
HOUSE BILL No. 1216

DIGEST OF INTRODUCED BILL

Citations Affected: IC 23-2-5; IC 23-19.

Synopsis: Loan broker and securities matters. Expands the definition of "loan broker", for purposes of the law governing loan brokers, to include a person who assists in modifying an existing residential mortgage loan. Allows the securities commissioner (commissioner) to bring a court action to enjoin violations of, and enforce compliance with, the law governing loan brokers. Provides that the court in such an action may, among other actions, order an asset freeze or the appointment of a receiver or conservator to take control of a respondent's property. Provides that the commissioner shall require each applicant for initial registration as an investment adviser representative to submit fingerprints for a national criminal history background check by the Federal Bureau of Investigation. Requires the applicant to pay any fees or costs associated with the fingerprints and background check. Allows the commissioner to award up to 10% of the amount recovered by the securities division as a penalty for a violation of the uniform securities act to any person who provided information leading to the imposition of the penalty.

Effective: July 1, 2010.

Burton, Bardon

January 11, 2010, read first time and referred to Committee on Financial Institutions.

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Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

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HOUSE BILL No. 1216



A BILL FOR AN ACT to amend the Indiana Code concerning business and other associations.

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

1 SECTION 1. IC 23-2-5-3, AS AMENDED BY P.L.156-2009,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2010]: Sec. 3. (a) As used in this chapter, "loan broker
4 license" means a license issued by the commissioner authorizing a
5 person to engage in the loan brokerage business.

6 (b) As used in this chapter, "licensee" means a person that is issued
7 a license under this chapter.

8 (c) As used in this chapter, "loan broker" means any person who, in
9 return for any consideration from any source procures, attempts to
10 procure, or assists in procuring a residential mortgage loan from a third
11 party or any other person, **or who assists in modifying an existing
12 residential mortgage loan made by a third party or any other
13 person**, whether or not the person seeking the loan **or the loan
14 modification** actually obtains the loan **or the loan modification**.
15 "Loan broker" does not include **any of the following:**

16 (1) Any supervised financial organization (as defined in
17 IC 24-4.5-1-301(20)), including a bank, savings bank, trust



- 1 company, savings association, or credit union.
- 2 (2) Any other financial institution that is:
 - 3 (A) regulated by any agency of the United States or any state;
 - 4 and
 - 5 (B) regularly actively engaged in the business of making
 - 6 consumer loans that are not secured by real estate or taking
 - 7 assignment of consumer sales contracts that are not secured by
 - 8 real estate.
- 9 (3) Any insurance company.
- 10 (4) Any person arranging financing for the sale of the person's
- 11 product. ~~or~~
- 12 (5) A creditor that is licensed under IC 24-4.4-2-402.
- 13 **(6) With respect to a person who acts only to assist in**
- 14 **modifying an existing residential mortgage loan made by a**
- 15 **third party or any other person, any of the following:**
 - 16 **(A) A nonprofit organization exempt from taxation under**
 - 17 **Section 501(c)(3) of the Internal Revenue Code.**
 - 18 **(B) A consumer reporting agency (as defined in the Federal**
 - 19 **Fair Credit Reporting Act (15 U.S.C. 1681 et seq.)).**
- 20 (d) As used in this chapter, "loan brokerage business" means a
- 21 person acting as a loan broker.
- 22 (e) As used in this chapter, "mortgage loan origination activities"
- 23 means performing any of the following activities for compensation or
- 24 gain in connection with a residential mortgage loan:
 - 25 (1) Receiving or recording a borrower's or potential borrower's
 - 26 residential mortgage loan application information in any form for
 - 27 use in a credit decision by a creditor.
 - 28 (2) Offering to negotiate or negotiating terms of a residential
 - 29 mortgage loan.
- 30 (f) As used in this chapter, "borrower's residential mortgage loan
- 31 application information" means the address of the proposed residential
- 32 real property to be mortgaged and borrower's essential personal and
- 33 financial information necessary for an informed credit decision to be
- 34 made on the borrower's mortgage loan application.
- 35 (g) As used in this chapter, "mortgage loan originator" means an
- 36 individual engaged in mortgage loan origination activities. The term
- 37 does not include a person who:
 - 38 (1) performs purely administrative or clerical tasks on behalf of
 - 39 a mortgage loan originator or acts as a loan processor or
 - 40 underwriter;
 - 41 (2) performs only real estate brokerage activities and is licensed
 - 42 in accordance with IC 25-34.1 or the applicable laws of another

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1 state, unless the person is compensated by a creditor, a loan
2 broker, a mortgage loan originator, or any agent of a creditor, a
3 loan broker, or a mortgage loan originator; or
4 (3) is involved only in extensions of credit relating to time share
5 plans (as defined in 11 U.S.C. 101(53D)).

6 (h) As used in this chapter, "mortgage loan originator license"
7 means a license issued by the commissioner authorizing an individual
8 to act as a mortgage loan originator on behalf of a loan broker licensee.

9 (i) As used in this chapter, "person" means an individual, a
10 partnership, a trust, a corporation, a limited liability company, a limited
11 liability partnership, a sole proprietorship, a joint venture, a joint stock
12 company, or another group or entity, however organized.

13 (j) As used in this chapter, "ultimate equitable owner" means a
14 person who, directly or indirectly, owns or controls ten percent (10%)
15 or more of the equity interest in a loan broker licensed or required to be
16 licensed under this chapter, regardless of whether the person owns or
17 controls the equity interest through one (1) or more other persons or
18 one (1) or more proxies, powers of attorney, or variances.

19 (k) As used in this chapter, "principal manager" means an individual
20 who:

- 21 (1) has at least three (3) years of experience:
 - 22 (A) as a mortgage loan originator; or
 - 23 (B) in financial services;
- 24 that is acceptable to the commissioner; and
- 25 (2) is principally responsible for the supervision and management
26 of the employees and business affairs of a loan broker licensee.

27 (l) As used in this chapter, "principal manager license" means a
28 license issued by the commissioner authorizing an individual to act as:

- 29 (1) a principal manager; and
 - 30 (2) a mortgage loan originator;
- 31 on behalf of a loan broker licensee.

32 (m) As used in this chapter, "bona fide third party fee", with respect
33 to a residential mortgage loan, includes any of the following:

- 34 (1) Fees for real estate appraisals. However, if the residential
35 mortgage loan is governed by Title XI of the Financial Institutions
36 Reform, Recovery, and Enforcement Act (12 U.S.C. 3331 through
37 3352), the fee for an appraisal performed in connection with the
38 loan is not a bona fide third party fee unless the appraisal is
39 performed by a person that is licensed or certified under
40 IC 25-34.1-3-8.
- 41 (2) Fees for title examination, abstract of title, title insurance,
42 property surveys, or similar purposes.

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- 1 (3) Notary and credit report fees.
- 2 (4) Fees for the services provided by a loan broker in procuring
- 3 possible business for a creditor if the fees are paid by the creditor.
- 4 (n) As used in this chapter, "branch office" means any fixed physical
- 5 location from which a loan broker licensee holds itself out as engaging
- 6 in the loan brokerage business.
- 7 (o) As used in this chapter, "loan processor or underwriter" means
- 8 an individual who:
 - 9 (1) is employed by a loan broker licensee and acts at the direction
 - 10 of, and subject to the supervision of, the loan broker licensee or
 - 11 a licensed principal manager employed by the loan broker
 - 12 licensee; and
 - 13 (2) performs solely clerical or support duties on behalf of the loan
 - 14 broker licensee, including any of the following activities with
 - 15 respect to a residential mortgage loan application received by the
 - 16 loan broker licensee:
 - 17 (A) The receipt, collection, distribution, and analysis of
 - 18 information commonly used in the processing or underwriting
 - 19 of a residential mortgage loan.
 - 20 (B) Communicating with a borrower or potential borrower to
 - 21 obtain the information necessary for the processing or
 - 22 underwriting of a residential mortgage loan, to the extent that
 - 23 the communication does not include:
 - 24 (i) offering or negotiating loan rates or terms; or
 - 25 (ii) counseling borrowers or potential borrowers about
 - 26 residential mortgage loan rates or terms.
 - 27 (p) As used in this chapter, "real estate brokerage activity" means
 - 28 any activity that involves offering or providing real estate brokerage
 - 29 services to the public, including any of the following:
 - 30 (1) Acting as a real estate broker or salesperson for a buyer, seller,
 - 31 lessor, or lessee of real property.
 - 32 (2) Bringing together parties interested in the sale, lease, or
 - 33 exchange of real property.
 - 34 (3) Negotiating, on behalf of any party, any part of a contract
 - 35 concerning the sale, lease, or exchange of real property, other than
 - 36 in connection with obtaining or providing financing for the
 - 37 transaction.
 - 38 (4) Engaging in any activity for which the person performing the
 - 39 activity is required to be licensed under IC 25-34.1 or the
 - 40 applicable laws of another state.
 - 41 (5) Offering to engage in any activity, or to act in any capacity
 - 42 with respect to any activity, described in subdivisions (1) through

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- 1 (4).
 2 (q) As used in this chapter, "registered mortgage loan originator"
 3 means a mortgage loan originator who:
 4 (1) is an employee of:
 5 (A) a depository institution;
 6 (B) a subsidiary that is:
 7 (i) owned and controlled by a depository institution; and
 8 (ii) regulated by a federal financial institution regulatory
 9 agency (as defined in 12 U.S.C. 3350(6)); or
 10 (C) an institution regulated by the Farm Credit Administration;
 11 and
 12 (2) is registered with and maintains a unique identifier with the
 13 Nationwide Mortgage Licensing System and Registry.
 14 (r) As used in this chapter, "residential mortgage loan" means a loan
 15 that is secured by a mortgage, deed of trust, or other consensual
 16 security interest on real estate in Indiana on which there is located or
 17 intended to be constructed a dwelling (as defined in the federal Truth
 18 in Lending Act (15 U.S.C. 1602(v)) that is or will be used primarily for
 19 personal, family, or household purposes.
 20 (s) As used in this chapter, "personal information" includes any of
 21 the following:
 22 (1) An individual's first and last names or first initial and last
 23 name.
 24 (2) Any of the following data elements:
 25 (A) A Social Security number.
 26 (B) A driver's license number.
 27 (C) A state identification card number.
 28 (D) A credit card number.
 29 (E) A financial account number or debit card number in
 30 combination with a security code, password, or access code
 31 that would permit access to the person's account.
 32 (3) With respect to an individual, any of the following:
 33 (A) Address.
 34 (B) Telephone number.
 35 (C) Information concerning the individual's:
 36 (i) income or other compensation;
 37 (ii) credit history;
 38 (iii) credit score;
 39 (iv) assets;
 40 (v) liabilities; or
 41 (vi) employment history.
 42 (t) As used in this chapter, personal information is "encrypted" if the

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- 1 personal information:
- 2 (1) has been transformed through the use of an algorithmic
- 3 process into a form in which there is a low probability of
- 4 assigning meaning without use of a confidential process or key;
- 5 or
- 6 (2) is secured by another method that renders the personal
- 7 information unreadable or unusable.
- 8 (u) As used in this chapter, personal information is "redacted" if the
- 9 personal information has been altered or truncated so that not more
- 10 than the last four (4) digits of:
- 11 (1) a Social Security number;
- 12 (2) a driver's license number;
- 13 (3) a state identification number; or
- 14 (4) an account number;
- 15 are accessible as part of the personal information.
- 16 (v) As used in this chapter, "depository institution" has the meaning
- 17 set forth in the Federal Deposit Insurance Act (12 U.S.C. 1813(c)) and
- 18 includes any credit union.
- 19 (w) As used in this chapter, "state licensed mortgage loan
- 20 originator" means any individual who:
- 21 (1) is a mortgage loan originator;
- 22 (2) is not an employee of:
- 23 (A) a depository institution;
- 24 (B) a subsidiary that is:
- 25 (i) owned and controlled by a depository institution; and
- 26 (ii) regulated by a federal financial institution regulatory
- 27 agency (as defined in 12 U.S.C. 3350(6)); or
- 28 (C) an institution regulated by the Farm Credit Administration;
- 29 (3) is licensed by a state or by the Secretary of the United States
- 30 Department of Housing and Urban Development under Section
- 31 1508 of the S.A.F.E. Mortgage Licensing Act of 2008 (Title V of
- 32 P.L.110-289); and
- 33 (4) is registered as a mortgage loan originator with, and maintains
- 34 a unique identifier through, the Nationwide Mortgage Licensing
- 35 System and Registry.
- 36 (x) As used in this chapter, "unique identifier" means a number or
- 37 other identifier that:
- 38 (1) permanently identifies a mortgage loan originator; and
- 39 (2) is assigned by protocols established by the Nationwide
- 40 Mortgage Licensing System and Registry and the federal financial
- 41 institution regulatory agencies to facilitate:
- 42 (A) the electronic tracking of mortgage loan originators; and

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1 (B) the uniform identification of, and public access to, the
2 employment history of and the publicly adjudicated
3 disciplinary and enforcement actions against mortgage loan
4 originators.

5 SECTION 2. IC 23-2-5-11, AS AMENDED BY P.L.156-2009,
6 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2010]: Sec. 11. (a) The commissioner may do the following:

- 8 (1) Adopt rules under IC 4-22-2 to implement this chapter.
- 9 (2) Make investigations and examinations:

10 (A) in connection with any application for licensure under this
11 chapter or with any license already granted; or

12 (B) whenever it appears to the commissioner, upon the basis
13 of a complaint or information, that reasonable grounds exist
14 for the belief that an investigation or examination is necessary
15 or advisable for the more complete protection of the interests
16 of the public.

17 (3) Charge as costs of investigation or examination all reasonable
18 expenses, including a per diem prorated upon the salary of the
19 commissioner or employee and actual traveling and hotel
20 expenses. All reasonable expenses are to be paid by the party or
21 parties under investigation or examination if the party has violated
22 this chapter.

23 (4) Issue notices and orders, including cease and desist notices
24 and orders, after making an investigation or examination under
25 subdivision (2). ~~The commissioner may also bring an action on~~
26 ~~behalf of the state to enjoin a person from violating this chapter.~~
27 The commissioner shall notify the person that an order or notice
28 has been issued, the reasons for it, and that a hearing will be set
29 not later than fifteen (15) business days after the commissioner
30 receives a written request from the person requesting a hearing if
31 the original order issued by the commissioner was a summary
32 suspension, summary revocation, or denial of a license and not
33 later than forty-five (45) business days after the commissioner
34 receives a written request from the person requesting a hearing for
35 all other orders.

36 (5) Sign all orders, official certifications, documents, or papers
37 issued under this chapter or delegate the authority to sign any of
38 those items to a deputy.

39 (6) Hold and conduct hearings.

40 (7) Hear evidence.

41 (8) Conduct inquiries with or without hearings.

42 (9) Receive reports of investigators or other officers or employees

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of the state of Indiana or of any municipal corporation or governmental subdivision within the state.

(10) Administer oaths, or cause them to be administered.

(11) Subpoena witnesses, and compel them to attend and testify.

(12) Compel the production of books, records, and other documents.

(13) Order depositions to be taken of any witness residing within or without the state. The depositions shall be taken in the manner prescribed by law for depositions in civil actions and made returnable to the commissioner.

(14) Order that each witness appearing under the commissioner's order to testify before the commissioner shall receive the fees and mileage allowances provided for witnesses in civil cases.

(15) Provide interpretive opinions or issue determinations that the commissioner will not institute a proceeding or an action under this chapter against a specified person for engaging in a specified act, practice, or course of business if the determination is consistent with this chapter. The commissioner may adopt rules to establish fees for individuals requesting an interpretive opinion or a determination under this subdivision. A person may not request an interpretive opinion or a determination concerning an activity that:

- (A) occurred before; or
- (B) is occurring on;

the date the opinion or determination is requested.

(16) Subject to subsection (f), designate a multistate automated licensing system and repository, established and operated by a third party, to serve as the sole entity responsible for:

- (A) processing applications for:
 - (i) licenses under this chapter; and
 - (ii) renewals of licenses under this chapter; and
- (B) performing other services that the commissioner determines are necessary for the orderly administration of the division's licensing system.

A multistate automated licensing system and repository described in this subdivision may include the Nationwide Mortgage Licensing System and Registry established by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators. The commissioner may take any action necessary to allow the division to participate in a multistate automated licensing system and repository.

(b) If a witness, in any hearing, inquiry, or investigation conducted

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1 under this chapter, refuses to answer any question or produce any item,
 2 the commissioner may file a written petition with the circuit or superior
 3 court in the county where the hearing, investigation, or inquiry in
 4 question is being conducted requesting a hearing on the refusal. The
 5 court shall hold a hearing to determine if the witness may refuse to
 6 answer the question or produce the item. If the court determines that
 7 the witness, based upon the witness's privilege against
 8 self-incrimination, may properly refuse to answer or produce an item,
 9 the commissioner may make a written request that the court grant use
 10 immunity to the witness. Upon written request of the commissioner, the
 11 court shall grant use immunity to a witness. The court shall instruct the
 12 witness, by written order or in open court, that:

- 13 (1) any evidence the witness gives, or evidence derived from that
 14 evidence, may not be used in any criminal proceedings against
 15 that witness, unless the evidence is volunteered by the witness or
 16 is not responsive to a question; and
 17 (2) the witness must answer the questions asked and produce the
 18 items requested.

19 A grant of use immunity does not prohibit evidence that the witness
 20 gives in a hearing, investigation, or inquiry from being used in a
 21 prosecution for perjury under IC 35-44-2-1. If a witness refuses to give
 22 the evidence after the witness has been granted use immunity, the court
 23 may find the witness in contempt.

24 (c) In any prosecution, action, suit, or proceeding based upon or
 25 arising out of this chapter, the commissioner may sign a certificate
 26 showing compliance or noncompliance with this chapter by any person.
 27 This shall constitute prima facie evidence of compliance or
 28 noncompliance with this chapter and shall be admissible in evidence
 29 in any action at law or in equity to enforce this chapter.

30 (d) If:

- 31 (1) a person disobeys any lawful:
 32 (A) subpoena issued under this chapter; or
 33 (B) order or demand requiring the production of any books,
 34 accounts, papers, records, documents, or other evidence or
 35 information as provided in this chapter; or
 36 (2) a witness refuses to:
 37 (A) appear when subpoenaed;
 38 (B) testify to any matter about which the witness may be
 39 lawfully interrogated; or
 40 (C) take or subscribe to any oath required by this chapter;

41 the circuit or superior court of the county in which the hearing, inquiry,
 42 or investigation in question is held, if demand is made or if, upon

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1 written petition, the production is ordered to be made, or the
2 commissioner or a hearing officer appointed by the commissioner, shall
3 compel compliance with the lawful requirements of the subpoena,
4 order, or demand, compel the production of the necessary or required
5 books, papers, records, documents, and other evidence and
6 information, and compel any witness to attend in any Indiana county
7 and to testify to any matter about which the witness may lawfully be
8 interrogated, and to take or subscribe to any oath required.

9 (e) If a person fails, refuses, or neglects to comply with a court order
10 under this section, the person shall be punished for contempt of court.

11 (f) The commissioner's authority to designate a multistate automated
12 licensing system and repository under subsection (a)(16) is subject to
13 the following:

14 (1) The commissioner may not require any person that is not
15 required to be licensed under this chapter, or any employee or
16 agent of a person that is not required to be licensed under this
17 chapter, to:

18 (A) submit information to; or

19 (B) participate in;

20 the multistate automated licensing system and repository.

21 (2) The commissioner may require a person required under this
22 chapter to submit information to the multistate automated
23 licensing system and repository to pay a processing fee considered
24 reasonable by the commissioner.

25 SECTION 3. IC 23-2-5-11.5 IS ADDED TO THE INDIANA CODE
26 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
27 1, 2010]: **Sec. 11.5. (a) If the commissioner believes that a person
28 has engaged, is engaging, or is about to engage in an act, practice,
29 or course of business constituting a violation of this chapter or a
30 rule adopted or order issued under this chapter or that a person
31 has, is, or is about to engage in an act, practice, or course of
32 business that materially aids a violation of this chapter or a rule
33 adopted or order issued under this chapter, the commissioner may
34 maintain an action in the circuit or superior court in the county
35 where the investigation or inquiry in question is being conducted
36 to enjoin the act, practice, or course of business and to enforce
37 compliance with this chapter or a rule adopted or order issued
38 under this chapter.**

39 (b) In an action under this section and on a proper showing, the
40 court may:

41 (1) issue a permanent or temporary injunction, restraining
42 order, or declaratory judgment;

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(2) order other appropriate or ancillary relief, which may include:

(A) an asset freeze, accounting, writ of attachment, writ of general or specific execution, and appointment of a receiver or conservator;

(B) ordering a receiver or conservator appointed under clause (A) to:

(i) take charge and control of a respondent's property, including investment accounts and accounts in a depository institution, rents, and profits;

(ii) collect debts; and

(iii) acquire and dispose of property;

(C) imposing a civil penalty up to ten thousand dollars (\$10,000) per violation and an order of rescission, restitution, or disgorgement directed to a person that has engaged in an act, practice, or course of business constituting a violation of this chapter or a rule adopted or order issued under this chapter; and

(D) ordering the payment of prejudgment and postjudgment interest; or

(3) order such other relief as the court considers appropriate.

(c) The commissioner may not be required to post a bond in an action or proceeding under this chapter.

(d) Penalties collected under this section shall be deposited in the securities division enforcement account created under IC 23-19-6-1(f).

SECTION 4. IC 23-2-5-20, AS AMENDED BY P.L.156-2009, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 20. (a) A person shall not, in connection with a contract for the services of a loan broker, either directly or indirectly, do any of the following:

(1) Employ any device, scheme, or artifice to defraud.

(2) Make any untrue statements of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of circumstances under which they are made, not misleading.

(3) Engage in any act, practice, or course of business that operates or would operate as a fraud or deceit upon any person.

(4) Collect or solicit any consideration, except a bona fide third party fee, in connection with a **residential mortgage** loan until:

(A) the loan has been closed; or

(B) if the person assists in modifying an existing residential

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**mortgage loan made by a third party or any other person,
the loan is modified.**

(5) Receive any funds if the person knows that the funds were generated as a result of a fraudulent act.

(6) File or cause to be filed with a county recorder any document that the person knows:

(A) contains:

- (i) a misstatement; or
- (ii) an untrue statement;

of a material fact; or

(B) omits a statement of a material fact that is necessary to make the statements that are made, in the light of circumstances under which they are made, not misleading.

(7) Knowingly release or disclose the unencrypted, unredacted personal information of one (1) or more borrowers or prospective borrowers, unless the personal information is used in an activity authorized by the borrower or prospective borrower under one (1) or more of the following circumstances:

(A) The personal information is:

- (i) included on an application form or another form; or
- (ii) transmitted as part of an application process or an enrollment process.

(B) The personal information is used to obtain a consumer report (as defined in IC 24-5-24-2) for an applicant for credit.

(C) The personal information is used to establish, amend, or terminate an account, a contract, or a policy, or to confirm the accuracy of the personal information.

However, personal information allowed to be disclosed under this subdivision may not be printed in whole or in part on a postcard or other mailer that does not require an envelope, or in a manner that makes the personal information visible on an envelope or a mailer without the envelope or mailer being opened.

(8) Engage in any reckless or negligent activity allowing the release or disclosure of the unencrypted, unredacted personal information of one (1) or more borrowers or prospective borrowers. An activity described in this subdivision includes an action prohibited by section 18(d) of this chapter.

(9) Knowingly bribe, coerce, or intimidate another person to corrupt or improperly influence the independent judgment of a real estate appraiser with respect to the value of any real estate offered as security for a residential mortgage loan, as prohibited by section 9.1(d) of this chapter.

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- 1 (10) Violate any of the following:
- 2 (A) The federal Truth in Lending Act (15 U.S.C. 1601 et seq.).
- 3 (B) The federal Real Estate Settlement Procedures Act (12
- 4 U.S.C. 2601 et seq.), as amended.
- 5 (C) The federal Equal Credit Opportunity Act (15 U.S.C. 1691
- 6 et seq.).
- 7 (D) Any other federal law or regulation concerning residential
- 8 mortgage lending.

9 (b) A person who commits an act described in subsection (a) is
 10 subject to sections 10, **11.5**, 14, 15, and 16 of this chapter.

11 SECTION 5. IC 23-19-4-6, AS ADDED BY P.L.27-2007,
 12 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2010]: Sec. 6. (a) A person shall register as a broker-dealer,
 14 agent, investment adviser, or investment adviser representative by
 15 filing an application and a consent to service of process complying with
 16 IC 23-19-6-11, and paying the fee specified in section 10 of this
 17 chapter and any reasonable fees charged by the designee of the
 18 commissioner for processing the filing. The application must contain:

- 19 (1) the information or record required for the filing of a uniform
- 20 application; and
- 21 (2) upon request by the commissioner, any other financial or other
- 22 information or record that the commissioner determines is
- 23 appropriate.

24 (b) If the information or record contained in an application filed
 25 under subsection (a) is or becomes inaccurate or incomplete in a
 26 material respect, the registrant shall promptly file a correcting
 27 amendment.

28 **(c) At the time of application for an initial registration as an**
 29 **investment adviser representative under this article, the**
 30 **commissioner shall require each applicant to submit fingerprints**
 31 **for a national criminal history background check (as defined in**
 32 **IC 10-13-3-12) by the Federal Bureau of Investigation, for use by**
 33 **the commissioner in determining whether the applicant should be**
 34 **denied registration under this chapter for any reason set forth in**
 35 **section 12(d) of this chapter. The applicant shall pay any fees or**
 36 **costs associated with the fingerprints and background check**
 37 **required under this subsection.**

38 ~~(c)~~ **(d)** If an order is not in effect and a proceeding is not pending
 39 under section 12 of this chapter, registration becomes effective at noon
 40 on the forty-fifth day after a completed application is filed, unless the
 41 registration is denied. A rule adopted or order issued under this article
 42 may set an earlier effective date or may defer the effective date until

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1 noon on the forty-fifth day after the filing of any amendment
2 completing the application.

3 ~~(d)~~ (e) A registration is effective until midnight on December 31 of
4 the year for which the application for registration is filed. Unless an
5 order is in effect under section 12 of this chapter, a registration may be
6 automatically renewed each year by filing such records as are required
7 by rule adopted or order issued under this article, by paying the fee
8 specified in section 10 of this chapter, and by paying costs charged by
9 the designee of the commissioner for processing the filings.

10 ~~(e)~~ (f) A rule adopted or order issued under this article may impose
11 other conditions, not inconsistent with the National Securities Markets
12 Improvement Act of 1996. An order issued under this article may
13 waive, in whole or in part, specific requirements in connection with
14 registration as are in the public interest and for the protection of
15 investors.

16 SECTION 6. IC 23-19-6-12 IS ADDED TO THE INDIANA CODE
17 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
18 1, 2010]: **Sec. 12. The commissioner may award, from any amount
19 imposed as a penalty under this article and recovered by the
20 securities division, a percentage, not to exceed ten percent (10%)
21 and as considered appropriate by the commissioner, of the amount
22 recovered, to any person who provided information leading to the
23 imposition of the penalty. Any determination under this section,
24 including whether, to whom, or in what amount to make a
25 payment, is in the sole discretion of the commissioner. However, a
26 payment may not be made under this section to an employee of the
27 securities division. A determination under this section is final and
28 is not subject to judicial review.**

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