

## CONFERENCE COMMITTEE REPORT DIGEST FOR EHB 1332

**Citations Affected:** IC 4-2-6-15; IC 4-13-16.5; IC 23-2-5; IC 23-19; IC 23-20; IC 24-5-15; IC 24-5.5-6-1; IC 24-9; IC 25-34.1.

**Synopsis:** Credit services; real estate transactions; securities; business enterprises. Conference committee report for EHB 1332. Provides that a state officer may not use the state officer's name or likeness in certain communications paid for entirely or in part with: (1) money from the securities division enforcement account; or (2) appropriations from the state general fund made for the administration of the uniform securities act. Expands the duties of the governor's commission on minority and women's business enterprises (commission) to include setting goals for all contracts awarded by a recipient of state grant funds that: (1) involve the use of real property of a city, town, county, township, or school corporation (unit); and (2) will be paid for in whole or in part with state grant funds. Requires the department of administration to direct contractors to demonstrate a good faith effort to meet participation goals. Requires the commission to work with the department of administration to develop a statement for grantees stating the importance of the use of minority and women's business enterprises. 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. Amends the definition of "credit services organization" for purposes of the law governing such entities to include a person that does or offers to do any of the following on behalf of a buyer: (1) Obtain a lower interest rate with respect to a consumer loan or a residential mortgage loan. (2) Provide debt settlement services. Provides that a "credit service organization" does not include: (A) a loan servicer acting on behalf of the holder of a consumer loan or a residential mortgage loan; or (B) a debt management company. Amends the law concerning the disclosures that a credit services organization must provide to a buyer to reflect changes in the federal Fair Credit Reporting Act concerning the circumstances under which a consumer is entitled to a consume0r report without

charge from a consumer reporting agency. Provides that before a credit services organization may do business in Indiana, it must file a copy of the required surety bond or irrevocable letter of credit with the attorney general. Prohibits a person from maintaining an escrow account used to pay real estate taxes and insurance for residential real estate unless the person is: (1) a specified financial institution; (2) the creditor in a mortgage transaction; (3) a mortgage servicer acting on behalf of the creditor in a mortgage transaction; or (4) a closing agent. Provides that in a real estate transaction involving a land contract between the seller and the buyer, the seller must give to the buyer, at certain specified times, written notice of any encumbrance that affects the title to the real estate. Provides that upon the suspension of a principal broker's license, the real estate commission shall take custody of each trust account maintained by the principal broker on behalf of others. (Current law requires the real estate commission to take custody of a principal broker's trust accounts upon only the expiration or revocation of the broker's license.) Removes an incorrect cross-reference in the statute concerning real estate brokers and salespersons. Corrects an incorrect cross-reference in the home loan practices act. Provides that a person that knowingly or intentionally violates the statute concerning mortgage rescue fraud commits a Class A misdemeanor. Establishes the securities restitution fund to provide restitution assistance to victims and certain family members of victims for monetary injuries from securities violations. Provides that the fund consists of amounts: (1) from certain funds received for deposit in the securities division enforcement account; and (2) appropriations from the general assembly. Establishes requirements for and limitations on awarding restitution assistance to victims of securities violations. Requires five percent of funds received after June 30, 2010, for deposit in the securities division enforcement account to be deposited into the securities restitution fund. Continually appropriates money from the securities restitution fund to the division for the purposes of: (1) awarding restitution assistance; and (2) paying certain administrative expenses. Transfers \$2,000,000 from the securities division enforcement account to the securities restitution fund on July 1, 2010. Makes it a Class C felony for a person to make or cause to be made: (1) in any document filed with the securities commissioner or securities division; or (2) in any proceeding, investigation, or examination; under the provisions concerning restitution assistance for victims of securities violations any statement that is, at the time and in the light of the circumstances under which it is made, false or misleading in any material respect. Requires the securities division to pay from the loan broker regulation account a qualifying claim that is submitted by the office of the attorney general before July 1, 2010; and that includes a court order awarding restitution to individuals who suffered monetary injury as a result of a violation of the deceptive consumer sales act that: (1) involved the maintenance of accounts for the receipt of funds for the payment of real estate taxes and insurance periodically owed in connection with real estate; and (2) occurred before July 1, 2010. Provides that the total amount paid from the loan broker regulation account to all individuals identified in the qualifying claim may not exceed \$150,000. **(This conference committee report: (1) Adds to a provision concerning communications by state officers enacted in HEA 1001 a prohibition against a state officer using the state officer's name or likeness in certain communications paid for entirely or in part with: (A) money from the securities division enforcement account; or (B) appropriations from the state general fund made for the administration of the uniform securities act. (2) Adds language from HB 1014 (as reprinted January 12, 2010) concerning the use of minority and women's business enterprises. (3) Specifies that a nonresident of Indiana is eligible for assistance from the securities restitution fund if the jurisdiction in which the person resides offers to Indiana residents who are victims of securities violations in that jurisdiction assistance that is substantially similar to the assistance offered under the provisions concerning the securities restitution fund. (4) Removes a provision that prohibits the securities division from awarding restitution assistance from the securities restitution fund to a person who had a net worth greater than \$500,000 at the time of suffering monetary injury from a securities violation. (5) Adds provisions requiring the securities division to pay from the loan broker regulation account a qualifying claim that is submitted by the office of the attorney general before July 1, 2010; and that includes a court order awarding restitution to individuals who suffered monetary injury as a result of a violation of the deceptive consumer sales act that: (A) involved the maintenance of accounts for the receipt of funds for the payment of real estate taxes and insurance**

**periodically owed in connection with real estate; and (B) occurred before July 1, 2010.)**

**Effective:** Upon passage; July 1, 2010.

## CONFERENCE COMMITTEE REPORT

**MADAM PRESIDENT:**

*Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill No. 1332 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 4-2-6-15, AS ADDED BY HEA 1001-2010,
- 3 SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 UPON PASSAGE]: Sec. 15. (a) This section does not apply to the
- 5 following:
- 6 (1) A communication made by the governor concerning the public
- 7 health or safety.
- 8 (2) A communication:
- 9 (A) that a compelling public policy reason justifies the state
- 10 officer to make; and
- 11 (B) the expenditure for which is approved by the budget
- 12 agency after an advisory recommendation from the budget
- 13 committee.
- 14 (b) This section does not prohibit a state officer from using in a
- 15 communication the title of the office the state officer holds.
- 16 (c) As used in this section, "communication" refers only to the
- 17 following:
- 18 (1) An audio communication.
- 19 (2) A video communication.
- 20 (3) A print communication in a newspaper (as defined in
- 21 IC 5-3-1-0.4).
- 22 (d) A state officer may not use the state officer's name or likeness in

1 a communication paid for entirely or in part with appropriations made  
2 by the general assembly, regardless of the source of the money.

3 **(e) A state officer may not use the state officer's name or**  
4 **likeness in a communication paid for entirely or in part with:**

5 **(1) money from the securities division enforcement account**  
6 **established under IC 23-19-6-1(f); or**

7 **(2) appropriations from the state general fund made under**  
8 **IC 23-19-6-1(f).**

9 SECTION 2. IC 4-13-16.5-1, AS AMENDED BY P.L.1-2009,  
10 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
11 JULY 1, 2010]: Sec. 1. (a) The definitions in this section apply  
12 throughout this chapter.

13 (b) "Commission" refers to the governor's commission on minority  
14 and women's business enterprises established under section 2 of this  
15 chapter.

16 (c) "Commissioner" refers to the deputy commissioner for minority  
17 and women's business enterprises of the department.

18 (d) "Contract" means any contract awarded by a state agency **or, as**  
19 **set forth in section 2(f)(11) of this chapter, awarded by a recipient**  
20 **of state grant funds**, for construction projects or the procurement of  
21 goods or services, including professional services. For purposes of this  
22 subsection, "goods or services" may not include the following when  
23 determining the total value of contracts for state agencies:

24 (1) Utilities.

25 (2) Health care services (as defined in IC 27-8-11-1(c)).

26 (3) Rent paid for real property or payments constituting the price  
27 of an interest in real property as a result of a real estate  
28 transaction.

29 **(e) "Contractor" means a person or entity that:**

30 **(1) contracts with a state agency; or**

31 **(2) as set forth in section 2(f)(11) of this chapter:**

32 **(A) is a recipient of state grant funds; and**

33 **(B) enters into a contract:**

34 **(i) with a person or entity other than a state agency; and**

35 **(ii) that is paid for in whole or in part with the state**  
36 **grant funds.**

37 ~~(f)~~ **(f)** "Department" refers to the Indiana department of  
38 administration established by IC 4-13-1-2.

39 ~~(g)~~ **(g)** "Minority business enterprise" or "minority business" means  
40 an individual, partnership, corporation, limited liability company, or  
41 joint venture of any kind that is owned and controlled by one (1) or  
42 more persons who are:

43 (1) United States citizens; and

44 (2) members of a minority group or a qualified minority nonprofit  
45 corporation.

46 ~~(g)~~ **(h)** "Qualified minority or women's nonprofit corporation"  
47 means a corporation that:

48 (1) is exempt from federal income taxation under Section  
49 501(c)(3) of the Internal Revenue Code;

50 (2) is headquartered in Indiana;

51 (3) has been in continuous existence for at least five (5) years;

- 1 (4) has a board of directors that has been in compliance with all  
 2 other requirements of this chapter for at least five (5) years;  
 3 (5) is chartered for the benefit of the minority community or  
 4 women; and  
 5 (6) provides a service that will not impede competition among  
 6 minority business enterprises or women's business enterprises at  
 7 the time a nonprofit applies for certification as a minority  
 8 business enterprise or a women's business enterprise.

9 ~~(h)~~ **(i)** "Owned and controlled" means:

- 10 (1) if the business is a qualified minority nonprofit corporation, a  
 11 majority of the board of directors are minority;  
 12 (2) if the business is a qualified women's nonprofit corporation,  
 13 a majority of the members of the board of directors are women; or  
 14 (3) if the business is a business other than a qualified minority or  
 15 women's nonprofit corporation, having:  
 16 (A) ownership of at least fifty-one percent (51%) of the  
 17 enterprise, including corporate stock of a corporation;  
 18 (B) control over the management and active in the day-to-day  
 19 operations of the business; and  
 20 (C) an interest in the capital, assets, and profits and losses of  
 21 the business proportionate to the percentage of ownership.

22 ~~(i)~~ **(j)** "Minority group" means:

- 23 (1) Blacks;  
 24 (2) American Indians;  
 25 (3) Hispanics; and  
 26 (4) Asian Americans.

27 ~~(j)~~ **(k)** "Separate body corporate and politic" refers to an entity  
 28 established by the general assembly as a body corporate and politic.

29 ~~(k)~~ **(l)** "State agency" refers to any authority, board, branch,  
 30 commission, committee, department, division, or other instrumentality  
 31 of the executive, including the administrative, department of state  
 32 government.

33 SECTION 3. IC 4-13-16.5-1.3, AS AMENDED BY P.L.228-2007,  
 34 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 35 JULY 1, 2010]: Sec. 1.3. As used in this chapter, "women's business  
 36 enterprise" means a business that is one (1) of the following:

- 37 (1) A sole proprietorship owned and controlled by a woman.  
 38 (2) A partnership or joint venture owned and controlled by  
 39 women in which:  
 40 (A) at least fifty-one percent (51%) of the ownership is held by  
 41 women; and  
 42 (B) the management and daily business operations are  
 43 controlled by at least one (1) of the women who owns the  
 44 business.  
 45 (3) A corporation or other entity:  
 46 (A) whose management and daily business operations are  
 47 controlled by at least one (1) of the women who owns the  
 48 business; and  
 49 (B) that is at least fifty-one percent (51%) owned by women,  
 50 or if stock is issued, at least fifty-one percent (51%) of the  
 51 stock is owned by at least one (1) of the women.

1 (4) A qualified women's nonprofit corporation as defined in  
 2 ~~IC 4-13-16.5-1(g)~~ and ~~IC 4-13-16.5-1(h)~~ **section 1(h) of this**  
 3 **chapter.**

4 SECTION 4. IC 4-13-16.5-2, AS AMENDED BY P.L.87-2008,  
 5 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 6 JULY 1, 2010]: Sec. 2. (a) There is established a governor's  
 7 commission on minority and women's business enterprises. The  
 8 commission shall consist of the following members:

9 (1) A governor's designee, who shall serve as chairman of the  
 10 commission.

11 (2) The commissioner of the Indiana department of transportation,  
 12 or the economic opportunity director of the Indiana department of  
 13 transportation if the commissioner of the Indiana department of  
 14 transportation so designates.

15 (3) The chairperson of the board of the Indiana economic  
 16 development corporation or the chairperson's designee.

17 (4) The commissioner of the department.

18 (5) Nine (9) individuals with demonstrated capabilities in  
 19 business and industry, especially minority and women's business  
 20 enterprises, appointed by the governor from the following  
 21 geographical areas of the state:

22 (A) Three (3) from the northern one-third (1/3) of the state.

23 (B) Three (3) from the central one-third (1/3) of the state.

24 (C) Three (3) from the southern one-third (1/3) of the state.

25 (6) Two (2) members of the house of representatives, no more  
 26 than one (1) from the same political party, appointed by the  
 27 speaker of the house of representatives to serve in a nonvoting  
 28 advisory capacity.

29 (7) Two (2) members of the senate, no more than one (1) from the  
 30 same political party, appointed by the president pro tempore of  
 31 the senate to serve in a nonvoting advisory capacity.

32 Not more than six (6) of the ten (10) members appointed or designated  
 33 by the governor may be of the same political party. Appointed members  
 34 of the commission shall serve four (4) year terms. A vacancy occurs if  
 35 a legislative member leaves office for any reason. Any vacancy on the  
 36 commission shall be filled in the same manner as the original  
 37 appointment.

38 (b) Each member of the commission who is not a state employee is  
 39 entitled to the following:

40 (1) The minimum salary per diem provided by IC 4-10-11-2.1(b).

41 (2) Reimbursement for traveling expenses and other expenses  
 42 actually incurred in connection with the member's duties as  
 43 provided under IC 4-13-1-4 and in the state travel policies and  
 44 procedures established by the Indiana department of  
 45 administration and approved by the budget agency.

46 (c) Each legislative member of the commission is entitled to receive  
 47 the same per diem, mileage, and travel allowances established by the  
 48 legislative council and paid to members of the general assembly  
 49 serving on interim study committees. The allowances specified in this  
 50 subsection shall be paid by the legislative services agency from the  
 51 amounts appropriated for that purpose.

1 (d) A member of the commission who is a state employee but who  
2 is not a member of the general assembly is not entitled to any of the  
3 following:

- 4 (1) The minimum salary per diem provided by IC 4-10-11-2.1(b).
- 5 (2) Reimbursement for traveling expenses as provided under  
6 IC 4-13-1-4.
- 7 (3) Other expenses actually incurred in connection with the  
8 member's duties.

9 (e) The commission shall meet at least four (4) times each year and  
10 at other times as the chairman considers necessary.

11 (f) The duties of the commission shall include but not be limited to  
12 the following:

- 13 (1) Identify minority and women's business enterprises in the  
14 state.
- 15 (2) Assess the needs of minority and women's business  
16 enterprises.
- 17 (3) Initiate aggressive programs to assist minority and women's  
18 business enterprises in obtaining state contracts.
- 19 (4) Give special publicity to procurement, bidding, and qualifying  
20 procedures.
- 21 (5) Include minority and women's business enterprises on  
22 solicitation mailing lists.
- 23 (6) Evaluate the competitive differences between qualified  
24 minority or women's nonprofit corporations and other than  
25 qualified minority or women's nonprofit corporations that offer  
26 similar services and make recommendation to the department on  
27 policy changes necessary to ensure fair competition among  
28 minority and women's business enterprises.
- 29 (7) Define the duties, goals, and objectives of the deputy  
30 commissioner of the department as created under this chapter to  
31 assure compliance by all state agencies, separate bodies corporate  
32 and politic, and state educational institutions with state and  
33 federal legislation and policy concerning the awarding of  
34 contracts (including, notwithstanding section 1(d) of this chapter  
35 or any other law, contracts of state educational institutions) to  
36 minority and women's business enterprises.
- 37 (8) Establish annual goals:
  - 38 (A) for the use of minority and women's business enterprises;  
39 and
  - 40 (B) derived from a statistical analysis of utilization study of  
41 state contracts (including, notwithstanding section 1(d) of this  
42 chapter or any other law, contracts of state educational  
43 institutions) that are required to be updated every five (5)  
44 years.
- 45 (9) Prepare a review of the commission and the various affected  
46 departments of government to be submitted to the governor and  
47 the legislative council on March 1 and October 1 of each year,  
48 evaluating progress made in the areas defined in this subsection.
- 49 (10) Ensure that the statistical analysis required under this  
50 section:
  - 51 (A) is based on goals for participation of minority business

- 1 enterprises established in *Richmond v. Croson*, 488 U.S. 469  
 2 (1989);  
 3 (B) includes information on both contracts and subcontracts  
 4 (including, notwithstanding section 1(d) of this chapter or any  
 5 other law, contracts and subcontracts of state educational  
 6 institutions); and  
 7 (C) uses data on the combined capacity of minority and  
 8 women's businesses enterprises in Indiana and not just  
 9 regional data.

10 **(11) Establish annual goals for the use of minority and**  
 11 **women's business enterprises for any contract that:**

12 **(A) will be paid for in whole or in part with state grant**  
 13 **funds; and**

14 **(B) involves the use of real property of a unit (as defined in**  
 15 **IC 4-4-32.2-9).**

16 **(g) The department shall direct contractors to demonstrate a**  
 17 **good faith effort to meet the annual participation goals established**  
 18 **under subsection (f)(11). The good faith effort shall be**  
 19 **demonstrated by contractors using the repository of certified firms**  
 20 **created under section 3 of this chapter or a similar repository**  
 21 **maintained by a unit (as defined in IC 4-4-32.2-9).**

22 ~~(g)~~ **(h)** The department shall adopt rules of ethics under IC 4-22-2  
 23 for commission members other than commission members appointed  
 24 under subsection (a)(6) or (a)(7).

25 ~~(h)~~ **(i)** The department shall furnish administrative support and staff  
 26 as is necessary for the effective operation of the commission.

27 **(j) The commission shall advise the department on developing**  
 28 **a statement, to be included in all applications for and agreements**  
 29 **governing grants made with state funds, stating the importance of**  
 30 **the use of minority and women's business enterprises in fulfilling**  
 31 **the purposes of the grant.**

32 SECTION 5. IC 4-13-16.5-3, AS AMENDED BY P.L.228-2007,  
 33 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 34 JULY 1, 2010]: Sec. 3. (a) There is created in the department a deputy  
 35 commissioner for minority and women's business enterprise  
 36 development. Upon consultation with the commission, the  
 37 commissioner of the department, with the approval of the governor,  
 38 shall appoint an individual who possesses demonstrated capability in  
 39 business or industry, especially in minority or women's business  
 40 enterprises, to serve as deputy commissioner to work with the  
 41 commission in the implementation of this chapter.

42 (b) The deputy commissioner shall do the following:

43 (1) Identify and certify minority and women's business enterprises  
 44 for state projects.

45 (2) Establish a central certification file.

46 (3) Periodically update the certification status of each minority or  
 47 women's business enterprise.

48 (4) Monitor the progress in achieving the goals established under  
 49 section 2(f)(8) **and 2(f)(11)** of this chapter.

50 (5) Require all state agencies, separate bodies corporate and  
 51 politic, and state educational institutions to report on planned and

- 1 actual participation of minority and women's business enterprises  
 2 in contracts awarded by state agencies. The commissioner may  
 3 exclude from the reports uncertified minority and women's  
 4 business enterprises.
- 5 (6) Determine and define opportunities for minority and women's  
 6 business participation in contracts awarded by all state agencies,  
 7 separate bodies corporate and politic, and state educational  
 8 institutions.
- 9 (7) Implement programs initiated by the commission under  
 10 section 2 of this chapter.
- 11 (8) Perform other duties as defined by the commission or by the  
 12 commissioner of the department.
- 13 SECTION 6. IC 23-2-5-11, AS AMENDED BY P.L.156-2009,  
 14 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 15 JULY 1, 2010]: Sec. 11. (a) The commissioner may do the following:
- 16 (1) Adopt rules under IC 4-22-2 to implement this chapter.
- 17 (2) Make investigations and examinations:
- 18 (A) in connection with any application for licensure under this  
 19 chapter or with any license already granted; or  
 20 (B) whenever it appears to the commissioner, upon the basis  
 21 of a complaint or information, that reasonable grounds exist  
 22 for the belief that an investigation or examination is necessary  
 23 or advisable for the more complete protection of the interests  
 24 of the public.
- 25 (3) Charge as costs of investigation or examination all reasonable  
 26 expenses, including a per diem prorated upon the salary of the  
 27 commissioner or employee and actual traveling and hotel  
 28 expenses. All reasonable expenses are to be paid by the party or  
 29 parties under investigation or examination if the party has violated  
 30 this chapter.
- 31 (4) Issue notices and orders, including cease and desist notices  
 32 and orders, after making an investigation or examination under  
 33 subdivision (2). ~~The commissioner may also bring an action on~~  
 34 ~~behalf of the state to enjoin a person from violating this chapter.~~  
 35 The commissioner shall notify the person that an order or notice  
 36 has been issued, the reasons for it, and that a hearing will be set  
 37 not later than fifteen (15) business days after the commissioner  
 38 receives a written request from the person requesting a hearing if  
 39 the original order issued by the commissioner was a summary  
 40 suspension, summary revocation, or denial of a license and not  
 41 later than forty-five (45) business days after the commissioner  
 42 receives a written request from the person requesting a hearing for  
 43 all other orders.
- 44 (5) Sign all orders, official certifications, documents, or papers  
 45 issued under this chapter or delegate the authority to sign any of  
 46 those items to a deputy.
- 47 (6) Hold and conduct hearings.
- 48 (7) Hear evidence.
- 49 (8) Conduct inquiries with or without hearings.
- 50 (9) Receive reports of investigators or other officers or employees  
 51 of the state of Indiana or of any municipal corporation or

- 1 governmental subdivision within the state.
- 2 (10) Administer oaths, or cause them to be administered.
- 3 (11) Subpoena witnesses, and compel them to attend and testify.
- 4 (12) Compel the production of books, records, and other  
5 documents.
- 6 (13) Order depositions to be taken of any witness residing within  
7 or without the state. The depositions shall be taken in the manner  
8 prescribed by law for depositions in civil actions and made  
9 returnable to the commissioner.
- 10 (14) Order that each witness appearing under the commissioner's  
11 order to testify before the commissioner shall receive the fees and  
12 mileage allowances provided for witnesses in civil cases.
- 13 (15) Provide interpretive opinions or issue determinations that the  
14 commissioner will not institute a proceeding or an action under  
15 this chapter against a specified person for engaging in a specified  
16 act, practice, or course of business if the determination is  
17 consistent with this chapter. The commissioner may adopt rules  
18 to establish fees for individuals requesting an interpretive opinion  
19 or a determination under this subdivision. A person may not  
20 request an interpretive opinion or a determination concerning an  
21 activity that:
- 22 (A) occurred before; or
- 23 (B) is occurring on;  
24 the date the opinion or determination is requested.
- 25 (16) Subject to subsection (f), designate a multistate automated  
26 licensing system and repository, established and operated by a  
27 third party, to serve as the sole entity responsible for:
- 28 (A) processing applications for:
- 29 (i) licenses under this chapter; and
- 30 (ii) renewals of licenses under this chapter; and
- 31 (B) performing other services that the commissioner  
32 determines are necessary for the orderly administration of the  
33 division's licensing system.
- 34 A multistate automated licensing system and repository described  
35 in this subdivision may include the Nationwide Mortgage  
36 Licensing System and Registry established by the Conference of  
37 State Bank Supervisors and the American Association of  
38 Residential Mortgage Regulators. The commissioner may take  
39 any action necessary to allow the division to participate in a  
40 multistate automated licensing system and repository.
- 41 (b) If a witness, in any hearing, inquiry, or investigation conducted  
42 under this chapter, refuses to answer any question or produce any item,  
43 the commissioner may file a written petition with the circuit or superior  
44 court in the county where the hearing, investigation, or inquiry in  
45 question is being conducted requesting a hearing on the refusal. The  
46 court shall hold a hearing to determine if the witness may refuse to  
47 answer the question or produce the item. If the court determines that  
48 the witness, based upon the witness's privilege against  
49 self-incrimination, may properly refuse to answer or produce an item,  
50 the commissioner may make a written request that the court grant use  
51 immunity to the witness. Upon written request of the commissioner, the

1 court shall grant use immunity to a witness. The court shall instruct the  
2 witness, by written order or in open court, that:

3 (1) any evidence the witness gives, or evidence derived from that  
4 evidence, may not be used in any criminal proceedings against  
5 that witness, unless the evidence is volunteered by the witness or  
6 is not responsive to a question; and

7 (2) the witness must answer the questions asked and produce the  
8 items requested.

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

14 (c) In any prosecution, action, suit, or proceeding based upon or  
15 arising out of this chapter, the commissioner may sign a certificate  
16 showing compliance or noncompliance with this chapter by any person.  
17 This shall constitute prima facie evidence of compliance or  
18 noncompliance with this chapter and shall be admissible in evidence  
19 in any action at law or in equity to enforce this chapter.

20 (d) If:

21 (1) a person disobeys any lawful:

22 (A) subpoena issued under this chapter; or

23 (B) order or demand requiring the production of any books,  
24 accounts, papers, records, documents, or other evidence or  
25 information as provided in this chapter; or

26 (2) a witness refuses to:

27 (A) appear when subpoenaed;

28 (B) testify to any matter about which the witness may be  
29 lawfully interrogated; or

30 (C) take or subscribe to any oath required by this chapter;

31 the circuit or superior court of the county in which the hearing, inquiry,  
32 or investigation in question is held, if demand is made or if, upon  
33 written petition, the production is ordered to be made, or the  
34 commissioner or a hearing officer appointed by the commissioner, shall  
35 compel compliance with the lawful requirements of the subpoena,  
36 order, or demand, compel the production of the necessary or required  
37 books, papers, records, documents, and other evidence and  
38 information, and compel any witness to attend in any Indiana county  
39 and to testify to any matter about which the witness may lawfully be  
40 interrogated, and to take or subscribe to any oath required.

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

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

46 (1) The commissioner may not require any person that is not  
47 required to be licensed under this chapter, or any employee or  
48 agent of a person that is not required to be licensed under this  
49 chapter, to:

50 (A) submit information to; or

51 (B) participate in;

1 the multistate automated licensing system and repository.

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

6 SECTION 7. IC 23-2-5-11.5 IS ADDED TO THE INDIANA CODE  
7 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
8 1, 2010]: **Sec. 11.5. (a) If the commissioner believes that a person  
9 has engaged, is engaging, or is about to engage in an act, practice,  
10 or course of business constituting a violation of this chapter or a  
11 rule adopted or order issued under this chapter or that a person  
12 has engaged, is engaging, or is about to engage in an act, practice,  
13 or course of business that materially aids a violation of this chapter  
14 or a rule adopted or order issued under this chapter, the  
15 commissioner may maintain an action in the circuit or superior  
16 court in the county where the investigation or inquiry in question  
17 is being conducted to enjoin the act, practice, or course of business  
18 and to enforce compliance with this chapter or a rule adopted or  
19 order issued under this chapter.**

20 **(b) In an action under this section and on a proper showing, the  
21 court may:**

22 **(1) issue a permanent or temporary injunction, restraining  
23 order, or declaratory judgment;**

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

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

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

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

34 **(ii) collect debts; and**

35 **(iii) acquire and dispose of property;**

36 **(C) imposing a civil penalty of up to ten thousand dollars  
37 (\$10,000) per violation and an order of rescission,  
38 restitution, or disgorgement directed to a person that has  
39 engaged in an act, practice, or course of business  
40 constituting a violation of this chapter or a rule adopted or  
41 order issued under this chapter; and**

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

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

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

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

50 SECTION 8. IC 23-2-5-20, AS AMENDED BY P.L.156-2009,  
51 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

1 JULY 1, 2010]: Sec. 20. (a) A person shall not, in connection with a  
 2 contract for the services of a loan broker, either directly or indirectly,  
 3 do any of the following:

- 4 (1) Employ any device, scheme, or artifice to defraud.  
 5 (2) Make any untrue statements of a material fact or omit to state  
 6 a material fact necessary in order to make the statements made, in  
 7 the light of circumstances under which they are made, not  
 8 misleading.  
 9 (3) Engage in any act, practice, or course of business that operates  
 10 or would operate as a fraud or deceit upon any person.  
 11 (4) Collect or solicit any consideration, except a bona fide third  
 12 party fee, in connection with a **residential mortgage** loan until  
 13 the loan has been closed.  
 14 (5) Receive any funds if the person knows that the funds were  
 15 generated as a result of a fraudulent act.  
 16 (6) File or cause to be filed with a county recorder any document  
 17 that the person knows:  
 18 (A) contains:  
 19 (i) a misstatement; or  
 20 (ii) an untrue statement;  
 21 of a material fact; or  
 22 (B) omits a statement of a material fact that is necessary to  
 23 make the statements that are made, in the light of  
 24 circumstances under which they are made, not misleading.  
 25 (7) Knowingly release or disclose the unencrypted, unredacted  
 26 personal information of one (1) or more borrowers or prospective  
 27 borrowers, unless the personal information is used in an activity  
 28 authorized by the borrower or prospective borrower under one (1)  
 29 or more of the following circumstances:  
 30 (A) The personal information is:  
 31 (i) included on an application form or another form; or  
 32 (ii) transmitted as part of an application process or an  
 33 enrollment process.  
 34 (B) The personal information is used to obtain a consumer  
 35 report (as defined in IC 24-5-24-2) for an applicant for credit.  
 36 (C) The personal information is used to establish, amend, or  
 37 terminate an account, a contract, or a policy, or to confirm the  
 38 accuracy of the personal information.  
 39 However, personal information allowed to be disclosed under this  
 40 subdivision may not be printed in whole or in part on a postcard  
 41 or other mailer that does not require an envelope, or in a manner  
 42 that makes the personal information visible on an envelope or a  
 43 mailer without the envelope or mailer being opened.  
 44 (8) Engage in any reckless or negligent activity allowing the  
 45 release or disclosure of the unencrypted, unredacted personal  
 46 information of one (1) or more borrowers or prospective  
 47 borrowers. An activity described in this subdivision includes an  
 48 action prohibited by section 18(d) of this chapter.  
 49 (9) Knowingly bribe, coerce, or intimidate another person to  
 50 corrupt or improperly influence the independent judgment of a  
 51 real estate appraiser with respect to the value of any real estate

1 offered as security for a residential mortgage loan, as prohibited  
2 by section 9.1(d) of this chapter.

3 (10) Violate any of the following:

4 (A) The federal Truth in Lending Act (15 U.S.C. 1601 et seq.).

5 (B) The federal Real Estate Settlement Procedures Act (12  
6 U.S.C. 2601 et seq.), as amended.

7 (C) The federal Equal Credit Opportunity Act (15 U.S.C. 1691  
8 et seq.).

9 (D) Any other federal law or regulation concerning residential  
10 mortgage lending.

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

13 SECTION 9. IC 23-19-4-6, AS ADDED BY P.L.27-2007,  
14 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
15 JULY 1, 2010]: Sec. 6. (a) A person shall register as a broker-dealer,  
16 agent, investment adviser, or investment adviser representative by  
17 filing an application and a consent to service of process complying with  
18 IC 23-19-6-11, and paying the fee specified in section 10 of this  
19 chapter and any reasonable fees charged by the designee of the  
20 commissioner for processing the filing. The application must contain:

21 (1) the information or record required for the filing of a uniform  
22 application; and

23 (2) upon request by the commissioner, any other financial or other  
24 information or record that the commissioner determines is  
25 appropriate.

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

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

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

47 ~~(d)~~ (e) A registration is effective until midnight on December 31 of  
48 the year for which the application for registration is filed. Unless an  
49 order is in effect under section 12 of this chapter, a registration may be  
50 automatically renewed each year by filing such records as are required  
51 by rule adopted or order issued under this article, by paying the fee

1 specified in section 10 of this chapter, and by paying costs charged by  
2 the designee of the commissioner for processing the filings.

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

9 SECTION 10. IC 23-19-6-1, AS ADDED BY P.L.27-2007,  
10 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
11 JULY 1, 2010]: Sec. 1. (a) This article shall be administered by a  
12 division of the office of the secretary of state. The secretary of state  
13 shall appoint a securities commissioner who shall be responsible for  
14 the direction and supervision of the division and the administration of  
15 this article under the direction and control of the secretary of state. The  
16 salary of the securities commissioner shall be paid out of the funds  
17 appropriated for the administration of this article. The commissioner  
18 shall serve at the will of the secretary of state.

19 (b) The secretary of state:

20 (1) shall employ a chief deputy, attorneys, a senior investigator,  
21 a senior accountant, and other deputies, investigators,  
22 accountants, clerks, stenographers, and other employees necessary  
23 for the administration of this article; and

24 (2) shall fix their compensation with the approval of the budget  
25 agency.

26 (c) It is unlawful for the commissioner or an officer, employee, or  
27 designee of the commissioner to use for personal benefit or the benefit  
28 of others records or other information obtained by or filed with the  
29 commissioner that are not public under section 7(b) of this chapter.  
30 This article does not authorize the commissioner or an officer,  
31 employee, or designee of the commissioner to disclose the record or  
32 information, except in accordance with section 2, 7(c), or 8 of this  
33 chapter.

34 (d) This article does not create or diminish a privilege or exemption  
35 that exists at common law, by statute or rule, or otherwise.

36 (e) **Subject to IC 4-2-6-15**, the commissioner may develop and  
37 implement investor education initiatives to inform the public about  
38 investing in securities, with particular emphasis on the prevention and  
39 detection of securities fraud. In developing and implementing these  
40 initiatives, the commissioner may collaborate with public and nonprofit  
41 organizations with an interest in investor education. The commissioner  
42 may accept a grant or donation from a person that is not affiliated with  
43 the securities industry or from a nonprofit organization, regardless of  
44 whether the organization is affiliated with the securities industry, to  
45 develop and implement investor education initiatives. This subsection  
46 does not authorize the commissioner to require participation or  
47 monetary contributions of a registrant in an investor education  
48 program.

49 (f) Fees and funds of whatever character accruing from the  
50 administration of this article shall be accounted for by the secretary of  
51 state and shall be deposited with the treasurer of state to be deposited

1 by the treasurer of the state in either the state general fund or the  
 2 enforcement account referenced below. **Subject to IC 4-2-6-15,**  
 3 expenses incurred in the administration of this article shall be paid  
 4 from the state general fund upon appropriation being made for the  
 5 expenses in the manner provided by law for the making of those  
 6 appropriations. However, grants and donations **received** under  
 7 subsection (e), costs of investigations **recovered under section 4(e) of**  
 8 **this chapter,** and civil penalties recovered under sections 3(b) and 4(d)  
 9 of this chapter shall be deposited by the treasurer of state in a separate  
 10 account to be known as the securities division enforcement account.  
 11 **Notwithstanding IC 9-23-6-4, IC 23-2-2.5-34, IC 23-2-2.5-43,**  
 12 **IC 23-2-5-7, IC 23-19-4-12, IC 25-11-1-15, and this chapter, five**  
 13 **percent (5%) of funds received after June 30, 2010, for deposit in**  
 14 **the enforcement account shall instead be deposited in the securities**  
 15 **restitution fund established under IC 23-20-1-26. Subject to**  
 16 **IC 4-2-6-15,** the funds **deposited** in the enforcement account shall be  
 17 available, with the approval of the budget agency:

- 18 (1) to augment and supplement the funds appropriated for the  
 19 administration of this article; and
- 20 (2) for grants and awards to nonprofit entities for programs and  
 21 activities that will further investor education and financial literacy  
 22 in the state.

23 The funds in the enforcement account do not revert to the state general  
 24 fund at the end of any state fiscal year.

25 (g) In connection with the administration and enforcement of this  
 26 article, the attorney general shall render all necessary assistance to the  
 27 commissioner upon the commissioner's request, and to that end, the  
 28 attorney general shall employ legal and other professional services as  
 29 are necessary to adequately and fully perform the service under the  
 30 direction of the commissioner as the demands of the securities division  
 31 shall require. Expenses incurred by the attorney general for the  
 32 purposes stated in this subsection shall be chargeable against and paid  
 33 out of funds appropriated to the attorney general for the administration  
 34 of the attorney general's office. The attorney general may authorize the  
 35 commissioner and the commissioner's designee to represent the  
 36 commissioner and the securities division in any proceeding involving  
 37 enforcement or defense of this article.

38 (h) Neither the secretary of state, the commissioner, nor an  
 39 employee of the securities division shall be liable in their individual  
 40 capacity, except to the state, for an act done or omitted in connection  
 41 with the performance of their respective duties under this article.

42 (i) The commissioner shall take, prescribe, and file the oath of office  
 43 prescribed by law. The commissioner, chief deputy commissioner, and  
 44 each attorney or investigator designated by the commissioner are police  
 45 officers of the state and shall have all the powers and duties of police  
 46 officers in making arrests for violations of this article, or in serving any  
 47 process, notice, or order connected with the enforcement of this article  
 48 by whatever officer, authority, or court issued and shall comprise the  
 49 enforcement department of the division and are considered a criminal  
 50 justice agency for purposes of IC 5-2-4 and IC 10-13-3.

51 (j) The provisions of this article delegating and granting power to

1 the secretary of state, the securities division, and the commissioner  
2 shall be liberally construed to the end that:

- 3 (1) the practice or commission of fraud may be prohibited and
- 4 prevented;
- 5 (2) disclosure of sufficient and reliable information in order to
- 6 afford reasonable opportunity for the exercise of independent
- 7 judgment of the persons involved may be assured; and
- 8 (3) the qualifications may be prescribed to assure availability of
- 9 reliable broker-dealers, investment advisers, and agents engaged
- 10 in and in connection with the issuance, barter, sale, purchase,
- 11 transfer, or disposition of securities in this state.

12 It is the intent and purpose of this article to delegate and grant to and  
13 vest in the secretary of state, the securities division, and the  
14 commissioner full and complete power to carry into effect and  
15 accomplish the purpose of this article and to charge them with full and  
16 complete responsibility for its effective administration.

17 (k) Copies of any statement and documents filed in the office of the  
18 secretary of state and of any records of the secretary of state certified  
19 by the commissioner shall be admissible in any prosecution, action,  
20 suit, or proceeding based upon, arising out of, or under this article to  
21 the same effect as the original of such statement, document, or record  
22 would be if actually produced.

23 (l) IC 4-21.5 is not applicable to any of the proceedings under this  
24 article.

25 SECTION 11. IC 23-19-6-12 IS ADDED TO THE INDIANA  
26 CODE AS A NEW SECTION TO READ AS FOLLOWS  
27 [EFFECTIVE JULY 1, 2010]: **Sec. 12. The commissioner may**  
28 **award, from any amount imposed as a penalty under this article**  
29 **and recovered by the securities division, a percentage, not to**  
30 **exceed ten percent (10%) and as considered appropriate by the**  
31 **commissioner, of the amount recovered, to any person who**  
32 **provided information leading to the imposition of the penalty. Any**  
33 **determination under this section, including whether to make a**  
34 **payment, to whom to make a payment, or in what amount to make**  
35 **a payment, is in the sole discretion of the commissioner. However,**  
36 **a payment may not be made under this section to an employee of**  
37 **the securities division. A determination under this section is final**  
38 **and is not subject to judicial review.**

39 SECTION 12. IC 23-20 IS ADDED TO THE INDIANA CODE AS  
40 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
41 2010]:

42 **ARTICLE 20. VICTIMS OF SECURITIES VIOLATIONS**

43 **Chapter 1. Restitution for Victims of Securities Violations**

44 **Sec. 1. (a) As used in this chapter, "claimant" means a victim**  
45 **filing an application for restitution assistance under this chapter.**

46 **(b) The term includes:**

- 47 (1) a named party in an award;
- 48 (2) the executor of a named party in an award; or
- 49 (3) the heirs and assigns of a named party in an award.

50 **Sec. 2. As used in this chapter, "division" refers to the securities**  
51 **division of the office of the secretary of state.**

1           **Sec. 3.** As used in this chapter, "fund" refers to the securities  
2 restitution fund established by section 25 of this chapter.

3           **Sec. 4.** As used in this chapter, "out-of-pocket loss" means an  
4 amount equal to the amount of restitution ordered under any of the  
5 following:

6           (1) A final court order.

7           (2) A final administrative order.

8           **Sec. 5.** As used in this chapter, "person" includes a sole  
9 proprietorship, a partnership, a corporation, an association, a  
10 fiduciary, or an individual.

11           **Sec. 6.** As used in this chapter, "securities violation" means a  
12 violation of the following:

13           (1) The Securities Act of 1933, as amended, and any  
14 regulations related to that act.

15           (2) The Securities Exchange Act of 1934, as amended, and any  
16 regulations related to that act.

17           (3) The Investment Company Act of 1940, as amended, and  
18 any regulations related to that act.

19           (4) The Investment Advisers Act of 1940, as amended, and any  
20 regulations related to that act.

21           (5) The Indiana uniform securities act and any rules related  
22 to that act.

23           (6) Other state securities acts and any rules or regulations  
24 related to those acts.

25           **Sec. 7.** As used in this chapter, "victim" means an individual  
26 who suffers monetary injury as a result of a securities violation.

27           **Sec. 8.** The division shall do the following:

28           (1) Prescribe forms for processing applications for restitution  
29 assistance.

30           (2) Determine whether a claim for restitution assistance filed  
31 under this chapter should be awarded.

32           **Sec. 9.** The division shall require a claimant to produce a copy  
33 of:

34           (1) a court order; or

35           (2) an administrative order;

36 that demonstrates that restitution has been awarded to the  
37 claimant as described in section 16 of this chapter.

38           **Sec. 10.** A claimant's personal information (as defined in  
39 IC 9-14-3.5-5) is confidential.

40           **Sec. 11.** Except as otherwise provided in this chapter, the  
41 following persons are eligible for restitution assistance under this  
42 chapter:

43           (1) A resident of Indiana who is a victim of a securities  
44 violation committed:

45           (A) in Indiana; or

46           (B) in a jurisdiction other than Indiana, including a foreign  
47 country, if the jurisdiction in which the securities violation  
48 occurred does not offer to Indiana residents who are  
49 victims of securities violations in that jurisdiction  
50 assistance that is substantially similar to the assistance  
51 offered under this chapter.

1 (2) A nonresident of Indiana who is a victim of a securities  
 2 violation committed in Indiana if the jurisdiction in which the  
 3 victim resides offers to Indiana residents who are victims of  
 4 securities violations in that jurisdiction assistance that is  
 5 substantially similar to the assistance offered under this  
 6 chapter.

7 (3) A surviving spouse or dependent child of a victim  
 8 described in subdivision (1) or (2).

9 (4) Any other person legally dependent for principal support  
 10 upon a victim described in subdivision (1) or (2).

11 **Sec. 12. (a)** A person eligible for restitution assistance under  
 12 section 11 of this chapter may file an application for restitution  
 13 assistance with the division.

14 (b) The application must be received by the division not more  
 15 than one hundred eighty (180) days after the date of the order  
 16 described in section 16 of this chapter. The division may grant an  
 17 extension of time for good cause shown by the claimant. However,  
 18 the division may not accept an application that is received more  
 19 than two (2) years after the date of the order described in section  
 20 16 of this chapter.

21 (c) The application must be filed in the office of the division in  
 22 person, through the division's Internet web site, or by first class or  
 23 certified mail. If requested, the division shall assist a claimant in  
 24 preparing the application.

25 (d) The division shall accept all applications filed in compliance  
 26 with this chapter. Upon receipt of a complete application, the  
 27 division shall promptly begin processing the application.

28 **Sec. 13. (a)** The division shall review all applications to ensure  
 29 that the applications are complete.

30 (b) If an application is not complete, the application shall be  
 31 returned to the claimant with a brief statement of the additional  
 32 information required.

33 (c) The claimant may, not more than thirty (30) days after  
 34 receipt of the request for additional information, either supply the  
 35 information or appeal to the securities commissioner as to the  
 36 completeness of the application.

37 (d) The decision of the securities commissioner as to the  
 38 completeness of the application is final.

39 (e) The division shall deny the application if:

40 (1) the applicant does not furnish additional information; or  
 41 (2) additional time is not granted by the securities  
 42 commissioner for good cause.

43 **Sec. 14. (a)** Subject to subsection (b), the division may not award  
 44 restitution assistance if the victim:

45 (1) sustained the monetary injury as a result of:

46 (A) participating or assisting in; or

47 (B) attempting to commit or committing;  
 48 a securities violation; or

49 (2) profited or would have profited from the securities  
 50 violation.

51 (b) If the victim is a dependent child or dependent parent of the

1 person who commits a securities violation, restitution assistance  
2 may be awarded if justice requires.

3 **Sec. 15.** The division may not award restitution assistance under  
4 this chapter to more than one (1) claimant per victim.

5 **Sec. 16. (a)** The division may not award restitution assistance  
6 under this chapter unless the securities violation was adjudicated  
7 in a state or federal court or a regulatory agency administrative  
8 proceeding.

9 **(b)** The division may not award restitution assistance under this  
10 chapter unless:

11 (1) a final order has been entered ordering restitution to the  
12 victim in a proceeding described in subsection (a); and

13 (2) the party ordered to pay restitution has not paid the full  
14 amount.

15 **Sec. 17.** The division shall deny an award of restitution  
16 assistance under this chapter if a court or administrative order  
17 does not contain an award of restitution to the victim.

18 **Sec. 18. (a)** The division may not award restitution assistance  
19 under this chapter on behalf of a victim whose award of restitution  
20 under a court or administrative order is overturned on appeal.

21 **(b) If:**

22 (1) restitution assistance is awarded under this chapter; and

23 (2) after the award of restitution assistance under this  
24 chapter, the victim's award of restitution under a court or  
25 administrative order is overturned on appeal;

26 the claimant shall forfeit the restitution assistance received under  
27 this chapter.

28 **Sec. 19. (a)** The state is subrogated to the rights of the person  
29 awarded restitution under this chapter to the extent of the award.

30 **(b)** The subrogation rights are against the person who  
31 committed the securities violation or a person liable for the  
32 pecuniary loss.

33 **Sec. 20. (a)** In addition to the subrogation rights under section  
34 19 of this chapter, the state is entitled to a lien in the amount of the  
35 award on a recovery made by or on behalf of the victim.

36 **(b)** The state may:

37 (1) recover the amount under subsection (a) in a separate  
38 action; or

39 (2) intervene in an action brought by or on behalf of the  
40 victim.

41 **(c)** If a claimant brings an action described in subsection (b)(2),  
42 the claimant may deduct from the money owed to the state under  
43 the lien the state's pro rata share of the reasonable expenses for the  
44 court suit, including attorney's fees. The amount the claimant  
45 deducts under this subsection for the state's pro rata share of the  
46 expenses may not be more than fifteen percent (15%) of the money  
47 owed under the lien.

48 **Sec. 21. If:**

49 (1) an award is made under this chapter; and

50 (2) a claimant receives a sum required to be deducted under  
51 section 20(a) of this chapter;

1 the claimant shall refund to the state the amount of overpayment.

2 Sec. 22. (a) In determining the amount of restitution assistance  
3 to award under this chapter, the division shall determine whether  
4 a victim contributed to the infliction of the victim's monetary  
5 injury.

6 (b) If the division finds that the victim contributed to the  
7 infliction of the victim's monetary injury, the division may deny an  
8 award of restitution assistance.

9 Sec. 23. An award under this chapter may not exceed the lesser  
10 of the following:

11 (1) Fifteen thousand dollars (\$15,000).

12 (2) Twenty-five percent (25%) of the amount of the  
13 out-of-pocket loss.

14 Sec. 24. An award made by the division under this chapter is not  
15 subject to execution, attachment, garnishment, or other process.

16 Sec. 25. (a) The securities restitution fund is established.

17 (b) The fund consists of amounts:

18 (1) from funds received for deposit in the securities division  
19 enforcement account as provided in IC 23-19-6-1(f); and

20 (2) appropriated from the general assembly.

21 Sec. 26. The money in the fund is continually appropriated to  
22 the division for purposes of:

23 (1) awarding restitution assistance under this chapter; and

24 (2) paying expenses incurred in administering this chapter.

25 Sec. 27. Money in the fund and income derived from money in  
26 the fund do not revert to the state general fund at the end of a state  
27 fiscal year.

28 Sec. 28. (a) If the fund would be reduced below two hundred  
29 fifty thousand dollars (\$250,000) by payment in full of all awards  
30 that become final in a month, the division shall suspend payment  
31 of the claims that become final during the month and the following  
32 two (2) months.

33 (b) At the end of the suspension period, the division shall pay the  
34 suspended claims. If the fund would be exhausted by payment in  
35 full of the suspended claims, the amount paid to each claimant shall  
36 be prorated.

37 Sec. 29. The state is not liable for a written determination made  
38 by the division under this chapter except to the extent that money  
39 is available in the fund on the date the award is computed by the  
40 division under this chapter.

41 Sec. 30. (a) A claimant convicted of forgery, fraud, or deception  
42 in connection with a claim under this chapter forfeits an award  
43 paid to the claimant under this chapter.

44 (b) The division may file a civil action to recover funds against  
45 a claimant described in subsection (a).

46 Sec. 31. A person commits a Class C felony if the person  
47 knowingly makes or causes to be made:

48 (1) in any document filed with or sent to the securities  
49 commissioner or the division; or

50 (2) in any proceeding, investigation, or examination;

51 under this chapter any statement that is, at the time and in the light

1 **of the circumstances under which it is made, false or misleading in**  
 2 **any material respect.**

3 **Sec. 32. The division may adopt rules under IC 4-22-2 to**  
 4 **implement this chapter.**

5 SECTION 13. IC 24-5-15-2, AS AMENDED BY P.L.171-2006,  
 6 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 7 JULY 1, 2010]: Sec. 2. (a) As used in this chapter, "credit services  
 8 organization" means a person that, with respect to the extension of  
 9 credit by another person, sells, provides, performs, or represents that  
 10 the person can or will sell, provide, or perform, in return for the  
 11 payment of money or other valuable consideration, any of the following  
 12 services:

13 (1) Improving a buyer's credit record, credit history, or credit  
 14 rating.

15 (2) Obtaining an extension of credit for a buyer.

16 (3) Obtaining a delay or forbearance of a buyer's obligation under  
 17 a mortgage.

18 **(4) Obtaining a lower interest rate for:**

19 **(A) a consumer loan; or**

20 **(B) a residential mortgage loan;**

21 **to which the buyer is a debtor or a prospective debtor.**

22 **(5) Providing debt settlement services on behalf of a buyer.**

23 ~~(4)~~ **(6) Providing advice or assistance to a buyer concerning the**  
 24 **services described in subdivision subdivisions (1) ~~(2)~~; or ~~(3)~~:**  
 25 **through (5).**

26 (b) The term "credit services organization" does not include any of  
 27 the following:

28 (1) A person authorized to make loans or extensions of credit  
 29 under state or federal laws that is subject to regulation and  
 30 supervision under state or federal laws, or a lender approved by  
 31 the United States Secretary of Housing and Urban Development  
 32 for participation in a mortgage insurance program under the  
 33 federal National Housing Act (12 U.S.C. 1701 et seq.).

34 (2) A bank or savings association or a subsidiary of a bank or  
 35 savings association that has deposits or accounts that are eligible  
 36 for insurance by the Federal Deposit Insurance Corporation.

37 (3) A credit union doing business in Indiana.

38 (4) A nonprofit organization exempt from taxation under Section  
 39 501(c)(3) of the Internal Revenue Code.

40 (5) A person licensed as a real estate broker under IC 25-34.1 if  
 41 the person is acting within the course and scope of the person's  
 42 license.

43 (6) A person admitted to the practice of law in Indiana if the  
 44 person is acting within the course and scope of the person's  
 45 practice as an attorney.

46 (7) A broker-dealer registered with the Securities and Exchange  
 47 Commission or the Commodity Futures Trading Commission if  
 48 the broker-dealer is acting within the course and scope of the  
 49 broker-dealer's regulation.

50 (8) A consumer reporting agency (as defined in the Federal Fair  
 51 Credit Reporting Act (15 U.S.C. 1681 et seq.)).

1           **(9) A loan servicer acting on behalf of the holder of:**

2                 **(A) a consumer loan; or**

3                 **(B) a residential mortgage loan.**

4           **(10) A debt management company (as defined in**  
5           **IC 28-1-29-1(2)).**

6           SECTION 14. IC 24-5-15-2.5 IS ADDED TO THE INDIANA  
7           CODE AS A NEW SECTION TO READ AS FOLLOWS  
8           [EFFECTIVE JULY 1, 2010]: **Sec. 2.5. As used in this chapter, "debt**  
9           **settlement services" means any of the following services that a**  
10           **person performs, offers to perform, or represents, either directly**  
11           **or by implication, that the person will perform with respect to a**  
12           **debt between a buyer and one (1) or more unsecured creditors or**  
13           **debt collectors:**

14                 **(1) A renegotiation of the debt.**

15                 **(2) A settlement of the debt.**

16                 **(3) An alteration of the terms of payment or other terms of**  
17                 **the debt, including a reduction in the balance, interest rate, or**  
18                 **fees owed by the buyer to the creditor or debt collector.**

19           SECTION 15. IC 24-5-15-6 IS AMENDED TO READ AS  
20           FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. Before executing a  
21           contract or agreement with a buyer or receiving money or other  
22           valuable consideration, a credit services organization must provide the  
23           buyer with a written statement that contains the following:

24                 (1) A complete and detailed description of the services to be  
25                 performed by the credit services organization for the buyer and  
26                 the total cost of the services.

27                 (2) A statement explaining the buyer's right to proceed against the  
28                 bond or surety account required under section 8 of this chapter.

29                 (3) The name and address of the:

30                         (A) surety company that issued a bond; or

31                         (B) depository and the trustee of a surety account and the  
32                         account number of the surety account;

33                 required under section 8 of this chapter.

34                 (4) A complete and accurate statement of the buyer's right to  
35                 review any file on the buyer maintained by a consumer reporting  
36                 agency as provided under the Fair Credit Reporting Act (15  
37                 U.S.C. 1681 et seq.).

38                 (5) A statement that the buyer's file is available for review:

39                         (A) at no charge ~~on request made to the consumer reporting~~  
40                         ~~agency within thirty (30) days after the date of receipt of a~~  
41                         ~~notice that credit has been denied; at the times and under the~~  
42                         **circumstances set forth in 15 U.S.C. 1681j; and**

43                         (B) for a minimal charge at any other time **as provided by 15**  
44                         **U.S.C. 1681j(f).**

45                 (6) A complete and accurate statement of the buyer's right to  
46                 dispute the completeness or accuracy of an item contained in a  
47                 file on the buyer maintained by a consumer reporting agency.

48                 (7) A statement that accurate information cannot be permanently  
49                 removed from the files of a consumer reporting agency.

50                 (8) A complete and accurate statement indicating when consumer  
51                 information becomes obsolete and when consumer reporting

1 agencies are prevented from issuing reports containing obsolete  
2 information.

3 (9) A complete and accurate statement of the availability of  
4 nonprofit credit counseling services.

5 SECTION 16. IC 24-5-15-8, AS AMENDED BY P.L.171-2006,  
6 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
7 JULY 1, 2010]: Sec. 8. (a) Before doing business in Indiana, a credit  
8 services organization must:

9 (1) obtain a surety bond in the amount of twenty-five thousand  
10 dollars (\$25,000), issued by a surety company authorized to do  
11 business in Indiana in favor of the state for the benefit of a person  
12 that is damaged by a violation of this chapter; **and**

13 (2) **file a copy of the surety bond obtained under subdivision**  
14 **(1) with the attorney general.**

15 (b) The attorney general may waive the bonding requirement under  
16 subsection (a) and, instead of the bond, accept an irrevocable letter of  
17 credit for an equivalent amount issued in favor of the state for the  
18 benefit of a person that is damaged by a violation of this chapter. **A**  
19 **credit services organization that obtains an irrevocable letter of**  
20 **credit under this subsection must file a copy of the irrevocable**  
21 **letter of credit with the attorney general before doing business in**  
22 **Indiana.**

23 SECTION 17. IC 24-5.5-6-1, AS ADDED BY P.L.209-2007,  
24 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
25 JULY 1, 2010]: Sec. 1. A person who **knowingly or intentionally**  
26 violates this article commits:

27 (1) **a Class A misdemeanor; and**

28 (2) a deceptive act that is actionable by the attorney general under  
29 IC 24-5-0.5-4 and is subject to the penalties and remedies  
30 available to the attorney general under IC 24-5-0.5.

31 SECTION 18. IC 24-9-3-7, AS AMENDED BY P.L.105-2009,  
32 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
33 JULY 1, 2010]: Sec. 7. (a) As used in this section, "mortgage  
34 transaction" includes the following:

35 (1) A home loan subject to this article.

36 (2) **To the extent allowed under federal law**, a loan described  
37 in IC 24-9-1-1 that is secured by a mortgage or deed of trust on  
38 real estate in Indiana on which there is located or will be located  
39 a structure or structures:

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

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

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

46 (4) A consumer credit sale subject to IC 24-4.5-2 in which a  
47 mortgage, deed of trust, or land contract that constitutes a lien is  
48 created or retained against land:

49 (A) **that is located in Indiana; and**

50 (B) upon which there is a dwelling that is or will be used by  
51 the debtor primarily for personal, family, or household

- 1 purposes.
- 2 (5) A consumer credit loan subject to IC 24-4.5-3 in which a
- 3 mortgage, deed of trust, or land contract that constitutes a lien is
- 4 created or retained against land:
- 5 (A) **that is located in Indiana; and**
- 6 (B) upon which there is a dwelling that is or will be used by
- 7 the debtor primarily for personal, family, or household
- 8 purposes.
- 9 (6) A loan in which a mortgage, deed of trust, or land contract that
- 10 constitutes a lien is created or retained against land:
- 11 (A) that is located in Indiana;
- 12 (B) upon which there is a dwelling that is not or will not be
- 13 used by the borrower primarily for personal, family, or
- 14 household purposes; and
- 15 (C) that is classified as residential for property tax purposes.
- 16 The term includes a loan that is secured by land in Indiana upon
- 17 which there is a dwelling that is purchased by or through the
- 18 borrower for investment or other business purposes.
- 19 (7) A reverse mortgage transaction that is secured by real estate
- 20 in Indiana on which there is located a structure that is occupied by
- 21 a borrower as the borrower's principal dwelling.
- 22 (b) As used in this section, "real estate transaction" means the sale
- 23 or lease of any legal or equitable interest in real estate:
- 24 (1) that is located in Indiana;
- 25 (2) upon which there is a dwelling; and
- 26 (3) that is classified as residential for property tax purposes.
- 27 (c) A person may not **do any of the following:**
- 28 (1) Divide a **home** loan transaction into separate parts with the
- 29 intent of evading a provision of this article.
- 30 (2) Structure a home loan transaction as an open-end loan with
- 31 the intent of evading the provisions of this article if the **home** loan
- 32 would be a high cost home loan if the home loan had been
- 33 structured as a closed-end loan.
- 34 (3) Engage in a deceptive act in connection with a mortgage
- 35 transaction or a real estate transaction.
- 36 (4) Engage in, or solicit to engage in, a real estate transaction or
- 37 a mortgage transaction without a permit or license required by
- 38 law. **or**
- 39 (5) With respect to a real estate transaction or a mortgage
- 40 transaction, represent that:
- 41 (A) the transaction has:
- 42 (i) certain terms or conditions; or
- 43 (ii) the sponsorship or approval of a particular person or
- 44 entity;
- 45 that it does not have and that the person knows or reasonably
- 46 should know it does not have; or
- 47 (B) the real estate or property that is the subject of the
- 48 transaction has any improvements, appurtenances, uses,
- 49 characteristics, or associated benefits that it does not have and
- 50 that the person knows or reasonably should know it does not
- 51 have.

1           **(6) Maintain or offer to maintain an account for the receipt of**  
 2           **funds for the payment of real estate taxes and insurance**  
 3           **unless the person is any of the following:**

4           **(A) Any of the following that is chartered under the laws**  
 5           **of a state or the United States:**

6           **(i) A bank.**

7           **(ii) A savings and loan association.**

8           **(iii) A credit union.**

9           **(iv) A savings bank.**

10          **(B) The creditor in a mortgage transaction.**

11          **(C) A mortgage servicer acting on behalf of the creditor in**  
 12          **a mortgage transaction.**

13          **(D) A closing agent (as defined in IC 27-7-3.7-1).**

14          **(7) Fail to provide the notice required under subsection (d),**  
 15          **within the time specified in subsection (d), if the person is a**  
 16          **seller in a real estate transaction described in subsection (d).**

17          **(d) This subsection applies to a real estate transaction that**  
 18          **involves a land contract between the seller and the buyer in the**  
 19          **transaction. If the real estate that is the subject of the transaction**  
 20          **is subject to any encumbrance, including any tax lien, foreclosure**  
 21          **action, legal judgment, or other encumbrance affecting the title to**  
 22          **the real estate, the seller must provide written notice by certified**  
 23          **mail, return receipt requested, of the encumbrance to the buyer:**

24               **(1) not later than the time the land contract is executed, if the**  
 25               **encumbrance is created before or at the time the land**  
 26               **contract is executed; or**

27               **(2) not later than ten (10) business days after the**  
 28               **encumbrance is created, if the encumbrance is created after**  
 29               **the land contract is executed.**

30          SECTION 19. IC 24-9-5-4, AS AMENDED BY P.L.105-2009,  
 31          SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 32          JULY 1, 2010]: Sec. 4. (a) This section does not apply to a violation of  
 33          IC 24-9-3-7(c)(4), ~~or~~ IC 24-9-3-7(c)(5), **or IC 24-9-3-7(c)(6)**. A person  
 34          who violates this article is liable to a person who is a party to the home  
 35          loan transaction, **mortgage transaction (as defined in**  
 36          **IC 24-9-3-7(a)), or real estate transaction (as defined in**  
 37          **IC 24-9-3-7(b)), as appropriate**, that gave rise to the violation for the  
 38          following:

39               (1) Actual damages, including consequential damages. A person  
 40               is not required to demonstrate reliance in order to receive actual  
 41               damages.

42               (2) Statutory damages equal to two (2) times the finance charges  
 43               agreed to in ~~the~~ a home loan agreement.

44               (3) Costs and reasonable attorney's fees.

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

48          (c) The right of rescission granted under 15 U.S.C. 1601 et seq. for  
 49          a violation of the federal Truth in Lending Act (15 U.S.C. 1601 et seq.)  
 50          is available to a person acting only in an individual capacity by way of  
 51          recoupment as a defense against a party foreclosing on a home loan at

1 any time during the term of the loan. Any recoupment claim asserted  
 2 under this provision is limited to the amount required to reduce or  
 3 extinguish the person's liability under the home loan plus amounts  
 4 required to recover costs, including reasonable attorney's fees. This  
 5 article shall not be construed to limit the recoupment rights available  
 6 to a person under any other law.

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

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

- 14 (1) notify the homeowner protection unit established by
- 15 IC 4-6-12-2 of the alleged violation giving rise to the action; and
- 16 (2) allow the homeowner protection unit at least ninety (90) days
- 17 to institute appropriate administrative and civil action to redress
- 18 a violation.

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

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

24 SECTION 20. IC 24-9-8-1, AS AMENDED BY P.L.105-2009,  
 25 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 26 JULY 1, 2010]: Sec. 1. A person who knowingly or intentionally  
 27 violates this article commits:

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

33 SECTION 21. IC 24-9-8-3, AS AMENDED BY P.L.105-2009,  
 34 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 35 JULY 1, 2010]: Sec. 3. (a) This section does not apply to a violation of  
 36 ~~IC 24-9-7-3(c)(4)~~ **IC 24-9-3-7(c)(4)** by a person required to be licensed  
 37 by the department of financial institutions. The attorney general may  
 38 bring an action to enjoin a violation of this article. A court in which the  
 39 action is brought may:

- 40 (1) issue an injunction;
- 41 (2) order a person to make restitution;
- 42 (3) order a person to reimburse the state for reasonable costs of
- 43 the attorney general's investigation and prosecution of the
- 44 violation of this article; and
- 45 (4) impose a civil penalty of not more than ten thousand dollars
- 46 (\$10,000) per violation.

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

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

1 SECTION 22. IC 25-34.1-4-5 IS AMENDED TO READ AS  
 2 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) Each principal  
 3 broker:

4 (1) shall keep in one (1) or more trust accounts (interest or  
 5 noninterest bearing) all funds belonging to others that come into  
 6 the possession of the principal broker or of any associated  
 7 salesperson or broker-salesperson; and

8 (2) shall clearly identify any account containing those funds as a  
 9 trust account. The trust accounts shall contain all earnest money  
 10 deposits, funds held for closing escrows, sale proceeds not yet  
 11 disbursed, and all other funds belonging to others.

12 (b) The principal broker shall not use any trust account for the  
 13 deposit of any personal funds or other business funds and shall keep a  
 14 detailed record of the funds and any interest accrued in each trust  
 15 account that identifies the amount of funds held for each beneficiary.  
 16 Any interest earned shall be held for the beneficiary.

17 (c) Upon the death or termination of a principal broker or the  
 18 expiration, ~~or~~ revocation, **or suspension** of the principal broker's  
 19 license, the commission shall take custody of each trust account and  
 20 may appoint a successor trustee to protect and distribute the proceeds  
 21 of that account.

22 SECTION 23. IC 25-34.1-6-2.5, AS ADDED BY P.L.105-2009,  
 23 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 24 JULY 1, 2010]: Sec. 2.5. (a) A violation of:

25 (1) IC 24-5-15; or

26 (2) IC 24-5.5;

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

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

31 (1) the enforcement procedures described in section 2 of this  
 32 chapter; and

33 (2) any sanction that may be imposed by the commission under  
 34 IC 25-1-11-12. ~~for an act described in IC 25-1-11-11.~~

35 SECTION 24. [EFFECTIVE JULY 1, 2010] **(a) Two million**  
 36 **dollars (\$2,000,000) shall be transferred from the securities**  
 37 **division enforcement account established under IC 23-19-6-1 to the**  
 38 **securities restitution fund established by IC 23-20-1-26, as added**  
 39 **by this act, on July 1, 2010.**

40 **(b) This SECTION expires July 2, 2010.**

41 SECTION 25. [EFFECTIVE UPON PASSAGE] **(a) As used in this**  
 42 **SECTION, "account" refers to the loan broker regulation account**  
 43 **created by IC 23-2-5-7.**

44 **(b) As used in this SECTION, "division" refers to the securities**  
 45 **division of the office of the secretary of state.**

46 **(c) As used in this SECTION, "qualifying claim" means a claim**  
 47 **that:**

48 **(1) is submitted by the office of the attorney general to the**  
 49 **division not later than July 1, 2010;**

50 **(2) includes a court order that awards restitution to one (1) or**  
 51 **more individuals who suffered monetary injury as a result of**

- 1           **a violation under IC 24-5-0.5 that:**  
2           **(A) involved the maintenance, on behalf of the injured**  
3           **individuals, of accounts for the receipt of funds for the**  
4           **payment of real estate taxes and insurance periodically**  
5           **owed in connection with real estate; and**  
6           **(B) occurred before July 1, 2010;**  
7           **(3) identifies the individuals described in subdivision (2) and**  
8           **each individual's pro rata share of the restitution awarded by**  
9           **the court;**  
10          **(4) attests that the party ordered to pay the restitution**  
11          **awarded by the court has not paid the amount ordered; and**  
12          **(5) seeks payment of the restitution awarded by the court**  
13          **from the account.**  
14          **(d) Subject to subsection (e) and notwithstanding IC 23-2-5-7,**  
15          **upon receiving a qualifying claim from the office of the attorney**  
16          **general, the division shall pay to each individual identified under**  
17          **subsection (c)(3) an amount from the account that is needed to**  
18          **satisfy the individual's pro rata share of the restitution awarded by**  
19          **the court in the order described in subsection (c)(2), as set forth in**  
20          **qualifying claim under subsection (c)(3).**  
21          **(e) The total amount paid from the account under subsection (d)**  
22          **to all individuals identified in the qualifying claim under subsection**  
23          **(c)(3) may not exceed one hundred fifty thousand dollars**  
24          **(\$150,000).**  
25          **(f) The personal information (as defined in IC 4-1-11-3) of an**  
26          **individual identified under subsection (c)(3) is confidential.**  
27          **(g) This SECTION expires August 1, 2010.**  
28          **SECTION 26. An emergency is declared for this act.**  
            (Reference is to EHB 1332 as reprinted February 25, 2010.)

**Conference Committee Report**  
**on**  
**Engrossed House Bill 1332**

**S**igned by:

---

Representative Bardon  
Chairperson

---

Senator Bray

---

Representative Burton

---

Senator Lanane

**House Conferees**

**Senate Conferees**