

**CONFERENCE COMMITTEE REPORT  
DIGEST FOR EHB 1336**

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

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

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

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

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

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

## CONFERENCE COMMITTEE REPORT

**MR. SPEAKER:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32 (1) the members' contributions; and

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

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

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

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

1 following requirements:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (A) The United States Treasury.

26 (B) A federal agency.

27 (C) A federal instrumentality.

28 (D) A federal government sponsored enterprise.

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

30 (A) A federal agency.

31 (B) A federal instrumentality.

32 (C) A federal government sponsored enterprise.

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

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

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

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

1 safekeeping receipts or other reporting for securities from:

2 (1) a duly designated depository as prescribed in this article; or

3 (2) a financial institution located either in or out of Indiana having

4 custody of securities with a combined capital and surplus of at

5 least ten million dollars (\$10,000,000) according to the last

6 statement of condition filed by the financial institution with its

7 governmental supervisory body.

8 (e) The state board of accounts may rely on safekeeping receipts or

9 other reporting from any depository or financial institution.

10 (f) In addition to any other investments allowed under this chapter,

11 an officer of a conservancy district located in a city having a population

12 of more than four thousand six hundred fifty (4,650) but less than five

13 thousand (5,000) may also invest in

14 (1) municipal securities and

15 (2) equity securities;

16 having a stated final maturity of any number of years or having no

17 stated final maturity. The total investments outstanding under this

18 subsection may not exceed twenty-five percent (25%) of the total

19 portfolio of funds invested by the officer of a conservancy district.

20 However, an investment that complies with this subsection when the

21 investment is made remains legal even if a subsequent decrease in the

22 total portfolio invested by the officer of a conservancy district causes

23 the percentage of investments outstanding under this subsection to

24 exceed twenty-five percent (25%).

25 (g) In addition to any other investments allowed under this chapter,

26 a clerk-treasurer of a town with a population of more than six thousand

27 three hundred (6,300) but less than ten thousand (10,000) located in a

28 county having a population of more than one hundred thousand

29 (100,000) but less than one hundred five thousand (105,000) may also

30 invest money in a host community agreement future fund established

31 by ordinance of the town in

32 (1) municipal securities and

33 (2) equity securities;

34 having a stated final maturity of any number of years or having no

35 stated final maturity. The total investments outstanding under this

36 subsection may not exceed twenty-five percent (25%) of the total

37 portfolio of funds invested by the clerk-treasurer of a town. However,

38 an investment that complies with this subsection when the investment

39 is made remains legal even if a subsequent decrease in the total

40 portfolio invested by the clerk-treasurer of a town causes the

41 percentage of investments outstanding under this subsection to exceed

42 twenty-five percent (25%).

43 SECTION 7. IC 5-13-9-2.5 IS AMENDED TO READ AS

44 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. (a) An officer

45 designated in section 1 of this chapter may invest or reinvest funds that

46 are held by the officer and available for investment in investments

47 commonly known as money market mutual funds that are in the form

48 of securities of or interests in an open-end, no-load, management-type

49 investment company or investment trust registered under the provisions

50 of the federal Investment Company Act of 1940, as amended (15

51 U.S.C. 80a et seq.).

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

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

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

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

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

14 (1) Direct obligations of the United States.

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

16 (A) A federal agency.

17 (B) A federal instrumentality.

18 (C) A federal government sponsored enterprise.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 the joint investment fund.

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

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

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

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

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

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

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

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

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

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

51 (A) A financial institution located in Indiana.

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

1 receive public funds of the state if the institution:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (1) United States Treasury securities.

18 (2) Federal agency securities.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 **Chapter 23.6. Five Star Mortgages**

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

31 **(1) a person:**

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

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

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

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

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

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

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

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

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

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

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

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

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

14 that is used as a residence.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 finding that the financial institution is not in substantial  
2 compliance with the act; and

3 (4) invite a reply that affirms or disputes the evidence of  
4 noncompliance with the act.

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

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

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

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

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

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

**Conference Committee Report**  
**on**  
**Engrossed House Bill 1336**

**S**igned by:

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Representative Bardon  
Chairperson

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Senator Hershman

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Representative Burton

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Senator Skinner

**House Conferees**

**Senate Conferees**