

Adopted Rejected

COMMITTEE REPORT

YES: 9
NO: 0

MR. SPEAKER:

*Your Committee on Financial Institutions, to which was referred House Bill 1206, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Page 1, line 14, after "by" delete "the".
- 2 Page 1, line 15, delete "department of financial institutions under".
- 3 Page 2, line 2, after "by" delete "the".
- 4 Page 2, line 3, delete "department of financial institutions under".
- 5 Page 3, line 40, delete "the department of financial institutions
- 6 under".
- 7 Page 4, line 34, after "by" delete "the".
- 8 Page 4, line 35, delete "department of financial institutions under".
- 9 Page 4, line 37, after "by" delete "the".
- 10 Page 4, line 38, delete "department of financial institutions under".
- 11 Page 6, line 41, delete "regularly".
- 12 Page 7, line 28, delete "that offers one (1) or more mortgage
- 13 products" and insert "**that**:"

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

5 Page 7, delete line 29.

6 Page 7, line 37, after "a" insert "**sale or**".

7 Page 7, line 38, after "of a" insert "**sale or**".

8 Page 8, line 9, delete "rules adopted by the department".

9 Page 8, line 10, delete "under".

10 Page 8, delete lines 11 through 42, begin a new paragraph and
11 insert:

12 **"Sec. 9. (a) The five star mortgage program is established. Not**
13 **later than June 1, 2010, the department shall adopt guidelines to**
14 **implement the program. The program established by this section,**
15 **as implemented through the department's guidelines, must meet**
16 **the following criteria:**

17 **(1) The program shall be available on a voluntary basis to**
18 **creditors that offer mortgages to Indiana customers after**
19 **June 30, 2010.**

20 **(2) To participate in the program, a creditor must submit a**
21 **certification, on a form prescribed by the department,**
22 **attesting that the creditor qualifies as a five star mortgage**
23 **lender.**

24 **(3) To qualify as a five star mortgage lender under the**
25 **program, a creditor must certify, on the form described in**
26 **subdivision (2), that the creditor meets the following**
27 **conditions:**

28 **(A) The creditor offers or will offer to Indiana customers**
29 **after June 30, 2010, at least one (1) mortgage product that**
30 **qualifies as a five star mortgage under the program.**

31 **(B) The creditor does not have a record of any significant**
32 **or recurring violation of:**

33 **(i) IC 24-5-23.5-7; or**

34 **(ii) any other state or federal law, regulation, or rule**
35 **applicable to mortgage transactions;**

36 **as of the date of the creditor's certification. If the creditor**
37 **is not certain whether it meets the criterion set forth in this**
38 **clause, the creditor shall consult with the department**

- 1 **before filing a certification to participate in the program.**
2 **(C) The creditor does not have a director or an executive**
3 **officer who has been convicted of or pleaded guilty or nolo**
4 **contendere to a felony involving fraud, deceit, or**
5 **misrepresentation under the laws of Indiana or any other**
6 **jurisdiction, as of the date of the creditor's certification. If**
7 **the creditor is not certain whether it meets the criterion set**
8 **forth in this clause, the creditor shall consult with the**
9 **department before filing a certification to participate in**
10 **the program.**
- 11 **(4) To qualify as a five star mortgage under the program, a**
12 **mortgage must include the following terms and conditions:**
- 13 **(A) If the mortgage involves a purchase money transaction,**
14 **the mortgage must require a down payment by the debtor,**
15 **or a person acting on behalf of the debtor, of at least ten**
16 **percent (10%) of the purchase price of the dwelling that is**
17 **the subject of the mortgage. If the mortgage involves the**
18 **refinancing of an existing mortgage, the customer must**
19 **have equity of at least ten percent (10%) in the dwelling**
20 **that is the subject of the mortgage.**
- 21 **(B) The mortgage must have a fixed rate of interest.**
- 22 **(C) The mortgage must provide for an escrow account**
23 **that:**
- 24 **(i) is established by the creditor, or a person acting on**
25 **behalf of the creditor, for the benefit of the debtor;**
26 **(ii) is maintained by the creditor, or a person acting on**
27 **behalf of the creditor, during the life of the mortgage;**
28 **and**
29 **(iii) is used during the life of the mortgage to pay taxes**
30 **and insurance owed with respect to the dwelling that is**
31 **the subject of the mortgage.**
- 32 **However, this clause does not apply if, in the creditor's**
33 **ordinary course of business, the creditor does not regularly**
34 **establish and maintain, or contract for the establishment**
35 **and maintenance of, escrow accounts for the payment of**
36 **taxes and insurance, on behalf of the creditor's customers.**
- 37 **(D) The term of the mortgage may not exceed thirty (30)**
38 **years.**

1 **(E) The mortgage may not include a prepayment penalty**
2 **or fee.**

3 **(5) A creditor that qualifies as a five star mortgage lender and**
4 **files a certification with the department under subdivision (3)**
5 **shall provide a written statement, on a form and in the**
6 **manner prescribed by the department, to any Indiana**
7 **customer who:**

8 **(A) applies for a five star mortgage offered by the creditor;**
9 **and**

10 **(B) does not qualify for the five star mortgage based on the**
11 **creditor's underwriting standards for the five star**
12 **mortgage.**

13 **The statement must set forth the reasons why the Indiana**
14 **customer did not qualify for the five star mortgage.**

15 **(6) A creditor that qualifies as a five star mortgage lender and**
16 **files a certification with the department may include that fact**
17 **in any marketing material or solicitation directed at Indiana**
18 **customers, subject to any conditions or limitations imposed by**
19 **the department in the guidelines adopted under this section.**

20 **(b) In addition to the program criteria required by subsection**
21 **(a), the guidelines adopted by the department under this section**
22 **may include the following:**

23 **(1) Provisions allowing a creditor that qualifies as a five star**
24 **mortgage lender and files a certification with the department**
25 **to include in the paperwork associated with a five star**
26 **mortgage:**

27 **(A) a statement;**

28 **(B) a seal; or**

29 **(C) any other designation considered appropriate by the**
30 **department;**

31 **indicating that the particular mortgage product is a five star**
32 **mortgage.**

33 **(2) A requirement that a creditor that qualifies as a five star**
34 **mortgage lender and files a certification with the department**
35 **shall report the following information to the department on**
36 **an annual basis, or any other basis determined appropriate by**
37 **the department:**

38 **(A) The total number and types of residential mortgage**

- 1 **products that were offered by the creditor to Indiana**
2 **customers during the applicable reporting period,**
3 **including any five star mortgages reported under clause**
4 **(C).**
- 5 **(B) The total number of residential mortgages described in**
6 **clause (A) that were closed by the creditor during the**
7 **applicable reporting period, including any five star**
8 **mortgages that were closed during the reporting period, as**
9 **reported under clause (D).**
- 10 **(C) The number of mortgage products that:**
- 11 **(i) qualified as five star mortgages under the program;**
12 **and**
- 13 **(ii) were offered by the creditor to Indiana customers;**
14 **during the applicable reporting period.**
- 15 **(D) The number of five star mortgages offered to Indiana**
16 **customers that were closed by the creditor during the**
17 **applicable reporting period.**
- 18 **(3) A requirement that a creditor that qualifies as a five star**
19 **mortgage lender and files a certification with the department**
20 **shall periodically submit to the department a renewal**
21 **certification, on a form prescribed by the department, in**
22 **conjunction with a report filed under subdivision (2), or at**
23 **such other time as the department determines appropriate. In**
24 **any renewal certification required under this subdivision, a**
25 **creditor must attest that the creditor:**
- 26 **(A) continued to meet the criteria necessary to qualify as**
27 **a five star mortgage lender; and**
- 28 **(B) complied with all program requirements;**
29 **during the applicable reporting period.**
- 30 **(4) Subject to the procedures set forth in IC 4-21.5, the**
31 **imposition of a civil penalty of not more than one thousand**
32 **dollars (\$1,000) per violation for a creditor that:**
- 33 **(A) holds itself out as a five star mortgage lender if:**
- 34 **(i) the creditor has not filed an accurate certification,**
35 **including any required renewal certification, with the**
36 **department under this chapter; or**
- 37 **(ii) the creditor has filed a certification or a renewal**
38 **certification with the department under this chapter and**

- 1 subsequently ceases offering at least one (1) mortgage
2 product that qualifies as a five star mortgage; or
3 **(B) fails to comply with any program requirement.**
- 4 **(5) A fee fixed by the department under IC 28-11-3-5 for each**
5 **certification and recertification submitted by a creditor under**
6 **this chapter. However, any fee fixed by the department under**
7 **this subdivision may not exceed the department's actual costs**
8 **to:**
- 9 **(A) process certifications and renewal certifications;**
10 **(B) publish the list described in subsection (c) on the**
11 **department's Internet web site; and**
12 **(C) otherwise administer the program.**
- 13 **(6) Any other program requirements, criteria, or incentives**
14 **that the department determines necessary to implement and**
15 **evaluate a program to encourage creditors to offer stable**
16 **mortgage products to qualified Indiana customers.**
- 17 **(c) The department shall publish on the department's Internet**
18 **web site a list of all creditors that have a current and accurate:**
- 19 **(1) certification under this chapter; or**
20 **(2) renewal certification under this chapter;**
- 21 **on file with the department. The Indiana housing and community**
22 **development authority and the securities division of the office of**
23 **the secretary of state shall provide a link to the list described in this**
24 **subsection on their respective Internet web sites.**
- 25 **(d) The program guidelines established by the department**
26 **under subsections (a) and (b) must be made available:**
- 27 **(1) for public inspection and copying at the offices of the**
28 **department under IC 5-14-3; and**
29 **(2) on the department's Internet web site.**
- 30 **(e) The department shall investigate any credible complaint**
31 **received by any means alleging that a creditor has committed a**
32 **violation described in subsection (b)(4). If the creditor that is the**
33 **subject of a complaint under this subsection is not subject to**
34 **regulation by the department, the department shall forward the**
35 **complaint to the appropriate federal regulatory agency or to the**

- 1 **office of the attorney general, as appropriate."**
- 2 Delete pages 9 through 11.
- 3 Page 12, delete lines 1 through 24.
(Reference is to HB 1206 as introduced.)

and when so amended that said bill do pass.

Representative Riecken