-10.3-5-3, and IC 5-10.4-3-10.

20 (b) Each board may commingle or pool assets with the assets of any
21 other persons or entities. This authority includes, but is not limited to,
22 the power to invest in commingled or pooled funds, partnerships, or
23 mortgage pools, **including pools that consist in part or entirely of**
24 **mortgages that qualify as five star mortgages under the program**
25 **established by IC 24-5-23.6.** In the event of any such investment, the
26 board shall keep separate detailed records of the assets invested. Any
27 decision to commingle or pool assets is subject to the limitations and
28 restrictions set forth in IC 5-10.3-5-3 and IC 5-10.4-3-10.

29 SECTION 3. IC 5-10.2-2-3, AS AMENDED BY SEA 222-2010,
30 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
31 JULY 1, 2010]: Sec. 3. (a) The annuity savings account consists of:

32 (1) the members' contributions; and

33 (2) the interest credits on these contributions in the guaranteed
34 fund or the gain or loss in market value on these contributions in
35 the alternative investment program, as specified in section 4 of
36 this chapter.

37 Each member shall be credited individually with the amount of the
38 member's contributions and interest credits.

39 (b) Each board shall maintain the annuity savings account program
40 in effect on December 31, 1995 (referred to in this chapter as the
41 guaranteed program). In addition, the board of the Indiana state
42 teachers' retirement fund shall establish and maintain a guaranteed
43 program within the 1996 account. Each board may establish investment
44 guidelines and limits on all types of investments (including, but not
45 limited to, stocks and bonds) and take other actions necessary to fulfill
46 its duty as a fiduciary of the annuity savings account, subject to the
47 limitations and restrictions set forth in IC 5-10.3-5-3 and
48 IC 5-10.4-3-10.

49 (c) Each board shall establish alternative investment programs
50 within the annuity savings account of the public employees' retirement
51 fund, the pre-1996 account, and the 1996 account, based on the

1 following requirements:

2 (1) Each board shall maintain at least one (1) alternative
 3 investment program that is an indexed stock fund and one (1)
 4 alternative investment program that is a bond fund. **Each board**
 5 **may maintain one (1) or more alternative investment**
 6 **programs that:**

7 (A) invest in one (1) or more commingled or pooled funds
 8 that consist in part or entirely of mortgages that qualify as
 9 five star mortgages under the program established by
 10 IC 24-5-23.6; or

11 (B) otherwise invest in mortgages that qualify as five star
 12 mortgages under the program established by IC 24-5-23.6.

13 (2) The programs should represent a variety of investment
 14 objectives under IC 5-10.3-5-3.

15 (3) No program may permit a member to withdraw money from
 16 the member's account except as provided in IC 5-10.2-3 and
 17 IC 5-10.2-4.

18 (4) All administrative costs of each alternative program shall be
 19 paid from the earnings on that program or as may be determined
 20 by the rules of each board.

21 (5) Except as provided in section 4(e) of this chapter, a valuation
 22 of each member's account must be completed as of:

23 (A) the last day of each quarter; or

24 (B) another time as each board may specify by rule.

25 (d) The board must prepare, at least annually, an analysis of the
 26 guaranteed program and each alternative investment program. This
 27 analysis must:

28 (1) include a description of the procedure for selecting an
 29 alternative investment program;

30 (2) be understandable by the majority of members; and

31 (3) include a description of prior investment performance.

32 (e) A member may direct the allocation of the amount credited to
 33 the member among the guaranteed fund and any available alternative
 34 investment funds, subject to the following conditions:

35 (1) A member may make a selection or change an existing
 36 selection under rules established by each board. A board shall
 37 allow a member to make a selection or change any existing
 38 selection at least once each quarter.

39 (2) The board shall implement the member's selection beginning
 40 on the first day of the next calendar quarter that begins at least
 41 thirty (30) days after the selection is received by the board or on
 42 an alternate date established by the rules of each board. This date
 43 is the effective date of the member's selection.

44 (3) A member may select any combination of the guaranteed fund
 45 or any available alternative investment funds, in ten percent
 46 (10%) increments or smaller increments that may be established
 47 by the rules of each board.

48 (4) A member's selection remains in effect until a new selection
 49 is made.

50 (5) On the effective date of a member's selection, the board shall
 51 reallocate the member's existing balance or balances in

1 accordance with the member's direction, based on:

2 (A) for an alternative investment program balance, the market
3 value on the effective date; and

4 (B) for any guaranteed program balance, the account balance
5 on the effective date.

6 All contributions to the member's account shall be allocated as of
7 the last day of that quarter or at an alternate time established by
8 the rules of each board in accordance with the member's most
9 recent effective direction. The board shall not reallocate the
10 member's account at any other time.

11 (f) When a member who participates in an alternative investment
12 program transfers the amount credited to the member from one (1)
13 alternative investment program to another alternative investment
14 program or to the guaranteed program, the amount credited to the
15 member shall be valued at the market value of the member's
16 investment, as of the day before the effective date of the member's
17 selection or at an alternate time established by the rules of each board.
18 When a member who participates in an alternative investment program
19 retires, becomes disabled, dies, or suspends membership and withdraws
20 from the fund, the amount credited to the member shall be the market
21 value of the member's investment as of the last day of the quarter
22 preceding the member's distribution or annuitization at retirement,
23 disability, death, or suspension and withdrawal, plus contributions
24 received after that date or at an alternate time established by the rules
25 of each board.

26 (g) When a member who participates in the guaranteed program
27 transfers the amount credited to the member to an alternative
28 investment program, the amount credited to the member in the
29 guaranteed program is computed without regard to market value and is
30 based on the balance of the member's account in the guaranteed
31 program as of the last day of the quarter preceding the effective date of
32 the transfer. However, each board may by rule provide for an alternate
33 valuation date. When a member who participates in the guaranteed
34 program retires, becomes disabled, dies, or suspends membership and
35 withdraws from the fund, the amount credited to the member shall be
36 computed without regard to market value and is based on the balance
37 of the member's account in the guaranteed program as of the last day
38 of the quarter preceding the member's distribution or annuitization at
39 retirement, disability, death, or suspension and withdrawal, plus any
40 contributions received since that date plus interest since that date.
41 However, each board may by rule provide for an alternate valuation
42 date.

43 SECTION 4. IC 5-10.3-11-4.7, AS AMENDED BY P.L.146-2008,
44 SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
45 JANUARY 1, 2011]: Sec. 4.7. (a) In 2009 and each year thereafter, the
46 state board shall distribute from the pension relief fund to each unit of
47 local government the total amount of pension, disability, and survivor
48 benefit payments from the 1925 police pension fund (IC 36-8-6), the
49 1937 firefighters' pension fund (IC 36-8-7), and the 1953 police
50 pension fund (IC 36-8-7.5) to be made by the unit in the calendar year,
51 as estimated by the state board under section 4 of this chapter. ~~after~~

1 subtracting any distributions to the unit from the public deposit
2 insurance fund that will be used for benefit payments.

3 (b) The state board shall make the distributions under subsection (a)
4 in two (2) equal installments before July 1 and before October 2 of
5 each year.

6 SECTION 5. IC 5-13-7-5 IS AMENDED TO READ AS FOLLOWS
7 [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) The fiscal body of each
8 political subdivision not governed by sections 1 through 3 of this
9 chapter constitutes a board of finance for that political subdivision. ~~A~~
10 ~~school corporation (as defined in IC 36-1-2-17) may determine if a~~
11 ~~board of finance meeting is needed on an annual basis.~~

12 (b) Each board of finance has supervision of the revocation of
13 public depositories for the respective political subdivisions for which
14 they act.

15 (c) The members of the boards serve without compensation other
16 than the members' salaries allowed by law for the members' services as
17 officers of the members' respective political subdivisions.

18 SECTION 6. IC 5-13-9-2 IS AMENDED TO READ AS FOLLOWS
19 [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) Each officer designated in
20 section 1 of this chapter may invest or reinvest any funds that are held
21 by the officer and available for investment in any of the following:

22 (1) Securities backed by the full faith and credit of the United
23 States Treasury or fully guaranteed by the United States and
24 issued by any of the following:

25 (A) The United States Treasury.

26 (B) A federal agency.

27 (C) A federal instrumentality.

28 (D) A federal government sponsored enterprise.

29 (2) Securities fully guaranteed and issued by any of the following:

30 (A) A federal agency.

31 (B) A federal instrumentality.

32 (C) A federal government sponsored enterprise.

33 **(3) Municipal securities issued by an Indiana local**
34 **governmental entity, a quasi-governmental entity related to**
35 **the state, or a unit of government, municipal corporation, or**
36 **special taxing district in Indiana, if the issuer has not**
37 **defaulted on any of the issuer's obligations within the twenty**
38 **(20) years preceding the date of the purchase.**

39 (b) If an investment under subsection (a)(1) is made at a cost in
40 excess of the par value of the securities purchased, any premium paid
41 for the securities shall be deducted from the first interest received and
42 returned to the fund from which the investment was purchased, and
43 only the net amount is considered interest income.

44 (c) The officer making the investment may sell any securities
45 acquired and may do anything necessary to protect the interests of the
46 funds invested, including the exercise of exchange privileges which
47 may be granted with respect to maturing securities in cases where the
48 new securities offered in exchange meet the requirements for initial
49 investment.

50 (d) The investing officers of the political subdivisions are the legal
51 custodians of securities under this chapter. They shall accept

1 safekeeping receipts or other reporting for securities from:

- 2 (1) a duly designated depository as prescribed in this article; or
 3 (2) a financial institution located either in or out of Indiana having
 4 custody of securities with a combined capital and surplus of at
 5 least ten million dollars (\$10,000,000) according to the last
 6 statement of condition filed by the financial institution with its
 7 governmental supervisory body.

8 (e) The state board of accounts may rely on safekeeping receipts or
 9 other reporting from any depository or financial institution.

10 (f) In addition to any other investments allowed under this chapter,
 11 an officer of a conservancy district located in a city having a population
 12 of more than four thousand six hundred fifty (4,650) but less than five
 13 thousand (5,000) may also invest in

- 14 (1) municipal securities and
 15 (2) equity securities;

16 having a stated final maturity of any number of years or having no
 17 stated final maturity. The total investments outstanding under this
 18 subsection may not exceed twenty-five percent (25%) of the total
 19 portfolio of funds invested by the officer of a conservancy district.
 20 However, an investment that complies with this subsection when the
 21 investment is made remains legal even if a subsequent decrease in the
 22 total portfolio invested by the officer of a conservancy district causes
 23 the percentage of investments outstanding under this subsection to
 24 exceed twenty-five percent (25%).

25 (g) In addition to any other investments allowed under this chapter,
 26 a clerk-treasurer of a town with a population of more than six thousand
 27 three hundred (6,300) but less than ten thousand (10,000) located in a
 28 county having a population of more than one hundred thousand
 29 (100,000) but less than one hundred five thousand (105,000) may also
 30 invest money in a host community agreement future fund established
 31 by ordinance of the town in

- 32 (1) municipal securities and
 33 (2) equity securities;

34 having a stated final maturity of any number of years or having no
 35 stated final maturity. The total investments outstanding under this
 36 subsection may not exceed twenty-five percent (25%) of the total
 37 portfolio of funds invested by the clerk-treasurer of a town. However,
 38 an investment that complies with this subsection when the investment
 39 is made remains legal even if a subsequent decrease in the total
 40 portfolio invested by the clerk-treasurer of a town causes the
 41 percentage of investments outstanding under this subsection to exceed
 42 twenty-five percent (25%).

43 SECTION 7. IC 5-13-9-2.5 IS AMENDED TO READ AS
 44 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. (a) An officer
 45 designated in section 1 of this chapter may invest or reinvest funds that
 46 are held by the officer and available for investment in investments
 47 commonly known as money market mutual funds that are in the form
 48 of securities of or interests in an open-end, no-load, management-type
 49 investment company or investment trust registered under the provisions
 50 of the federal Investment Company Act of 1940, as amended (15
 51 U.S.C. 80a et seq.).

1 (b) The investments described in subsection (a) may not exceed fifty
 2 percent (50%) of the funds held by the officer and available for
 3 investment. This limitation does not apply to investments made by a
 4 county treasurer between:

5 (1) the date that is ten (10) days before each property tax
 6 installment due date described in IC 6-1.1-22-9; and

7 (2) the property tax settlement distribution date described in
 8 IC 6-1.1-27-1(b).

9 (c) The investments described in subsection (a) shall be made
 10 through depositories designated by the state board of finance as
 11 depositories for state deposits under IC 5-13-9.5.

12 (d) The portfolio of an investment company or investment trust
 13 described in subsection (a) must be limited to the following:

14 (1) Direct obligations of the United States.

15 (2) Obligations issued by any of the following:

16 (A) A federal agency.

17 (B) A federal instrumentality.

18 (C) A federal government sponsored enterprise.

19 (3) Repurchase agreements fully collateralized by obligations
 20 described in subdivision (1) or (2).

21 (e) The form of securities of or interests in an investment
 22 company or investment trust described in subsection (a) must be rated
 23 as one (1) of the following:

24 (1) AAAM, or its equivalent, by Standard and Poor's Corporation
 25 or its successor.

26 (2) Aaa, or its equivalent, by Moody's Investors Service, Inc. or its
 27 successor.

28 (f) The form of securities in an investment company or
 29 investment trust described in subsection (a) is considered to have a
 30 stated final maturity of one (1) day.

31 (g) The state board of accounts may rely on transaction
 32 confirmations evidencing ownership of the form of securities of or
 33 interests in an investment company or investment trust described in
 34 subsection (a).

35 SECTION 8. IC 5-13-9-4 IS AMENDED TO READ AS FOLLOWS
 36 [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Each officer designated
 37 in section 1 of this chapter may deposit, invest, or reinvest any funds
 38 that are held by the officer and available for investment in transaction
 39 accounts issued or offered by a designated depository of a political
 40 subdivision for the rates and terms agreed upon periodically by the
 41 officer making the investment and the designated depository.

42 (b) The investing officer making a deposit in a certificate of deposit
 43 shall obtain quotes of the specific rates of interest for the term of that
 44 certificate of deposit that each designated depository will pay on the
 45 certificate of deposit. Quotes may be solicited and taken by telephone.
 46 A memorandum of all quotes solicited and taken shall be retained by
 47 the investing officer as a public record of the political subdivision
 48 under IC 5-14-3. ~~A deposit made under this subsection shall be~~ **If the**
 49 **deposit is not** placed in the designated depository quoting the highest
 50 rate of interest, ~~if more than one (1) depository submits a quote of the~~
 51 ~~highest interest rate quoted for the investment, the deposit may be~~

1 placed in any or all of the designated depositories quoting the highest
 2 rate in the amount or amounts determined by the investing officer, in
 3 the investing officer's discretion: **the investing officer shall:**

4 **(1) place the deposit in the depository quoting the second or**
 5 **third highest rate of interest; and**

6 **(2) note the reason for placing the deposit on the**
 7 **memorandum of quotes.**

8 (c) If all of the designated depositories of a political subdivision
 9 decline to issue or receive any deposit account, or to issue or receive
 10 the deposit account at a rate of interest equal to the highest rate being
 11 offered other investors, investments may be made in the deposit
 12 accounts of any financial institution designated for state deposits as a
 13 depository by the state board of finance under IC 5-13-9.5.

14 SECTION 9. IC 5-13-9-5 IS AMENDED TO READ AS FOLLOWS
 15 [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The board of county
 16 commissioners of each county, and the fiscal body of each political
 17 subdivision other than a county, may by ordinance or resolution
 18 authorize the investing officer of each, respectively, to invest in
 19 certificates of deposit of depositories that have not been designated by
 20 the local board of finance of either but have been designated by the
 21 state board of finance as a depository for state deposits under
 22 IC 5-13-9.5. An ordinance or a resolution adopted under this subsection
 23 must provide that the authority granted in the ordinance or resolution
 24 expires on a date that is not later than two (2) years after the date the
 25 ordinance or resolution is adopted.

26 (b) With respect to any money to be invested in a deposit account
 27 under subsection (a), the investing officer shall solicit quotes for the
 28 certificates of deposit from at least three (3) depositories. If only one
 29 (1) depository has been designated for the political subdivision by its
 30 local board of finance, a quote must be solicited from that depository.
 31 If two (2) or more depositories have been designated for the political
 32 subdivision by its local board of finance, at least two (2) quotes must
 33 be solicited from the depositories thus designated. The quotes may be
 34 solicited and taken by telephone. A memorandum of all quotes solicited
 35 and taken shall be retained by the investing officer as a public record
 36 of the political subdivision under IC 5-14-3.

37 (c) Investments in any certificates of deposit to which this section
 38 applies shall be placed in the depository quoting the highest rate of
 39 interest under subsection (b); as determined after deducting any fee
 40 charged by the depository. If two (2) or more depositories submit the
 41 same highest quote, the investment shall be placed as follows:

42 (1) If only one (1) of the highest quoters is a depository
 43 designated for the political subdivision by its local board of
 44 finance, the investment shall be placed in that depository.

45 (2) If more than one (1) of the highest quoters are depositories
 46 designated for the political subdivision by its local board of
 47 finance, the investment shall be placed by the investing officer in
 48 any or all of these depositories in the amount or amounts
 49 determined by the investing officer, in the investing officer's
 50 discretion.

51 (3) If none of the highest quoters is a depository designated for

1 the political subdivision by its local board of finance, the
 2 investment shall be placed by the investing officer in one (1) of
 3 the depositories submitting the highest quote.

4 **(c) If a deposit is not placed in the designated depository quoting
 5 the highest rate of interest, the investing officer shall follow the
 6 procedures and priority for placing deposits that are set forth in
 7 section 4 of this chapter and note the reason for placing the deposit
 8 on the memorandum of quotes.**

9 SECTION 10. IC 5-13-9-5.3 IS ADDED TO THE INDIANA CODE
 10 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 11 1, 2010]: **Sec. 5.3. (a) In addition to the authority to invest in
 12 certificates of deposit under section 5 of this chapter, and
 13 notwithstanding any other law, the board of county commissioners
 14 of each county, and the fiscal body of each political subdivision
 15 other than a county, may by ordinance or resolution authorize the
 16 investing officer of each, respectively, to invest public funds in
 17 certificates of deposit in accordance with the following conditions:**

18 **(1) The funds are initially invested through a depository that
 19 is selected by the investing officer.**

20 **(2) The selected depository arranges for the deposit of the
 21 funds in certificates of deposit in one (1) or more federally
 22 insured banks or savings and loan associations, wherever
 23 located, for the account of the county or political subdivision.**

24 **(3) The full amount of the principal and any accrued interest
 25 of each certificate of deposit are covered by insurance of any
 26 federal deposit insurance agency.**

27 **(4) The selected depository acts as a custodian for the county
 28 or political subdivision with respect to the certificates of
 29 deposit issued for its account.**

30 **(5) At the same time that the county's or political
 31 subdivision's funds are deposited and the certificates of
 32 deposit are issued, the selected depository receives an amount
 33 of deposits covered by insurance of any federal deposit
 34 insurance agency from customers of other institutions,
 35 wherever located, at least equal to the amount of the funds
 36 invested by the county or political subdivision through the
 37 selected depository.**

38 **(b) Public funds invested in accordance with subsection (a) are
 39 not subject to any security or pledging requirements that may
 40 otherwise be applicable to the deposit or investment of public
 41 funds.**

42 SECTION 11. IC 5-13-9-10, AS AMENDED BY P.L.3-2008,
 43 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 44 JULY 1, 2010]: **Sec. 10. (a) The investing officers of two (2) or more
 45 political subdivisions located within a county may establish a joint
 46 investment fund by entering into a written master agreement that
 47 defines the rights and obligations of the participating political
 48 subdivisions.**

49 **(b) An investing officer of a political subdivision that enters into a
 50 written master agreement under subsection (a) may pay funds that are
 51 held by the investing officer and that are available for investment into**

1 the joint investment fund.

2 (c) The fund shall be administered by a board, which must be
3 comprised of the investing officer of each of the participating political
4 subdivisions and which must be an instrumentality of the participating
5 political subdivisions. Each officer of a political subdivision located
6 within the county who is designated in section 1 of this chapter may
7 pay funds that are held by the officer and available for investment into
8 a joint fund known as a joint investment fund. The fund is administered
9 by a board comprised of the investing officer of each of the
10 participating political subdivisions and is an instrumentality of the
11 participating political subdivisions.

12 (d) A joint investment fund must be invested and reinvested as a
13 separate and individual fund. **A joint investment fund may be**
14 **invested or reinvested only in investments that are permitted for**
15 **political subdivisions by this chapter.**

16 (e) A written master agreement under subsection (a) must provide
17 the following:

18 (1) A political subdivision may participate in a joint investment
19 fund only with the written authorization of its local board of
20 finance.

21 (2) A political subdivision may participate in a joint investment
22 fund only if its legislative body approves the written master
23 agreement.

24 (3) **Subject to subsection (d)**, the board of a joint investment
25 fund shall establish written policies for the investment and
26 reinvestment of joint investment funds in the manner provided by
27 IC 30-4-3-3.

28 (4) A fund shall be invested and reinvested as prescribed in
29 subdivision (3).

30 (5) A custodian bank or trust company located in Indiana must:
31 (A) be selected and contracted by the board of a joint
32 investment fund to hold the securities and other investments
33 of the joint investment fund;
34 (B) collect the income and other receipts from the securities
35 and other investments; and
36 (C) provide any other services appropriate and customary for
37 a custodian;

38 subject to the direction of the board of a joint investment fund.

39 (6) The board of a joint investment fund may select and contract
40 with a fund administrator to provide investment advice to the
41 board and any other services determined by the board to be
42 appropriate and necessary for the efficient administration and
43 accounting of the joint investment fund. The fund administrator
44 shall agree to recommend only securities and other investments
45 as prescribed in the written policies established by the board in
46 rendering investment advice to the board and shall agree to be
47 responsible, accountable, and liable for any breach of this
48 provision. The fund administrator must have experience in the
49 investment of public funds for governmental entities and must be
50 either of the following:

51 (A) A financial institution located in Indiana.

- 1 (B) Registered as an investment adviser with the United States
 2 Securities and Exchange Commission under the Investment
 3 Advisers Act of 1940, as amended (15 U.S.C. 80a-9 et seq.),
 4 with public funds under management in the amount of at least
 5 one hundred million dollars (\$100,000,000).
- 6 (7) A joint investment fund must be audited at least annually by
 7 an independent auditing firm, with a copy of the audit provided to
 8 each participating political subdivision.
- 9 (8) The administrative expenses of a joint investment fund,
 10 including fees for the fund administrator, custodian, auditor, and
 11 other professional services, must be paid from the fund's interest
 12 earnings.
- 13 (9) The interest earnings that exceed the administrative expenses
 14 of a joint investment fund must be credited to each political
 15 subdivision participating in the joint investment fund in a manner
 16 that equitably reflects the differing amounts and terms of the
 17 political subdivision's investment in the joint investment fund.
- 18 (10) Each participating political subdivision shall receive reports,
 19 including a daily transaction confirmation reflecting any activity
 20 in the political subdivision's account and monthly reports
 21 reflecting its investment activity in the joint investment fund and
 22 the performance and composition of the joint investment fund
 23 itself.
- 24 (11) The board of a joint investment fund shall meet at least
 25 annually to review the operation and performance of the joint
 26 investment fund, the custodian, the fund administrator, the
 27 auditor, and any other professional retained by the board.
- 28 (12) The board of a joint investment fund shall provide for any
 29 other policies that are necessary for the efficient administration
 30 and accounting of the joint investment fund and are consistent
 31 with the law governing the investment, management, deposit, and
 32 safekeeping of public funds of political subdivisions.
- 33 SECTION 12. IC 5-13-9.5-1 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) A financial
 35 institution may at any time file an application to become a depository
 36 and receive public funds of the state on deposit. Except as provided in
 37 IC 5-13-8-1 and IC 5-13-8-7, designation of a depository to receive
 38 public funds of the state qualifies a depository to receive public funds
 39 of a political subdivision. Applications for the state board of finance
 40 must be filed with the treasurer of state. The treasurer shall submit each
 41 application to the board.
- 42 (b) An application must:
- 43 (1) be made in writing on forms prescribed under section 8 of this
 44 chapter;
- 45 (2) contain terms and conditions as required and authorized by
 46 this chapter; and
- 47 (3) offer to:
- 48 (A) receive public funds of the state on deposit; and
- 49 (B) provide the security required by IC 5-13-13-7 for the
 50 safekeeping and prompt payment of the deposited funds.
- 51 (c) A financial institution is ineligible to become a depository and

1 receive public funds of the state if the institution:

2 (1) fails to maintain a capital ratio in excess of the minimum
3 required by the governmental supervisory body of the institution;
4 **or**

5 **(2) has been found by the department of financial institutions**
6 **under IC 28-1-2-40, or the financial institution's primary**
7 **federal regulator, to not be in substantial compliance with the**
8 **federal Credit Card Accountability Responsibility and**
9 **Disclosure Act of 2009 as it applies to Indiana borrowers.**

10 If the financial institution is already a depository, the institution may
11 continue to hold the public funds until maturity to avoid the imposition
12 of a penalty upon the depositor, although the financial institution may
13 not accept the public funds for reinvestment and may not accept
14 additional public funds. A determination of the ratio described in this
15 subsection must be based on the institution's most recent periodic
16 statement of condition filed with the institution's governmental
17 supervisory body under the regulatory accounting principles as
18 prescribed by the supervisory body.

19 (d) A financial institution shall furnish to the board a certificate
20 executed by an officer of the institution signifying that the institution
21 satisfies:

22 (1) the requirements of subsection (c); and

23 (2) the requirement in section 6(b) of this chapter that the sum of:

24 (A) the total principal amount of the depository's outstanding
25 loans to Indiana residents; plus

26 (B) the total value of the depository's investments in Indiana
27 residents;

28 is at least equal to the total amount of public funds of the state and
29 political subdivisions of the state that are on deposit in the
30 depository.

31 The board may rely on a certificate furnished under this subsection in
32 determining whether to deposit public funds or reinvest public funds
33 in the institution.

34 SECTION 13. IC 5-13-12-2 IS AMENDED TO READ AS
35 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The board for
36 depositories consists of the governor, the treasurer of state, the auditor
37 of state, the ~~chairman~~ **chairperson** of the ~~commission for department~~
38 **of financial institutions**, the chief examiner of the state board of
39 accounts, **and four (4) appointed members. For appointments after**
40 **June 30, 2010, one (1) member shall be appointed by the speaker**
41 **of the house of representatives, one (1) member shall be appointed**
42 **by the president pro tempore of the senate, and four (4) two (2)**
43 **members shall be appointed by the governor. All of whom appointed**
44 **members** must be residents of Indiana. ~~and have had substantial~~
45 ~~expertise in commercial lending with depositories.~~ **The speaker of the**
46 **house of representatives shall make the appointment to fill the first**
47 **vacancy on the board, and the president pro tempore of the senate**
48 **shall make the appointment to fill the second vacancy on the board**
49 **that occurs after June 30, 2010. In making the governor's two (2)**
50 **appointments, the governor shall assure that no more than two (2)**
51 **of the four (4) appointees may identify with the same political party.**

1 For appointments after June 30, 2010, all four (4) appointed
 2 members must be a chief executive officer or a chief financial
 3 officer of a depository at the time of the appointment if the
 4 depository is domiciled in Indiana. If the depository is not
 5 domiciled in Indiana, the appointee must be the most senior
 6 corporate officer of the depository with management or
 7 operational responsibility, or both, or the person designated to
 8 manage public funds for the depository that is located in Indiana.
 9 In making the governor's appointments, the governor shall provide
 10 for geographic representation of all regions of Indiana, including
 11 both urban and rural communities. In addition, the appointees
 12 must, at the time of the appointment, be employed by the following
 13 depositories:

14 (1) One (1) member appointed by the governor who must be
 15 the chief executive officer or the chief financial officer of a
 16 depository that is a state chartered credit union.

17 (2) One (1) member appointed by the governor who must be
 18 employed by a depository that:

19 (A) is not a state chartered credit union; and

20 (B) has total deposits of less than two hundred fifty
 21 million dollars (\$250,000,000).

22 (3) The member appointed by the president pro tempore of
 23 the senate must be employed by a depository that:

24 (A) is not a state chartered credit union; and

25 (B) has total deposits of at least two hundred fifty million
 26 dollars (\$250,000,000) but less than one billion dollars
 27 (\$1,000,000,000).

28 (4) The member appointed by the speaker of the house of
 29 representatives must be employed by a depository that:

30 (A) is not a state chartered credit union; and

31 (B) has total deposits of at least one billion dollars
 32 (\$1,000,000,000).

33 Total deposits shall be determined using the depository's reported
 34 deposits based on the information contained in the most recent
 35 June 30th FDIC Summary of Deposits, Market Share Selection for
 36 Indiana. The terms term of the an appointed members extend for
 37 member is four (4) year periods: years from the effective date of the
 38 member's appointment. Each appointed member holds office for the
 39 term of this appointment and serves after the expiration of that
 40 appointment until the member's successor is appointed and qualified.
 41 An appointed member may be reappointed if the individual
 42 satisfies the requirements of this subsection at the time of the
 43 reappointment. Any appointed member may be removed from office
 44 by, and at the pleasure of, the ~~governor:~~ appointing authority.

45 (b) The officers of the board consist of a chairman, a
 46 secretary-investment manager, a vice chairman, and other officers the
 47 board determines to be necessary. The governor shall name a member
 48 of the board to serve as its chairman. The treasurer of state shall serve
 49 as the secretary-investment manager of the board. The board, by
 50 majority vote, shall elect the other officers. Officers, except the
 51 secretary-investment manager, shall be named or elected for one (1)

1 year terms in January of each year. The members and officers of the
 2 board are not entitled to any compensation for their services but are
 3 entitled to reimbursement for actual and necessary expenses on the
 4 same basis as state employees.

5 (c) Five (5) members of the board constitute a quorum for the
 6 transaction of business, and all actions of the board must be approved
 7 by at least ~~five (5)~~ **a simple majority of those members voting on**
 8 **each individual business issue.** The board may adopt, amend, or
 9 repeal bylaws and rules for the conduct of its meetings and the number
 10 and times of its meetings. ~~and The board shall hold a regular meeting~~
 11 **at least once each calendar quarter and may hold other regular and**
 12 **special meetings as prescribed in its rules. All meetings of the board**
 13 **are open to the public under IC 5-14-1.5. However, the board shall**
 14 **discuss the following in executive session:**

- 15 (1) **The financial strength of a particular financial institution.**
- 16 (2) **The collateral requirements of a particular financial**
 17 **institution.**
- 18 (3) **Any other matters concerning a particular financial**
 19 **institution.**

20 All records of the board are subject to public inspection under
 21 IC 5-14-3. **However, records regarding matters that are discussed**
 22 **in executive session are confidential.**

23 (d) ~~Ten (10)~~ **Two (2)** days notice of the time and place of all
 24 meetings to determine and fix the assessment rate to be paid by
 25 depositories on account of insurance on public funds or the
 26 establishment or redetermination of the reserve for losses of the
 27 insurance fund shall be given by one (1) publication in a newspaper of
 28 general circulation printed and published in the city of Indianapolis.
 29 The time, place, notice, and waiver requirements for the members of
 30 the board for all meetings shall be determined by its rules. The
 31 secretary-investment manager of the board shall enter its proceedings
 32 at length in a record provided for that purpose, and the records of the
 33 proceedings shall be approved and signed respectively by the chairman
 34 or vice chairman and attested by the secretary-investment manager.

35 SECTION 14. IC 5-13-12-4, AS AMENDED BY P.L.146-2008,
 36 SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 37 JANUARY 1, 2011]: Sec. 4. (a) The secretary-investment manager
 38 shall administer, manage, and direct the affairs and activities of the
 39 board under the policies and under the control and direction of the
 40 board. In carrying out these duties, the secretary-investment manager
 41 has the power to do the following:

- 42 (1) Approve all accounts for salaries and allowable expenses of
 43 the board, including, but not limited to:
 - 44 (A) the employment of general or special attorneys,
 45 consultants, and employees and agents as may be necessary to
 46 assist the secretary-investment manager in carrying out the
 47 duties of that office and to assist the board in its consideration
 48 of applications for a guarantee of an industrial development
 49 obligation or credit enhancement obligation guarantee; and
 - 50 (B) the setting of compensation of persons employed under
 51 clause (A).

1 (2) Approve all expenses incidental to the operation of the public
2 deposit insurance fund.

3 (3) Perform other duties and functions that may be delegated to
4 the secretary-investment manager by the board or that are
5 necessary to carry out the duties of the secretary-investment
6 manager under this chapter.

7 (b) The secretary-investment manager shall keep a record of the
8 proceedings of the board, and shall maintain and be custodian of all
9 books, documents, and papers filed with the board, and its official seal.
10 The secretary-investment manager may make copies of all minutes and
11 other records and documents of the board, and may give certificates
12 under seal of the board to the effect that the copies are true copies. All
13 persons dealing with the board may rely upon the certificates.

14 (c) Each year, beginning in 2001 and ending in 2021, after the
15 treasurer of state prepares the annual report required by IC 4-8.1-2-14,
16 the secretary-investment manager shall determine:

17 (1) the amount of interest earned by the public deposit insurance
18 fund during the state fiscal year ending on the preceding June 30,
19 after deducting:

20 (A) all expenses and other costs of the board for depositories
21 that were not paid from other sources during that state fiscal
22 year; and

23 (B) all expenses and other costs associated with the Indiana
24 education savings authority that were not paid from other
25 sources during that state fiscal year; and

26 (2) the amount of interest earned during the state fiscal year
27 ending on the preceding June 30 by the pension distribution fund
28 established by subsection (g): (e).

29 ~~(d) On or before November 1 of each year, beginning in 2001 and~~
30 ~~ending in 2021, the public employees' retirement fund shall provide a~~
31 ~~report to the secretary-investment manager concerning the individual~~
32 ~~and aggregate payments made by all units of local government (as~~
33 ~~defined in IC 5-10.3-11-3) during the preceding calendar year for~~
34 ~~benefits under the police and firefighter pension funds established by~~
35 ~~IC 36-8-6, IC 36-8-7, and IC 36-8-7.5.~~

36 (e) ~~On or before the last business day of November of each year,~~
37 ~~beginning in 2001 and ending in 2021, the secretary-investment~~
38 ~~manager shall compute the amount of earned interest to be distributed~~
39 ~~under this section to each unit of local government (as defined in~~
40 ~~IC 5-10.3-11-3) in accordance with subsection (h) according to the~~
41 ~~following formula:~~

42 ~~STEP ONE: Add the amount determined under subsection (c)(1)~~
43 ~~to the amount determined under subsection (c)(2):~~

44 ~~STEP TWO: Divide the STEP ONE sum by the aggregate amount~~
45 ~~of payments made by all units of local government during the~~
46 ~~preceding calendar year for benefits under the police and~~
47 ~~firefighter pension funds established by IC 36-8-6, IC 36-8-7, and~~
48 ~~IC 36-8-7.5, as reported under subsection (d):~~

49 ~~STEP THREE: Multiply the STEP TWO quotient by the amount~~
50 ~~of payments made by each unit of local government during the~~
51 ~~preceding calendar year for benefits under the police and~~

1 firefighter pension funds established by IC 36-8-6, IC 36-8-7, and
2 IC 36-8-7.5, as reported under subsection (d).

3 ~~(f)~~ (d) Subject to subsection ~~(j)~~; (g), on or before the last business
4 day of December of each year, beginning in 2001 and ending in 2021,
5 the secretary-investment manager shall provide to the auditor of state
6 ~~(1)~~ a report setting forth the amounts to be distributed to units of
7 local government, as determined under subsection (e); and
8 ~~(2)~~ a check payable from the public deposit insurance fund to the
9 pension distribution fund established by subsection ~~(g)~~ (e) in an
10 amount equal to the amount determined under subsection (c)(1).

11 ~~(g)~~ (e) The pension distribution fund is established. The pension
12 distribution fund shall be administered by the treasurer of state. The
13 treasurer of state shall invest money in the pension distribution fund
14 not currently needed to meet the obligations of the pension distribution
15 fund in the same manner as other public money may be invested.
16 Interest that accrues from these investments shall be deposited in the
17 pension distribution fund. Money in the pension distribution fund at the
18 end of a state fiscal year does not revert to the state general fund.

19 ~~(h)~~ (f) Subject to subsection ~~(j)~~; (g), ~~on before~~ **before** June 30 and **after**
20 **June 30 and before** October 1 of each year, beginning in 2002 and
21 ending in 2022, the auditor of state shall distribute in two (2) equal
22 installments from the pension distribution fund to the ~~fiscal officer of~~
23 ~~each unit of local government identified under subsection (d) the~~
24 ~~amount computed for that unit under subsection (e) in November of the~~
25 ~~preceding year:~~

26 (i) Each unit of local government shall deposit distributions received
27 under subsection (h) in the pension fund or funds identified by the
28 secretary-investment manager and shall use those distributions to pay
29 a portion of the obligations with respect to the pension fund or funds:
30 **public employees' retirement fund for deposit in the pension relief**
31 **fund, established by IC 5-10.3-11-1, the following:**

- 32 (1) **The amount determined under subsection (c)(2).**
33 (2) **The amount deposited in the pension distribution fund in**
34 **December of the preceding year under subsection (d).**

35 **The installments shall be used for distributions to units of local**
36 **government under IC 5-10.3-11-4.7.**

37 ~~(j)~~ (g) Before providing a check to the auditor of state under
38 subsection ~~(f)~~~~(2)~~ (d) in December of any year, the secretary-investment
39 manager shall determine:

- 40 (1) the total amount of payments made from the public deposit
41 insurance fund under IC 5-13-13-3 after June 30, 2001;
42 (2) the total amount of payments received by the board for
43 depositories and deposited in the public deposit insurance fund
44 under IC 5-13-13-3 after June 30, 2001; and
45 (3) the total amount of interest earned by the public deposit
46 insurance fund after the first of the payments described in
47 subdivision (1).

48 If the total amount of payments determined under subdivision (1) less
49 the total amount of payments determined under subdivision (2)
50 (referred to in this subsection as the "net draw on the fund") exceeds
51 ten million dollars (\$10,000,000) and also exceeds the total amount of

1 interest determined under subdivision (3), the secretary-investment
 2 manager may not provide a check to the auditor of state under
 3 subsection ~~(f)(2)~~ **(d)** and a distribution may not be made from the
 4 pension distribution fund under subsection ~~(f)~~ **(f)** in the following
 5 calendar year until the total amount of interest earned by the public
 6 deposit insurance fund equals the net draw on the fund. A check may
 7 not be provided under subsection ~~(f)(2)~~ **(d)** and a distribution may not
 8 be made under subsection ~~(f)~~ **(d)** in any subsequent calendar year if a
 9 study conducted by the board under section 7(b) of this chapter
 10 demonstrates that payment of the distribution would reduce the balance
 11 of the public deposit insurance fund to a level insufficient to ensure the
 12 safekeeping and prompt payment of public funds to the extent they are
 13 not covered by insurance of any federal deposit insurance agency.

14 SECTION 15. IC 5-13-12-5 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Subject to the
 16 limitations prescribed in this chapter, the board for depositories may fix
 17 the assessment rate to provide assets in the fund sufficient to equal the
 18 reserve for losses of the fund for the insurance of public funds on
 19 deposit in depositories. Effective on July 1, and January 1, of each year,
 20 **and from time to time as the board determines necessary**, the board
 21 shall determine and fix the fair and reasonable assessment rate for each
 22 classification of deposit, if any, to be used by depositories in
 23 determining the assessments. ~~payable during the succeeding six (6)~~
 24 ~~month period.~~ This determination shall be made by the board before or
 25 as soon as practicable after the applicable July 1, ~~or~~ January 1, **or other**
 26 **date established by the board.** In fixing the rate, if any, the board
 27 shall consider the amount of public funds currently on deposit, the
 28 liabilities of the insurance fund, contingent and accrued, and the
 29 determination of the board on the amount of the reserve for losses of
 30 the insurance fund as set out in section 7(b) of this chapter. For any ~~six~~
 31 ~~(6) month~~ period, the maximum assessment rate that may be fixed by
 32 the board is two percent (2%). The board may lower or waive the
 33 assessment on any or all classifications of deposit if in its discretion it
 34 determines that a lower rate or waiver will not prevent the fund from
 35 attaining sufficient assets to equal the reserve for losses. **Subject to the**
 36 **board's power to implement an assessment at any time by action**
 37 **by the board**, if ~~at the beginning of any six (6) month period;~~ no action
 38 has been taken by the board for depositories fixing the assessment rate,
 39 if any, on public funds, ~~for the succeeding six (6) month period;~~ the
 40 assessment rate is the same rate, if any. ~~in effect during the preceding~~
 41 ~~six (6) month period.~~ Whenever as of July 1, or January 1, **or another**
 42 **date established by the board**, the value of the assets in the fund
 43 equals or exceeds the reserve for losses, the board shall eliminate the
 44 assessment requirement ~~for the succeeding six (6) month period~~ for
 45 each classification of deposit.

46 (b) During any period when an assessment rate is in effect, the
 47 assessment base for each depository of public funds shall be
 48 determined monthly. The assessment base must be equal to the sum
 49 total of all the minimum balances of each classification of public funds
 50 on deposit in each and all accounts during the month, the minimum

1 balance of each account being taken respectively as of the date on
2 which it occurs. **For purposes of this section, deposits that are**
3 **federally insured are not considered public funds deposits in a**
4 **depository.** On or before the second day of each month in which an
5 assessment rate is in effect, each depository shall compute the amount
6 of the assessment due from it to the insurance fund on account of
7 public funds on deposit with it during the preceding month. The
8 amount of the monthly assessment, if any, is the product obtained by
9 multiplying one-twelfth (1/12) times the assessment base for the month
10 for which the assessment is being computed.

11 (c) During the time the assessment rate on public funds has been
12 waived or eliminated by the board for depositories, the respective
13 depositories are not obligated to pay any assessment but shall continue
14 to prepare and file the reports that would otherwise be required to be
15 prepared and filed under this chapter.

16 SECTION 16. IC 5-13-12-7, AS AMENDED BY P.L.1-2006,
17 SECTION 100, IS AMENDED TO READ AS FOLLOWS
18 [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The board for
19 depositories shall manage and operate the insurance fund. All expenses
20 incident to the administration of the fund shall be paid out of the money
21 accumulated in it subject to the direction of the board for depositories.

22 (b) Effective January 1 and July 1 in each year, the board shall
23 before those dates redetermine the amount of the reserve to be
24 maintained by the insurance fund. The establishment or any change in
25 the reserve for losses shall be determined by the board based on
26 **information the board considers, including but not limited to**
27 **capital adequacy, liquidity, and asset quality, and** a study to be
28 made or updated by actuaries, economists, or other consultants based
29 on the history of losses, earnings on the funds, conditions of the
30 depositories, economic conditions affecting particular depositories or
31 depositories in general, and any other factors that the board considers
32 relevant in making its determination. The reserve determined by the
33 board must be sufficient to ensure the safekeeping and prompt payment
34 of public funds to the extent they are not covered by insurance of any
35 federal deposit insurance agency.

36 (c) At the end of each biennial period during which depositories
37 have had public funds on deposit under this chapter and paid the
38 assessments levied by the board, the board shall compute its receipts
39 from assessments and all other sources and its expenses and losses and
40 determine the profit derived from the operation of the fund for the
41 period. Until the amount of the reserve for losses has been
42 accumulated, all assessments levied for a biennial period shall be
43 retained by the fund. The amount of the assessments, if any, levied by
44 the board shall, to the extent the fund exceeds the reserve for losses at
45 the end of a biennial period commencing July 1 of each odd-numbered
46 year, be distributed to the depositories that had public funds on deposit
47 during the biennial period in which the assessments were paid. The
48 distribution shall be made to the respective depositories in the
49 proportion that the total assessments paid by each depository during
50 that period bears to the total assessments then paid by all depositories.
51 A distribution to which any closed depository would otherwise be

1 entitled shall be set off against any claim that the insurance fund may
2 have against the closed depository.

3 (d) The board may invest, reinvest, and exchange investments of the
4 insurance fund in excess of the cash working balance in any of the
5 following:

6 (1) In bonds, notes, certificates, and other valid obligations of the
7 United States, either directly or, subject to the limitations in
8 subsection (e), in the form of securities of or other interests in an
9 open-end no-load management-type investment company or
10 investment trust registered under the provisions of the Investment
11 Company Act of 1940, as amended (15 U.S.C. 80a et seq.).

12 (2) In bonds, notes, debentures, and other securities issued by a
13 federal agency or a federal instrumentality and fully guaranteed
14 by the United States either directly or, subject to the limitations
15 in subsection (e), in the form of securities of or other interests in
16 an open-end no-load management-type investment company or
17 investment trust registered under the provisions of the Investment
18 Company Act of 1940, as amended (15 U.S.C. 80a et seq.).

19 (3) In bonds, notes, certificates, and other valid obligations of a
20 state or of an Indiana political subdivision that are issued under
21 law, the issuers of which, for five (5) years before the date of the
22 investment, have promptly paid the principal and interest on their
23 bonds and other legal obligations.

24 (4) In bonds or other obligations of the Indiana finance authority
25 issued under IC 4-13.5.

26 (5) In investments permitted the state under IC 5-13-10.5.

27 (6) In guarantees of industrial development obligations or credit
28 enhancement obligations, or both, for the purposes of retaining
29 and increasing employment in enterprises in Indiana, subject to
30 the limitations and conditions set out in this subdivision,
31 subsection (e), and section 8 of this chapter. An individual
32 guarantee of the board under this subdivision must not exceed
33 eight million dollars (\$8,000,000).

34 (7) In guarantees of bonds or notes issued under IC 5-1.5-4-1,
35 subject to the limitations and conditions set out in subsection (e)
36 and section 8 of this chapter.

37 (8) In bonds, notes, or other valid obligations of the Indiana
38 finance authority that have been issued in conjunction with the
39 authority's acquisition, development, or improvement of property
40 or other interests for an industrial development project (as defined
41 in IC 4-4-10.9-11) that the authority has undertaken for the
42 purposes of retaining or increasing employment in existing or new
43 enterprises in Indiana, subject to the limitations in subsection (e).

44 (9) In notes or other debt obligations of counties, cities, and towns
45 that have been issued under IC 6-1.1-39 for borrowings from the
46 industrial development fund under IC 5-28-9 for purposes of
47 retaining or increasing employment in existing or new enterprises
48 in Indiana, subject to the limitations in subsection (e).

49 (10) In bonds or other obligations of the Indiana housing and
50 community development authority.

51 (e) The investment authority of the board under subsection (d) is

- 1 subject to the following limitations:
- 2 (1) For investments under subsection (d)(1) and (d)(2), the
- 3 portfolio of an open-end no-load management-type investment
- 4 company or investment trust must be limited to:
- 5 (A) direct obligations of the United States and obligations of
- 6 a federal agency or a federal instrumentality that are fully
- 7 guaranteed by the United States; and
- 8 (B) repurchase agreements fully collateralized by obligations
- 9 described in clause (A), of which the company or trust takes
- 10 delivery either directly or through an authorized custodian.
- 11 (2) Total outstanding investments in guarantees of industrial
- 12 development obligations and credit enhancement obligations
- 13 under subsection (d)(6) must not exceed the greater of:
- 14 (A) ten percent (10%) of the available balance of the insurance
- 15 fund; or
- 16 (B) fourteen million dollars (\$14,000,000).
- 17 (3) Total outstanding investments in guarantees of bond bank
- 18 obligations under subsection (d)(7) must not exceed the greater
- 19 of:
- 20 (A) twenty percent (20%) of the available balance of the
- 21 insurance fund; or
- 22 (B) twenty-four million dollars (\$24,000,000).
- 23 (4) Total outstanding investments in bonds, notes, or other
- 24 obligations of the Indiana finance authority under subsection
- 25 (d)(8) may not exceed the greater of:
- 26 (A) fifteen percent (15%) of the available balance of the
- 27 insurance fund; or
- 28 (B) twenty million dollars (\$20,000,000).
- 29 However, after June 30, 1988, the board may not make any
- 30 additional investment in bonds, notes, or other obligations of the
- 31 Indiana finance authority issued under IC 4-4-11, and the board
- 32 may invest an amount equal to the remainder, if any, of:
- 33 (i) fifteen percent (15%) of the available balance of the
- 34 insurance fund; minus
- 35 (ii) the board's total outstanding investments in bonds, notes,
- 36 or other obligations of the Indiana finance authority issued
- 37 under IC 4-4-11;
- 38 in guarantees of industrial development obligations or credit
- 39 enhancement obligations, or both, as authorized by subsection
- 40 (d)(6). In such a case, the outstanding investments, as authorized
- 41 by subsection (d)(6) and (d)(8), may not exceed in total the
- 42 greater of twenty-five percent (25%) of the available balance of
- 43 the insurance fund or thirty-four million dollars (\$34,000,000).
- 44 (5) Total outstanding investments in notes or other debt
- 45 obligations of counties, cities, and towns under subsection (d)(9)
- 46 may not exceed the greater of:
- 47 (A) ten percent (10%) of the available balance of the insurance
- 48 fund; or
- 49 (B) twelve million dollars (\$12,000,000).
- 50 (f) For purposes of subsection (e), the available balance of the
- 51 insurance fund does not include the outstanding principal amount of

1 any fund investment in a corporate note or obligation or the part of the
2 fund that has been established as a reserve for losses.

3 (g) Except as provided in section 4 of this chapter, all interest and
4 other income earned on investments of the insurance fund and all
5 amounts collected by the board accrue to the fund.

6 (h) Members of the board and any officers or employees of the
7 board are not subject to personal liability or accountability by reason
8 of any investment in any of the obligations listed in subsection (d).

9 (i) The board shall, when directed by the state board of finance
10 constituted by IC 4-9.1-1-1, purchase the loan made by the state board
11 of finance under IC 4-10-18-10(i). The loan shall be purchased by the
12 board at a purchase price equal to the total of:

- 13 (1) the principal amount of the loan;
- 14 (2) the deferred interest payable on the loan; and
- 15 (3) accrued interest to the date of purchase by the board.

16 Members of the board and any officers or employees of the board are
17 not subject to personal liability or accountability by reason of the
18 purchase of the loan under this subsection.

19 SECTION 17. IC 5-13-12-12 IS ADDED TO THE INDIANA
20 CODE AS A NEW SECTION TO READ AS FOLLOWS
21 [EFFECTIVE JULY 1, 2010]: **Sec. 12. (a) In June and December**
22 **each year, the board shall prepare a written report generally**
23 **summarizing the board's activities and the status of the public**
24 **deposit insurance fund for the previous six (6) months. However,**
25 **the report may not identify a particular financial institution**
26 **notwithstanding the requirements of IC 5-14-3. The report shall be**
27 **made available on the board's Internet web site.**

28 **(b) The chairperson of the board or the chairperson's designee**
29 **shall present the semiannual report to the budget committee at a**
30 **public hearing.**

31 SECTION 18. IC 5-13-13-4 IS AMENDED TO READ AS
32 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Whenever
33 the assets in the insurance fund are not sufficient to pay the claims of
34 any kind that have been finally determined and have become payable,
35 the board for depositories shall issue anticipatory warrants for the
36 purpose of raising money for the immediate payment of the claims. The
37 warrants outstanding and unpaid must not at any time exceed the sum
38 of ~~one million five hundred thousand dollars (\$1,500,000):~~ **three**
39 **hundred million dollars (\$300,000,000).** Interest may be paid upon
40 the warrants from the date the rate was established by the board for
41 depositories. Interest is payable at the end of each year or for a shorter
42 period as the warrants remain unpaid.

43 (b) The warrants are the obligation of the board for depositories
44 payable out of the public deposit insurance fund only and do not
45 constitute a debt, liability, or obligation of the state or a pledge of the
46 faith and credit of the state. Each warrant must have printed on its face
47 the words, "This warrant is an obligation of the board for depositories
48 payable solely out of the public deposits insurance fund, and neither the
49 faith and credit nor the taxing power of the state is pledged to the
50 payment of the principal, the interest, or any other amount owed on the
51 warrants."

1 (c) Subject to the limitations in subsections (a) through (b), the
2 warrants shall be issued in the individual and gross amounts and in the
3 form and at the rate of interest approved by the board for depositories.

4 SECTION 19. IC 5-13-13-7 IS AMENDED TO READ AS
5 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) At any time
6 when the board for depositories determines that the assets of the
7 insurance fund are insufficient to pay its liabilities, accrued or
8 contingent, or determines that the assessments due or to become due
9 will not be sufficient to maintain the insurance fund in a solvent
10 condition and insure the safekeeping and prompt payment of public
11 funds, the board may enter an order requiring **any or all** then
12 constituted depositories to substitute other security, **in the amount and**
13 **type as determined by the board from time to time**, to secure the
14 safekeeping and prompt payment of public funds. **The collateral to be**
15 **accepted by the board for depositories under this chapter may**
16 **include, but is not limited to, the following:**

17 (1) United States Treasury securities.

18 (2) Federal agency securities.

19 (3) An irrevocable letter of credit issued by a Federal Home
20 Loan Bank if:

21 (A) the federal home loan bank issuing the irrevocable
22 letter of credit maintains a rating of at least the third
23 highest level from at least one (1) of the nationally
24 recognized rating agencies; and

25 (B) the irrevocable letter of credit provides that the board
26 for depositories may draw on the letter when necessary to
27 satisfy losses to the public deposit insurance fund under
28 state law.

29 (b) The board may require **any or all** then constituted depositories
30 to deliver and pledge to the proper local board of finance or to the state
31 board of finance, under the conditions for joint control of the collateral
32 by the depositories as may be approved by the board for depositories,
33 bonds or other obligations ~~of like character as those in which~~ **that** the
34 board is ~~authorized to invest the excess funds of the insurance fund~~
35 ~~under IC 5-13-12-7(d):~~ **determines are acceptable collateral.** The
36 market value of these securities, at the time of delivery, must ~~equal~~ **be**
37 **an amount determined by the board, which may not exceed** the
38 amount of public funds then on deposit with the respective
39 depositories. The board may require depositories to pledge acceptable
40 securities to such an extent that the market value of the pledge will at
41 all times be substantially equal to the amount of public funds on
42 deposit in the respective depositories.

43 (c) Whenever an order is in force and the amount of public funds on
44 deposit is at least ten percent (10%) less than the market value of
45 securities pledged to secure the payment, **as required by the board**,
46 the depository may withdraw the excess amount of pledged collateral.

47 (d) Any order of the board for depositories ~~applies equally to all~~
48 ~~depositories and~~ becomes effective within the time fixed by the board.
49 However, the time of effectiveness must not be earlier than thirty (30)
50 days from the date of entry of the order by the board. The order
51 continues in force until rescinded by the board. Upon the entry of any

1 order by the board for depositories, all then constituted depositories
 2 **affected by the order** shall comply with the order. Upon compliance,
 3 and full payment of all its liabilities by the insurance fund, depositories
 4 are not required to pay any further assessments for insurance under this
 5 chapter until the order requiring collateral has been revoked or
 6 rescinded and the collateral returned to the respective depositories.

7 **(e) A depository may elect at any time to pledge and deliver**
 8 **collateral to the board in an amount equal to one hundred percent**
 9 **(100%) of the public funds the depository has on deposit. A**
 10 **depository that:**

11 **(1) elects this option;**

12 **(2) has pledged and delivered the collateral to the board; and**

13 **(3) has maintained a one hundred percent (100%) collateral**
 14 **level continuously for the twelve (12) months immediately**
 15 **preceding an assessment;**

16 **is exempt from paying any assessment authorized by this article**
 17 **while the collateral continues to be maintained with the board.**

18 **(f) If the fund balance is zero (0), each depository shall pledge**
 19 **and deliver collateral to the board equal to the depository's pro**
 20 **rata share of total deposit accounts of public funds based on an**
 21 **average of the depository's total deposit accounts of public funds**
 22 **for the previous four (4) quarters, as reported under this article, as**
 23 **determined by the board from time to time, with at least fifteen**
 24 **(15) days notice to the depository, to secure the safekeeping and**
 25 **prompt payment of public funds.**

26 SECTION 20. IC 24-5-23.6 IS ADDED TO THE INDIANA CODE
 27 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 28 UPON PASSAGE]:

29 **Chapter 23.6. Five Star Mortgages**

30 **Sec. 1. (a) As used in this chapter, "creditor" means:**

31 **(1) a person:**

32 **(A) that engages in Indiana in the extension of mortgages**
 33 **that are subject to a credit service charge or loan finance**
 34 **charge, as applicable, or are payable by written agreement**
 35 **in more than four (4) installments (not including a down**
 36 **payment); and**

37 **(B) to whom the obligation arising from a mortgage is**
 38 **initially payable, either on the face of the note or contract,**
 39 **or by agreement if there is not a note or contract; or**

40 **(2) a person who brokers a mortgage, including a person who:**

41 **(A) directly or indirectly solicits, processes, places, or**
 42 **negotiates mortgages for others;**

43 **(B) offers to solicit, process, place, or negotiate mortgages**
 44 **for others; or**

45 **(C) closes mortgages that may be in the person's own name**
 46 **with funds provided by others and that are thereafter**
 47 **assigned to the person providing funding for the**
 48 **mortgages.**

49 **(b) The term does not include a person described in**
 50 **IC 24-9-2-6(b).**

51 **Sec. 2. (a) As used in this chapter, "debtor", with respect to a**

1 mortgage, refers to the maker of the note secured by the mortgage.

2 (b) The term includes a prospective debtor with respect to a
3 mortgage for which a closing has not occurred.

4 Sec. 3. As used in this chapter, "department" refers to the
5 department of financial institutions established by IC 28-11-1-1.

6 Sec. 4. As used in this chapter, "dwelling" means a residential
7 structure that is located in Indiana and that contains one (1) to
8 four (4) units, regardless of whether the structure is permanently
9 attached to real property. The term includes an individual:

- 10 (1) condominium unit;
- 11 (2) cooperative unit;
- 12 (3) mobile home; or
- 13 (4) trailer;

14 that is used as a residence.

15 Sec. 5. As used in this chapter, "five star mortgage lender"
16 means a creditor that:

- 17 (1) offers at least one (1) mortgage product that qualifies as a
18 five star mortgage under the program; and
- 19 (2) has a current and accurate certification on file with the
20 department, as described in section 9(a)(3) of this chapter.

21 Sec. 6. As used in this chapter, "Indiana customer", with respect
22 to a mortgage offered by a creditor, means an individual who:

- 23 (1) is an Indiana resident at the time the mortgage is offered
24 by the creditor; or
- 25 (2) would become an Indiana resident after purchasing and
26 occupying the dwelling that is the subject of the mortgage
27 being offered.

28 Sec. 7. (a) As used in this chapter, "mortgage" means a sale or
29 loan, or the refinancing or consolidation of a sale or loan, in which
30 a first mortgage, deed of trust, or a land contract that constitutes
31 a first lien, is created or retained against land that is located in
32 Indiana and upon which there is a dwelling that is or will be used
33 by the debtor primarily for personal, family, or household
34 purposes.

35 (b) The term includes any of the following that meets the
36 conditions set forth in subsection (a):

- 37 (1) A home loan subject to IC 24-9.
- 38 (2) A loan described in IC 24-9-1-1, to the extent allowed
39 under federal law.
- 40 (3) A first lien mortgage transaction (as defined in
41 IC 24-4.4-1-301) subject to IC 24-4.4.

42 Sec. 8. As used in this chapter, "program" refers to the five star
43 mortgage program established by section 9 of this chapter.

44 Sec. 9. (a) The five star mortgage program is established. Not
45 later than June 1, 2010, the department shall adopt guidelines to
46 implement the program. The program established by this section,
47 as implemented through the department's guidelines, must meet
48 the following criteria:

- 49 (1) The program must be available on a voluntary basis to
50 creditors that offer mortgages to Indiana customers after
51 June 30, 2010.

- 1 (2) To participate in the program, a creditor must submit a
 2 certification, on a form prescribed by the department,
 3 attesting that the creditor qualifies as a five star mortgage
 4 lender.
- 5 (3) To qualify as a five star mortgage lender under the
 6 program, a creditor must certify, on the form described in
 7 subdivision (2), that the creditor meets the following
 8 conditions:
- 9 (A) The creditor offers or will offer to Indiana customers
 10 after June 30, 2010, at least one (1) mortgage product that
 11 qualifies as a five star mortgage under the program.
- 12 (B) The creditor does not have a record of any significant
 13 or recurring violation of:
- 14 (i) IC 24-5-23.5-7; or
 15 (ii) any other state or federal law, regulation, or rule
 16 applicable to mortgage transactions;
 17 as of the date of the creditor's certification. If the creditor
 18 is not certain whether it meets the criterion set forth in this
 19 clause, the creditor shall consult with the department
 20 before filing a certification to participate in the program.
- 21 (C) The creditor does not have a director or an executive
 22 officer who has been convicted of or pleaded guilty or nolo
 23 contendere to a felony involving fraud, deceit, or
 24 misrepresentation under the laws of Indiana or any other
 25 jurisdiction, as of the date of the creditor's certification. If
 26 the creditor is not certain whether it meets the criterion set
 27 forth in this clause, the creditor shall consult with the
 28 department before filing a certification to participate in
 29 the program.
- 30 (4) To qualify as a five star mortgage under the program, a
 31 mortgage must include the following terms and conditions:
- 32 (A) If the mortgage involves a purchase money transaction,
 33 the mortgage must require a down payment by the debtor,
 34 or a person acting on behalf of the debtor, of at least ten
 35 percent (10%) of the purchase price of the dwelling that is
 36 the subject of the mortgage. If the mortgage involves the
 37 refinancing of an existing mortgage, the customer must
 38 have equity of at least ten percent (10%) in the dwelling
 39 that is the subject of the mortgage.
- 40 (B) The mortgage must have a fixed rate of interest.
- 41 (C) The mortgage must provide for an escrow account
 42 that:
- 43 (i) is established by the creditor, or a person acting on
 44 behalf of the creditor, for the benefit of the debtor;
 45 (ii) is maintained by the creditor, or a person acting on
 46 behalf of the creditor, during the life of the mortgage;
 47 and
 48 (iii) is used during the life of the mortgage to pay taxes
 49 and insurance owed with respect to the dwelling that is
 50 the subject of the mortgage.
- 51 However, this clause does not apply if, in the creditor's

- 1 ordinary course of business, the creditor does not regularly
2 establish and maintain, or contract for the establishment
3 and maintenance of, escrow accounts for the payment of
4 taxes and insurance, on behalf of the creditor's customers.
5 **(D) The term of the mortgage may not exceed thirty (30)**
6 **years.**
7 **(E) The mortgage may not include a prepayment penalty**
8 **or fee.**
- 9 **(5) A creditor that qualifies as a five star mortgage lender and**
10 **files a certification with the department under subdivision (3)**
11 **shall provide a written statement, on a form and in the**
12 **manner prescribed by the department, to any Indiana**
13 **customer who:**
- 14 **(A) applies for a five star mortgage offered by the creditor;**
15 **and**
- 16 **(B) does not qualify for the five star mortgage based on the**
17 **creditor's underwriting standards for the five star**
18 **mortgage.**
- 19 **The statement must set forth the reasons why the Indiana**
20 **customer did not qualify for the five star mortgage.**
- 21 **(6) A creditor that qualifies as a five star mortgage lender and**
22 **files a certification with the department may include that fact**
23 **in any marketing material or solicitation directed at Indiana**
24 **customers, subject to any conditions or limitations imposed by**
25 **the department in the guidelines adopted under this section.**
- 26 **(7) If a creditor:**
- 27 **(A) holds itself out as a five star mortgage lender and:**
- 28 **(i) the creditor has not filed an accurate certification,**
29 **including any renewal certification required by the**
30 **department under subsection (b)(3), with the department**
31 **under this chapter; or**
- 32 **(ii) the creditor has filed a certification or a renewal**
33 **certification with the department under this chapter and**
34 **subsequently ceases offering at least one (1) mortgage**
35 **product that qualifies as a five star mortgage; or**
- 36 **(B) fails to comply with any program requirement;**
- 37 **the department, upon discovering the act described in clause**
38 **(A) or (B), shall immediately provide written notice to the**
39 **creditor that the creditor does not qualify for participation in**
40 **the program, or no longer qualifies for participation in the**
41 **program, as appropriate. The notice provided under this**
42 **subdivision must inform the creditor of the reason or reasons**
43 **the creditor does not qualify for participation in the program,**
44 **or no longer qualifies for participation in the program, as**
45 **appropriate. Not later than seven (7) days after the date of the**
46 **notice provided to the creditor under this subdivision, the**
47 **department shall remove the creditor from the list of**
48 **creditors published on the department's Internet web site**
49 **under subsection (c), as appropriate, and shall post, on the**
50 **same Internet web page on which the list described in**
51 **subsection (c) is published, a link to the notice provided to the**

- 1 creditor under this subdivision.
- 2 (b) In addition to the program criteria required by subsection
- 3 (a), the guidelines adopted by the department under this section
- 4 may include the following:
- 5 (1) Provisions allowing a creditor that qualifies as a five star
- 6 mortgage lender and files a certification with the department
- 7 to include in the paperwork associated with a five star
- 8 mortgage:
- 9 (A) a statement;
- 10 (B) a seal; or
- 11 (C) any other designation considered appropriate by the
- 12 department;
- 13 indicating that the particular mortgage product is a five star
- 14 mortgage.
- 15 (2) A requirement that a creditor that qualifies as a five star
- 16 mortgage lender and files a certification with the department
- 17 shall report the following information to the department on
- 18 an annual basis, or any other basis determined appropriate by
- 19 the department:
- 20 (A) The total number and types of residential mortgage
- 21 products that were offered by the creditor to Indiana
- 22 customers during the applicable reporting period,
- 23 including any five star mortgages reported under clause
- 24 (C).
- 25 (B) The total number of residential mortgages described in
- 26 clause (A) that were closed by the creditor during the
- 27 applicable reporting period, including any five star
- 28 mortgages that were closed during the reporting period, as
- 29 reported under clause (D).
- 30 (C) The number of mortgage products that:
- 31 (i) qualified as five star mortgages under the program;
- 32 and
- 33 (ii) were offered by the creditor to Indiana customers;
- 34 during the applicable reporting period.
- 35 (D) The number of five star mortgages offered to Indiana
- 36 customers that were closed by the creditor during the
- 37 applicable reporting period.
- 38 (3) A requirement that a creditor that qualifies as a five star
- 39 mortgage lender and files a certification with the department
- 40 shall periodically submit to the department a renewal
- 41 certification, on a form prescribed by the department, in
- 42 conjunction with a report filed under subdivision (2), or at
- 43 such other time as the department determines appropriate. In
- 44 any renewal certification required under this subdivision, a
- 45 creditor must attest that the creditor:
- 46 (A) continued to meet the criteria necessary to qualify as
- 47 a five star mortgage lender; and
- 48 (B) complied with all program requirements;
- 49 during the applicable reporting period.
- 50 (4) A fee fixed by the department under IC 28-11-3-5 for each
- 51 certification and recertification submitted by a creditor under

1 **this chapter. However, any fee fixed by the department under**
 2 **this subdivision may not exceed the department's actual costs**
 3 **to:**

4 **(A) process certifications and renewal certifications;**

5 **(B) publish the list described in subsection (c) on the**
 6 **department's Internet web site; and**

7 **(C) otherwise administer the program.**

8 **(5) Any other program requirements, criteria, or incentives**
 9 **that the department determines necessary to implement and**
 10 **evaluate a program to encourage creditors to offer stable**
 11 **mortgage products to qualified Indiana customers.**

12 **(c) The department shall publish on the department's Internet**
 13 **web site a list of all creditors that have a current and accurate:**

14 **(1) certification under this chapter; or**

15 **(2) renewal certification under this chapter;**

16 **on file with the department. The Indiana housing and community**
 17 **development authority and the securities division of the office of**
 18 **the secretary of state shall provide a link to the list described in this**
 19 **subsection on their respective Internet web sites.**

20 **(d) The program guidelines established by the department**
 21 **under subsections (a) and (b) must be made available:**

22 **(1) for public inspection and copying at the offices of the**
 23 **department under IC 5-14-3; and**

24 **(2) on the department's Internet web site.**

25 **(e) The department shall investigate any credible complaint**
 26 **received by any means alleging that a creditor has committed a**
 27 **violation described in subsection (a)(7). If the creditor that is the**
 28 **subject of a complaint under this subsection is not subject to**
 29 **regulation by the department, the department shall forward the**
 30 **complaint to the appropriate state or federal regulatory agency.**

31 **(f) Notwithstanding subsection (a), the department may adopt**
 32 **a different name for the program, other than the five star**
 33 **mortgage program, in adopting the guidelines to implement the**
 34 **program.**

35 **SECTION 21. IC 28-1-2-40 IS ADDED TO THE INDIANA CODE**
 36 **AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**
 37 **1, 2010]: Sec. 40. (a) As used in this section, "act" refers to the**
 38 **federal Credit Card Accountability Responsibility and Disclosure**
 39 **Act of 2009 as it applies to Indiana borrowers.**

40 **(b) If the department receives credible evidence from any source**
 41 **that a financial institution that issues to Indiana borrowers an**
 42 **unsecured credit card that is not a debit card, as a card issuer (as**
 43 **defined in 15 U.S.C. 1602(n)) is not in substantial compliance with**
 44 **the act, the director of the department shall send a notice of the**
 45 **evidence by certified mail to the financial institution's chief**
 46 **executive officer. The notice must:**

47 **(1) set forth the provisions of IC 5-13-9.5-1(c) and**
 48 **IC 5-13-9.5-1(d);**

49 **(2) describe the department's evidence that the financial**
 50 **institution is not in substantial compliance with the act;**

51 **(3) describe the consequences under IC 5-13-9.5-1(c) of a**

1 finding that the financial institution is not in substantial
2 compliance with the act; and
3 (4) invite a reply that affirms or disputes the evidence of
4 noncompliance with the act.

5 If a financial institution disputes the preliminary determination
6 that it is not in substantial compliance with the act, but fails to
7 convince the director of the department of its substantial
8 compliance with the act, the financial institution may, within
9 twenty (20) days of the date of the notice, request a hearing on the
10 determination. If a hearing is requested, the department shall
11 schedule the hearing not earlier than twenty (20) days after the
12 date of the request. If no hearing is requested, the department's
13 determination that the financial institution is not in substantial
14 compliance with the act is final.

15 (c) Except as otherwise provided in this section, any hearing
16 requested by a financial institution under subsection (b) and the
17 determination by the department are subject to IC 4-21.5-3.
18 Judicial review of the department's final determination may be
19 obtained in accordance with IC 4-21.5-5.

20 (d) If a financial institution does not contest the determination
21 that it is not in substantial compliance with the act, or the financial
22 institution is determined under subsection (b) to not be in
23 substantial compliance with the act, the department shall
24 immediately notify the chairperson of the board for depositories
25 established under IC 5-13-12 of the determination.

26 (e) A financial institution that has been determined by the
27 department to not be in substantial compliance with the act may
28 petition the department for a hearing to demonstrate that the
29 financial institution has taken the necessary steps to attain
30 substantial compliance with the act, and to ensure future
31 substantial compliance with the act. The hearing and the
32 determination by the department are subject to IC 4-21.5-3.
33 Judicial review of the department's final determination may be
34 obtained in accordance with IC 4-21.5-5. Upon final determination
35 by the department, or a final judgment in the case of pending
36 judicial review, that the financial institution is in substantial
37 compliance with the act, the department shall immediately notify
38 the chairperson of the board for depositories established under
39 IC 5-13-12 of the determination or judgment.

40 SECTION 22. An emergency is declared for this act.

(Reference is to EHB 1336 as reprinted February 25, 2010.)

Conference Committee Report
on
Engrossed House Bill 1336

Signed by:

Representative Bardon
Chairperson

Senator Hershman

Representative Burton

Senator Skinner

House Conferees

Senate Conferees