



February 17, 2012

**ENGROSSED
HOUSE BILL No. 1294**

DIGEST OF HB 1294 (Updated February 16, 2012 11:26 am - DI 110)

Citations Affected: IC 4-5; IC 23-2; IC 23-19; IC 23-20; IC 25-11.

Synopsis: Various securities division matters. Provides that in addition to micrographically copying certain documents that the secretary of state is charged with preserving, the secretary of state may copy those documents by an equivalent method. Amends the definition of "residential mortgage loan" for purposes of the statute concerning the regulation of loan brokers and adds the definition of "residential real estate" to that statute. Allows the securities commissioner (commissioner) to take certain actions and impose certain penalties with respect to an individual who is registered as, or who applies to register as, an agent for a securities broker-dealer or as an investment adviser representative if the individual has failed to comply with a child support order. Repeals a provision that allows the commissioner to award up to 10% of a penalty imposed and recovered under the Indiana uniform securities act (act) to a person who provides information leading to the imposition of the penalty. Provides that the commissioner may provide an award, in an amount determined by the (Continued next page)

Effective: July 1, 2012.

Heaton, Burton

(SENATE SPONSOR — SMITH J)

January 11, 2012, read first time and referred to Committee on Financial Institutions.
January 23, 2012, reported — Do Pass.
January 26, 2012, read second time, ordered engrossed. Engrossed.
January 30, 2012, read third time, passed. Yeas 93, nays 0.

SENATE ACTION

February 1, 2012, read first time and referred to Committee on Insurance and Financial Institutions.
February 16, 2012, reported favorably — Do Pass.

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commissioner and paid from the securities restitution fund, to an informant who provides to the securities division of the office of the secretary of state original information concerning a violation of the act, if the information provided leads to the successful enforcement of a judicial or an administrative action concerning the violation. Provides that the total amount of awards in any proceeding may not exceed 10% of the total monetary sanctions imposed or ordered. Sets forth certain factors that the commissioner must consider in determining the amount of an award. Prohibits the commissioner from providing an award to an informant in certain circumstances. Amends the statute concerning the licensing of collection agencies by the secretary of state to: (1) allow the secretary of state to designate a multistate automated licensing system and repository to serve as the sole entity responsible for processing applications for licenses and license renewals; and (2) provide that a license expires on the last day of the calendar year in which the license was issued (instead of expiring on the last day of the calendar year after the year in which the license was issued, as provided for in current law). Makes technical changes. Makes an appropriation.

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February 17, 2012

Second Regular Session 117th General Assembly (2012)

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

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

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2011 Regular Session of the General Assembly.

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ENGROSSED HOUSE BILL No. 1294

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

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

- 1 SECTION 1. IC 4-5-1-2, AS AMENDED BY P.L.123-2006,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2012]: Sec. 2. (a) The secretary of state shall keep and
4 preserve the following:
5 (1) The enrolled copy of the constitution of the state.
6 (2) The manuscripts containing the enrolled acts and joint
7 resolutions of the general assembly.
8 (3) All the official bonds of state officers except the secretary of
9 state's bond.
10 (4) All written contracts to which the state is a party, unless
11 required to be deposited elsewhere.
12 (5) Any rule or other agency statement that is filed under
13 IC 4-22-2 before July 1, 2006.
14 (b) All documents described in subsection (a)(1), (a)(2) or (a)(5)
15 may be transferred by the secretary of state to the commission on

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1 public records for safekeeping, and the commission shall receive and
 2 safely preserve them when transferred. The secretary of state and the
 3 commission on public records shall establish an indexing system so
 4 that the secretary of state, an agency, or the commission on public
 5 records can comply with a request under IC 5-14-3 to inspect or copy
 6 a transferred document described in subsection (a)(5), including the
 7 full text of a matter incorporated by reference into a document
 8 described in subsection (a)(5). The indexing system must at least
 9 identify transferred documents by the following:

- 10 (1) Indiana Administrative Code citation.
- 11 (2) Indiana Register document control number or volume and
 12 page number.
- 13 (3) Year of adoption.
- 14 (4) General subject matter.

15 (c) Regardless of whether a document described in subsection (a)(1)
 16 or (a)(2) is transferred to the commission on public records under
 17 subsection (b), when deemed expedient or necessary for the
 18 preservation of the documents, the secretary of state may copy the
 19 documents by any micrographic **or equivalent** technique, and the
 20 **micrographic** copies shall be stored in a place other than in the state
 21 capitol building or the Indiana state library.

22 (d) The secretary of state may copy in micrographic **or equivalent**
 23 form the complete contents of each rule that is filed with the secretary
 24 of state's office under IC 4-22-2 before July 1, 2006. Both the rule and
 25 the full text of matters incorporated by reference into the rule may be
 26 copied.

27 (e) **Micrographic** Copies prepared under subsection (d) must
 28 conform with the following:

- 29 (1) The standards developed by the supreme court and the
 30 oversight commission on public records under IC 5-15-5.1-8.
- 31 (2) The standards developed in an agreement between the
 32 secretary of state, the publisher of the Indiana Register, the
 33 governor, the attorney general, the Indiana library and historical
 34 department, and the commission on public records.

35 (f) The secretary of state may **micrographically** copy,
 36 **micrographically or through an equivalent method**, documents
 37 under subsection (d):

- 38 (1) in the **micrographic** laboratory operated **under IC 5-15-5.1-8**
 39 by the commission on public records; ~~under IC 5-15-5.1-8;~~
- 40 (2) with equipment and technology operated by the secretary of
 41 state; or
- 42 (3) through a contract for services procured under IC 5-22.



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1 (g) When a document is ~~micrographically~~ copied, **whether**
 2 **micrographically or through an equivalent method**, under this
 3 section, the original documents shall never be destroyed. ~~even if~~
 4 ~~microfilmed~~. However, if the secretary of state has the capacity to make
 5 certifiable copies ~~from a of the rules described in subsection (d)~~
 6 **using micrographic or other media, prepared under subsection (d)**; the
 7 secretary of state may return to ~~its originating~~ **the agency from which**
 8 **any rule originated** the full text of any matter that is incorporated by
 9 reference into a ~~the~~ rule and ~~micrographically~~ copied
 10 **micrographically or through an equivalent method.**

11 SECTION 2. IC 23-2-5-3, AS AMENDED BY P.L.35-2010,
 12 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2012]: Sec. 3. (a) As used in this chapter, "loan broker
 14 license" means a license issued by the commissioner authorizing a
 15 person to engage in the loan brokerage business.

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

18 (c) As used in this chapter, "loan broker" means any person who, in
 19 return for any consideration from any source procures, attempts to
 20 procure, or assists in procuring, a residential mortgage loan from a
 21 third party or any other person, whether or not the person seeking the
 22 loan actually obtains the loan. "Loan broker" does not include:

23 (1) any supervised financial organization (as defined in
 24 IC 26-1-4-102.5), including a bank, savings bank, trust company,
 25 savings association, or credit union;

26 (2) any other financial institution that is:

27 (A) regulated by any agency of the United States or any state;
 28 and

29 (B) regularly actively engaged in the business of making
 30 consumer loans that are not secured by real estate or taking
 31 assignment of consumer sales contracts that are not secured by
 32 real estate;

33 (3) any insurance company;

34 (4) any person arranging financing for the sale of the person's
 35 product; or

36 (5) a creditor that is licensed under IC 24-4.4-2-402.

37 (d) As used in this chapter, "loan brokerage business" means a
 38 person acting as a loan broker.

39 (e) As used in this chapter, "mortgage loan origination activities"
 40 means performing any of the following activities for compensation or
 41 gain in connection with a residential mortgage loan:

42 (1) Receiving or recording a borrower's or potential borrower's

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- 1 residential mortgage loan application information in any form for
 2 use in a credit decision by a creditor.
- 3 (2) Offering to negotiate or negotiating terms of a residential
 4 mortgage loan.
- 5 (f) As used in this chapter, "borrower's residential mortgage loan
 6 application information" means the address of the proposed residential
 7 real property to be mortgaged and borrower's essential personal and
 8 financial information necessary for an informed credit decision to be
 9 made on the borrower's mortgage loan application.
- 10 (g) As used in this chapter, "mortgage loan originator" means an
 11 individual engaged in mortgage loan origination activities. The term
 12 does not include a person who:
- 13 (1) performs purely administrative or clerical tasks on behalf of
 14 a mortgage loan originator or acts as a loan processor or
 15 underwriter;
- 16 (2) performs only real estate brokerage activities and is licensed
 17 in accordance with IC 25-34.1 or the applicable laws of another
 18 state, unless the person is compensated by a creditor, a loan
 19 broker, a mortgage loan originator, or any agent of a creditor, a
 20 loan broker, or a mortgage loan originator; or
- 21 (3) is involved only in extensions of credit relating to time share
 22 plans (as defined in 11 U.S.C. 101(53D)).
- 23 (h) As used in this chapter, "mortgage loan originator license"
 24 means a license issued by the commissioner authorizing an individual
 25 to act as a mortgage loan originator on behalf of a loan broker licensee.
- 26 (i) As used in this chapter, "person" means an individual, a
 27 partnership, a trust, a corporation, a limited liability company, a limited
 28 liability partnership, a sole proprietorship, a joint venture, a joint stock
 29 company, or another group or entity, however organized.
- 30 (j) As used in this chapter, "ultimate equitable owner" means a
 31 person who, directly or indirectly, owns or controls ten percent (10%)
 32 or more of the equity interest in a loan broker licensed or required to be
 33 licensed under this chapter, regardless of whether the person owns or
 34 controls the equity interest through one (1) or more other persons or
 35 one (1) or more proxies, powers of attorney, or variances.
- 36 (k) As used in this chapter, "principal manager" means an individual
 37 who:
- 38 (1) has at least three (3) years of experience:
- 39 (A) as a mortgage loan originator; or
- 40 (B) in financial services;
- 41 that is acceptable to the commissioner; and
- 42 (2) is principally responsible for the supervision and management

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- 1 of the employees and business affairs of a loan broker licensee.
- 2 (l) As used in this chapter, "principal manager license" means a
- 3 license issued by the commissioner authorizing an individual to act as:
- 4 (1) a principal manager; and
- 5 (2) a mortgage loan originator;
- 6 on behalf of a loan broker licensee.
- 7 (m) As used in this chapter, "bona fide third party fee", with respect
- 8 to a residential mortgage loan, includes any of the following:
- 9 (1) Fees for real estate appraisals. However, if the residential
- 10 mortgage loan is governed by Title XI of the Financial Institutions
- 11 Reform, Recovery, and Enforcement Act (12 U.S.C. 3331 through
- 12 3352), the fee for an appraisal performed in connection with the
- 13 loan is not a bona fide third party fee unless the appraisal is
- 14 performed by a person that is licensed or certified under
- 15 IC 25-34.1-3-8.
- 16 (2) Fees for title examination, abstract of title, title insurance,
- 17 property surveys, or similar purposes.
- 18 (3) Notary and credit report fees.
- 19 (4) Fees for the services provided by a loan broker in procuring
- 20 possible business for a creditor if the fees are paid by the creditor.
- 21 (n) As used in this chapter, "branch office" means any fixed physical
- 22 location from which a loan broker licensee holds itself out as engaging
- 23 in the loan brokerage business.
- 24 (o) As used in this chapter, "loan processor or underwriter" means
- 25 an individual who:
- 26 (1) is employed by a loan broker licensee and acts at the direction
- 27 of, and subject to the supervision of, the loan broker licensee or
- 28 a licensed principal manager employed by the loan broker
- 29 licensee; and
- 30 (2) performs solely clerical or support duties on behalf of the loan
- 31 broker licensee, including any of the following activities with
- 32 respect to a residential mortgage loan application received by the
- 33 loan broker licensee:
- 34 (A) The receipt, collection, distribution, and analysis of
- 35 information commonly used in the processing or underwriting
- 36 of a residential mortgage loan.
- 37 (B) Communicating with a borrower or potential borrower to
- 38 obtain the information necessary for the processing or
- 39 underwriting of a residential mortgage loan, to the extent that
- 40 the communication does not include:
- 41 (i) offering or negotiating loan rates or terms; or
- 42 (ii) counseling borrowers or potential borrowers about

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1 residential mortgage loan rates or terms.

2 (p) As used in this chapter, "real estate brokerage activity" means
3 any activity that involves offering or providing real estate brokerage
4 services to the public, including any of the following:

5 (1) Acting as a real estate broker or salesperson for a buyer, seller,
6 lessor, or lessee of real property.

7 (2) Bringing together parties interested in the sale, lease, or
8 exchange of real property.

9 (3) Negotiating, on behalf of any party, any part of a contract
10 concerning the sale, lease, or exchange of real property, other than
11 in connection with obtaining or providing financing for the
12 transaction.

13 (4) Engaging in any activity for which the person performing the
14 activity is required to be licensed under IC 25-34.1 or the
15 applicable laws of another state.

16 (5) Offering to engage in any activity, or to act in any capacity
17 with respect to any activity, described in subdivisions (1) through
18 (4).

19 (q) As used in this chapter, "registered mortgage loan originator"
20 means a mortgage loan originator who:

21 (1) is an employee of:

22 (A) a depository institution;

23 (B) a subsidiary that is:

24 (i) owned and controlled by a depository institution; and

25 (ii) regulated by a federal financial institution regulatory
26 agency (as defined in 12 U.S.C. 3350(6)); or

27 (C) an institution regulated by the Farm Credit Administration;
28 and

29 (2) is registered with and maintains a unique identifier with the
30 Nationwide Mortgage Licensing System and Registry.

31 (r) As used in this chapter, "residential mortgage loan" means a loan
32 that is **or will be used primarily for personal, family, or household**
33 **purposes and that is secured by a mortgage deed of trust, (or other**
34 **another equivalent consensual security interest) on a dwelling (as**
35 **defined in Section 103(w) of the federal Truth in Lending Act (15**
36 **U.S.C. 1602(w)) or on residential real estate in Indiana on which there**
37 **a dwelling is located constructed or intended to be constructed. a**
38 **dwelling (as defined in the federal Truth in Lending Act (15 U.S.C.**
39 **1602(v)) that is or will be used primarily for personal, family, or**
40 **household purposes.**

41 (s) As used in this chapter, "personal information" includes any of
42 the following:

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- 1 (1) An individual's first and last names or first initial and last
2 name.
- 3 (2) Any of the following data elements:
4 (A) A Social Security number.
5 (B) A driver's license number.
6 (C) A state identification card number.
7 (D) A credit card number.
8 (E) A financial account number or debit card number in
9 combination with a security code, password, or access code
10 that would permit access to the person's account.
- 11 (3) With respect to an individual, any of the following:
12 (A) Address.
13 (B) Telephone number.
14 (C) Information concerning the individual's:
15 (i) income or other compensation;
16 (ii) credit history;
17 (iii) credit score;
18 (iv) assets;
19 (v) liabilities; or
20 (vi) employment history.
- 21 (t) As used in this chapter, personal information is "encrypted" if the
22 personal information:
23 (1) has been transformed through the use of an algorithmic
24 process into a form in which there is a low probability of
25 assigning meaning without use of a confidential process or key;
26 or
27 (2) is secured by another method that renders the personal
28 information unreadable or unusable.
- 29 (u) As used in this chapter, personal information is "redacted" if the
30 personal information has been altered or truncated so that not more
31 than the last four (4) digits of:
32 (1) a Social Security number;
33 (2) a driver's license number;
34 (3) a state identification number; or
35 (4) an account number;
36 are accessible as part of the personal information.
- 37 (v) As used in this chapter, "depository institution" has the meaning
38 set forth in the Federal Deposit Insurance Act (12 U.S.C. 1813(c)) and
39 includes any credit union.
- 40 (w) As used in this chapter, "state licensed mortgage loan
41 originator" means any individual who:
42 (1) is a mortgage loan originator;

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1 (2) is not an employee of:

2 (A) a depository institution;

3 (B) a subsidiary that is:

4 (i) owned and controlled by a depository institution; and

5 (ii) regulated by a federal financial institution regulatory
6 agency (as defined in 12 U.S.C. 3350(6)); or

7 (C) an institution regulated by the Farm Credit Administration;

8 (3) is licensed by a state or by the Secretary of the United States
9 Department of Housing and Urban Development under Section
10 1508 of the S.A.F.E. Mortgage Licensing Act of 2008 (Title V of
11 P.L.110-289); and

12 (4) is registered as a mortgage loan originator with, and maintains
13 a unique identifier through, the Nationwide Mortgage Licensing
14 System and Registry.

15 (x) As used in this chapter, "unique identifier" means a number or
16 other identifier that:

17 (1) permanently identifies a mortgage loan originator; and

18 (2) is assigned by protocols established by the Nationwide
19 Mortgage Licensing System and Registry and the federal financial
20 institution regulatory agencies to facilitate:

21 (A) the electronic tracking of mortgage loan originators; and

22 (B) the uniform identification of, and public access to, the
23 employment history of and the publicly adjudicated
24 disciplinary and enforcement actions against mortgage loan
25 originators.

26 (y) As used in this chapter, "residential real estate" means real
27 property:

28 (1) that is located in Indiana; and

29 (2) upon which a dwelling is constructed or intended to be
30 constructed.

31 SECTION 3. IC 23-19-4-12, AS ADDED BY P.L.27-2007,
32 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
33 JULY 1, 2012]: Sec. 12. (a) If the commissioner finds that the order is
34 in the public interest and subsection (d) authorizes the action, an order
35 issued under this article may deny an application, or may condition or
36 limit registration, of an applicant to be a broker-dealer, agent,
37 investment adviser, or investment adviser representative and, if the
38 applicant is a broker-dealer or investment adviser, of a partner, officer,
39 director, or person having a similar status or performing similar
40 functions, or a person directly or indirectly in control of the
41 broker-dealer or investment adviser.

42 (b) If the commissioner finds that the order is in the public interest

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1 and subsection (d) authorizes the action, an order issued under this
 2 article may revoke, suspend, condition, or limit the registration of a
 3 registrant and, if the registrant is a broker-dealer or investment adviser,
 4 of a partner, officer, director, or person having a similar status or
 5 performing similar functions, or a person directly or indirectly in
 6 control of the broker-dealer or investment adviser. However, the
 7 commissioner may not:

8 (1) institute a revocation or suspension proceeding under this
 9 subsection based on an order issued under a law of another state
 10 that is reported to the commissioner or a designee of the
 11 commissioner more than one (1) year after the date of the order on
 12 which it is based; or

13 (2) under subsection (d)(5)(A) and (d)(5)(B), issue an order on
 14 the basis of an order issued under the securities act of another
 15 state unless the other order was based on conduct for which
 16 subsection (d) would authorize the action had the conduct
 17 occurred in this state.

18 (c) If the commissioner finds that the order is in the public interest
 19 and subsection (d)(1), (d)(2), (d)(3), (d)(4), (d)(5), (d)(6), (d)(8), (d)(9),
 20 ~~(d)(10)~~, **(d)(11)**, (d)(12), or (d)(13) authorizes the action, an order
 21 under this article may censure, impose a bar, or impose a civil penalty
 22 in an amount not to exceed a maximum of ten thousand dollars
 23 (\$10,000) per violation on a registrant, and, if the registrant is a
 24 broker-dealer or investment adviser, a partner, officer, director, or
 25 person having a similar status or performing similar functions, or a
 26 person directly or indirectly in control of the broker-dealer or
 27 investment adviser.

28 (d) A person may be disciplined under subsections (a) through (c)
 29 if the person:

30 (1) has filed an application for registration in this state under this
 31 article or the predecessor act within the previous ten (10) years,
 32 which, as of the effective date of registration or as of any date
 33 after filing in the case of an order denying effectiveness, was
 34 incomplete in any material respect or contained a statement that,
 35 in light of the circumstances under which it was made, was false
 36 or misleading with respect to a material fact;

37 (2) knowingly violated or knowingly failed to comply with this
 38 article or the predecessor act or a rule adopted or order issued
 39 under this article or the predecessor act within the previous ten
 40 (10) years;

41 (3) has been convicted of a felony or within the previous ten (10)
 42 years has been convicted of a misdemeanor involving a security,

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1 a commodity future or option contract, or an aspect of a business
 2 involving securities, commodities, investments, franchises,
 3 insurance, banking, or finance;
 4 (4) is enjoined or restrained by a court with jurisdiction in a
 5 action instituted by the commissioner under this article or the
 6 predecessor act, a state, the Securities and Exchange Commission,
 7 or the United States from engaging in or continuing an act,
 8 practice, or course of business involving an aspect of a business
 9 involving securities, commodities, investments, franchises,
 10 insurance, banking, or finance;
 11 (5) is the subject of an order, issued after notice and opportunity
 12 for hearing, by:
 13 (A) the securities, depository institution, insurance, or other
 14 financial services regulator of a state or by the Securities and
 15 Exchange Commission or other federal agency denying,
 16 revoking, barring, or suspending registration as a
 17 broker-dealer, agent, investment adviser, federal covered
 18 investment adviser, or investment adviser representative;
 19 (B) the securities regulator of a state or the Securities and
 20 Exchange Commission against a broker-dealer, agent,
 21 investment adviser, investment adviser representative, or
 22 federal covered investment adviser;
 23 (C) the Securities and Exchange Commission or a
 24 self-regulatory organization suspending or expelling the
 25 registrant from membership in the self-regulatory
 26 organization;
 27 (D) a court adjudicating a United States Postal Service fraud
 28 order;
 29 (E) the insurance regulator of a state denying, suspending, or
 30 revoking registration as an insurance agent;
 31 (F) a depository institution regulator suspending or barring the
 32 person from the depository institution business; or
 33 (G) any state regulatory body or organization governing real
 34 estate brokers or sales persons denying, suspending, or
 35 revoking a person's registration or license in the real estate
 36 industry;
 37 (6) is the subject of an adjudication or determination, after notice
 38 and opportunity for hearing, by the Securities and Exchange
 39 Commission, the Commodity Futures Trading Commission, the
 40 Federal Trade Commission, a federal depository institution
 41 regulator, or a depository institution, insurance, or other financial
 42 services regulator of a state that the person willfully violated the

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1 Securities Act of 1933, the Securities Exchange Act of 1934, the
2 Investment Advisers Act of 1940, the Investment Company Act
3 of 1940, or the Commodity Exchange Act, the securities or
4 commodities law of a state, or a federal or state law under which
5 a business involving investments, franchises, insurance, banking,
6 or finance is regulated;
7 (7) is insolvent, either because the person's liabilities exceed the
8 person's assets or because the person cannot meet the person's
9 obligations as they mature, but the commissioner may not enter an
10 order against an applicant or registrant under this subdivision
11 without a finding of insolvency as to the applicant or registrant;
12 (8) refuses to allow or otherwise impedes the commissioner from
13 conducting an audit or inspection under section 11(d) of this
14 chapter or refuses access to a registrant's office to conduct an
15 audit or inspection under section 11(d) of this chapter;
16 (9) has failed to reasonably supervise an agent, investment adviser
17 representative, or other individual, if the agent, investment
18 adviser representative, or other individual was subject to the
19 person's supervision and committed a violation of this article or
20 the predecessor act or a rule adopted or order issued under this
21 article or the predecessor act within the previous ten (10) years;
22 (10) has not paid the proper filing fee within thirty (30) days after
23 having been notified by the commissioner of a deficiency, but the
24 commissioner shall vacate an order under this subdivision when
25 the deficiency is corrected;
26 (11) after notice and opportunity for a hearing, has been found
27 within the previous ten (10) years:
28 (A) by a court with jurisdiction to have willfully violated the
29 laws of a foreign jurisdiction under which the business of
30 securities, commodities, investment, franchises, insurance,
31 banking, or finance is regulated;
32 (B) to have been the subject of an order of a securities
33 regulator of a foreign jurisdiction denying, revoking, or
34 suspending the right to engage in the business of securities as
35 a broker-dealer, agent, investment adviser, investment adviser
36 representative, or similar person; or
37 (C) to have been suspended or expelled from membership by
38 or participation in a securities exchange or securities
39 association operating under the securities laws of a foreign
40 jurisdiction;
41 (12) is the subject of a cease and desist order issued by the
42 Securities and Exchange Commission or issued under the

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1 securities, commodities, investment, franchise, banking, finance,
 2 or insurance laws of a state;
 3 (13) has engaged in dishonest or unethical practices in the
 4 securities, commodities, investment, franchise, banking, finance,
 5 or insurance business within the previous ten (10) years;
 6 (14) is not qualified on the basis of factors such as training,
 7 experience, and knowledge of the securities business. However,
 8 in the case of an application by an agent for a broker-dealer that
 9 is a member of a self-regulatory organization or by an individual
 10 for registration as an investment adviser representative, a denial
 11 order may not be based on this subdivision if the individual has
 12 successfully completed all examinations required by subsection
 13 (e). The commissioner may require an applicant for registration
 14 under section 2 or 4 of this chapter who has not been registered
 15 in a state within the two (2) years preceding the filing of an
 16 application in this state to successfully complete an examination;
 17 or
 18 (15) is on the most recent tax warrant list supplied to the
 19 commissioner by the department of state revenue; or
 20 **(16) is an individual who is:**
 21 **(A) an applicant for registration as an agent for a**
 22 **broker-dealer or as an investment adviser representative;**
 23 **or**
 24 **(B) registered as an agent for a broker-dealer or as an**
 25 **investment adviser representative; and**
 26 **has failed to comply with an administrative or a court order**
 27 **imposing a child support obligation.**
 28 (e) A rule adopted or order issued under this article may require that
 29 an examination, including an examination developed or approved by
 30 an organization of securities regulators, be successfully completed by
 31 a class of individuals or all individuals. An order issued under this
 32 article may waive, in whole or in part, an examination as to an
 33 individual and a rule adopted under this article may waive, in whole or
 34 in part, an examination as to a class of individuals if the commissioner
 35 determines that the examination is not necessary or appropriate in the
 36 public interest and for the protection of investors.
 37 (f) The commissioner may suspend or deny an application
 38 summarily; restrict, condition, limit, or suspend a registration; or
 39 censure, bar, or impose a civil penalty on a registrant before final
 40 determination of an administrative proceeding. Upon the issuance of
 41 an order, the commissioner shall promptly notify each person subject
 42 to the order that the order has been issued, the reasons for the action,

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1 and that within fifteen (15) days after the receipt of a request in a
2 record from the person the matter will be scheduled for a hearing. If a
3 hearing is not requested and none is ordered by the commissioner
4 within thirty (30) days after the date of service of the order, the order
5 becomes final by operation of law. If a hearing is requested or ordered,
6 the commissioner, after notice of and opportunity for hearing to each
7 person subject to the order, may modify or vacate the order or extend
8 the order until final determination.

9 (g) An order may not be issued under this section, except under
10 subsection (f), without:

- 11 (1) appropriate notice to the applicant or registrant;
- 12 (2) opportunity for hearing; and
- 13 (3) findings of fact and conclusions of law in a record.

14 (h) A person that controls, directly or indirectly, a person not in
15 compliance with this section may be disciplined by order of the
16 commissioner under subsections (a) through (c) to the same extent as
17 the noncomplying person, unless the controlling person did not know,
18 and in the exercise of reasonable care could not have known, of the
19 existence of conduct that is a ground for discipline under this section.

20 (i) The commissioner may not institute a proceeding under
21 subsection (a), (b), or (c) based solely on material facts actually known
22 by the commissioner unless an investigation or the proceeding is
23 instituted within one (1) year after the commissioner actually acquires
24 knowledge of the material facts.

25 (j) All fines and penalties collected under this section shall be
26 deposited into the securities division enforcement account as
27 established by IC 23-19-6-1(f).

28 SECTION 4. IC 23-19-6-1, AS AMENDED BY P.L.114-2010,
29 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
30 JULY 1, 2012]: Sec. 1. (a) This article shall be administered by a
31 division of the office of the secretary of state. The secretary of state
32 shall appoint a securities commissioner who shall be responsible for
33 the direction and supervision of the division and the administration of
34 this article under the direction and control of the secretary of state. The
35 salary of the securities commissioner shall be paid out of the funds
36 appropriated for the administration of this article. The commissioner
37 shall serve at the will of the secretary of state.

- 38 (b) The secretary of state:
 - 39 (1) shall employ a chief deputy, attorneys, a senior investigator,
 - 40 a senior accountant, and other deputies, investigators,
 - 41 accountants, clerks, stenographers, and other employees necessary
 - 42 for the administration of this article; and

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1 (2) shall fix their compensation with the approval of the budget
 2 agency.
 3 (c) It is unlawful for the commissioner or an officer, employee, or
 4 designee of the commissioner to use for personal benefit or the benefit
 5 of others records or other information obtained by or filed with the
 6 commissioner that are not public under section 7(b) of this chapter.
 7 This article does not authorize the commissioner or an officer,
 8 employee, or designee of the commissioner to disclose the record or
 9 information, except in accordance with section 2, 7(c), or 8 of this
 10 chapter.
 11 (d) This article does not create or diminish a privilege or exemption
 12 that exists at common law, by statute or rule, or otherwise.
 13 (e) Subject to IC 4-2-6-15, the commissioner may develop and
 14 implement investor education initiatives to inform the public about
 15 investing in securities, with particular emphasis on the prevention and
 16 detection of securities fraud. In developing and implementing these
 17 initiatives, the commissioner may collaborate with public and nonprofit
 18 organizations with an interest in investor education. The commissioner
 19 may accept a grant or donation from a person that is not affiliated with
 20 the securities industry or from a nonprofit organization, regardless of
 21 whether the organization is affiliated with the securities industry, to
 22 develop and implement investor education initiatives. This subsection
 23 does not authorize the commissioner to require participation or
 24 monetary contributions of a registrant in an investor education
 25 program.
 26 (f) Fees and funds of whatever character accruing from the
 27 administration of this article shall be accounted for by the secretary of
 28 state and shall be deposited with the treasurer of state to be deposited
 29 by the treasurer of the state in either the state general fund or the
 30 enforcement account referenced below. Subject to IC 4-2-6-15,
 31 expenses incurred in the administration of this article shall be paid
 32 from the state general fund upon appropriation being made for the
 33 expenses in the manner provided by law for the making of those
 34 appropriations. However, grants and donations received under
 35 subsection (e), costs of investigations recovered under section 4(e) of
 36 this chapter, and civil penalties recovered under sections 3(b) and 4(d)
 37 of this chapter shall be deposited by the treasurer of state in a separate
 38 account to be known as the securities division enforcement account.
 39 Notwithstanding IC 9-23-6-4, IC 23-2-2.5-34, IC 23-2-2.5-43,
 40 IC 23-2-5-7, IC 23-19-4-12, IC 25-11-1-15, and this chapter, five
 41 percent (5%) of funds received after June 30, 2010, for deposit in the
 42 enforcement account shall instead be deposited in the securities

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1 restitution fund established ~~under IC 23-20-1-26~~ by **IC 23-20-1-25**.
2 Subject to IC 4-2-6-15, the funds deposited in the enforcement account
3 shall be available, with the approval of the budget agency:

4 (1) to augment and supplement the funds appropriated for the
5 administration of this article; and

6 (2) for grants and awards to nonprofit entities for programs and
7 activities that will further investor education and financial literacy
8 in the state.

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

11 (g) In connection with the administration and enforcement of this
12 article, the attorney general shall render all necessary assistance to the
13 commissioner upon the commissioner's request, and to that end, the
14 attorney general shall employ legal and other professional services as
15 are necessary to adequately and fully perform the service under the
16 direction of the commissioner as the demands of the securities division
17 shall require. Expenses incurred by the attorney general for the
18 purposes stated in this subsection shall be chargeable against and paid
19 out of funds appropriated to the attorney general for the administration
20 of the attorney general's office. The attorney general may authorize the
21 commissioner and the commissioner's designee to represent the
22 commissioner and the securities division in any proceeding involving
23 enforcement or defense of this article.

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

28 (i) The commissioner shall take, prescribe, and file the oath of office
29 prescribed by law. The commissioner, chief deputy commissioner, and
30 each attorney or investigator designated by the commissioner are police
31 officers of the state and shall have all the powers and duties of police
32 officers in making arrests for violations of this article, or in serving any
33 process, notice, or order connected with the enforcement of this article
34 by whatever officer, authority, or court issued and shall comprise the
35 enforcement department of the division and are considered a criminal
36 justice agency for purposes of IC 5-2-4 and IC 10-13-3.

37 (j) The provisions of this article delegating and granting power to
38 the secretary of state, the securities division, and the commissioner
39 shall be liberally construed to the end that:

40 (1) the practice or commission of fraud may be prohibited and
41 prevented;

42 (2) disclosure of sufficient and reliable information in order to

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1 afford reasonable opportunity for the exercise of independent
 2 judgment of the persons involved may be assured; and
 3 (3) the qualifications may be prescribed to assure availability of
 4 reliable broker-dealers, investment advisers, and agents engaged
 5 in and in connection with the issuance, barter, sale, purchase,
 6 transfer, or disposition of securities in this state.

7 It is the intent and purpose of this article to delegate and grant to and
 8 vest in the secretary of state, the securities division, and the
 9 commissioner full and complete power to carry into effect and
 10 accomplish the purpose of this article and to charge them with full and
 11 complete responsibility for its effective administration.

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

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

20 SECTION 5. IC 23-19-6-12 IS REPEALED [EFFECTIVE JULY 1,
 21 2012]. ~~Sec. 12: The commissioner may award, from any amount~~
 22 ~~imposed as a penalty under this article and recovered by the securities~~
 23 ~~division, a percentage, not to exceed ten percent (10%) and as~~
 24 ~~considered appropriate by the commissioner, of the amount recovered;~~
 25 ~~to any person who provided information leading to the imposition of~~
 26 ~~the penalty. Any determination under this section, including whether~~
 27 ~~to make a payment, to whom to make a payment, or in what amount to~~
 28 ~~make a payment, is in the sole discretion of the commissioner.~~
 29 ~~However, a payment may not be made under this section to an~~
 30 ~~employee of the securities division. A determination under this section~~
 31 ~~is final and is not subject to judicial review.~~

32 SECTION 6. IC 23-19-7 IS ADDED TO THE INDIANA CODE AS
 33 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 34 1, 2012]:

35 **Chapter 7. Awards for Reporting Securities Violations**

36 **Sec. 1. As used in this chapter, "commissioner" refers to the**
 37 **securities commissioner appointed by the secretary of state under**
 38 **IC 23-19-6-1(a).**

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

41 **Sec. 3. As used in this chapter, "fund" refers to the securities**
 42 **restitution fund established by IC 23-20-1-25.**

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1 **Sec. 4. (a) As used in this chapter, "informant" means an**
 2 **individual who provides original information concerning a**
 3 **violation of this article to the division.**

4 **(b) The term does not include an individual who is:**

5 **(1) a journalist, a reporter, or any other member of the news**
 6 **media if the individual discovers or acquires the original**
 7 **information in the course of investigating or reporting a story,**
 8 **as part of an assignment, or through any other means related**
 9 **to the individual's work for, or in connection with, the news**
 10 **media; or**

11 **(2) an employee of the division.**

12 **Sec. 5. As used in this chapter, "monetary sanction" refers to**
 13 **money required to be paid under this article as the result of a**
 14 **judicial or an administrative action, including any penalties**
 15 **imposed or amounts ordered through an order of restitution or**
 16 **disgorgement.**

17 **Sec. 6. As used in this chapter, "original information" means**
 18 **information that:**

19 **(1) is provided to the division by an informant;**

20 **(2) is derived from the independent knowledge or analysis of**
 21 **the informant;**

22 **(3) is not known to or derived by the informant exclusively**
 23 **from:**

24 **(A) an allegation made in a judicial or an administrative**
 25 **proceeding;**

26 **(B) a government audit, investigation, hearing, or report;**
 27 **or**

28 **(C) a media report or an individual described in section**
 29 **4(b)(1) of this chapter; and**

30 **(4) would not otherwise be known to the division if the**
 31 **informant had not provided the information to the division.**

32 **Sec. 7. (a) Except as provided in section 9 of this chapter, and**
 33 **subject to subsection (b) and section 8 of this chapter, if:**

34 **(1) an informant:**

35 **(A) voluntarily provides in writing, and in the form or**
 36 **manner required by the commissioner, original**
 37 **information to the division; and**

38 **(B) includes, as part of the writing provided under clause**

39 **(A), a signed statement indicating that the informant**
 40 **reasonably believes that the act or omission disclosed**
 41 **through the original information provided constitutes a**
 42 **violation of this article; and**



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1 (2) the original information provided by the informant leads
 2 to the successful enforcement of a judicial or an
 3 administrative action under this article;
 4 the commissioner may award an amount, to be determined by the
 5 commissioner and paid from the fund, to the informant for the
 6 original information provided.

7 (b) The commissioner may provide an award to one (1) or more
 8 informants in any single judicial or administrative proceeding
 9 under this article. However, the aggregate amount of the awards
 10 in any single judicial or administrative proceeding may not exceed
 11 ten percent (10%) of the total monetary sanctions imposed or
 12 ordered in the action.

13 **Sec. 8. In determining the amount of an award to be paid under
 14 this chapter, the commissioner shall consider:**

- 15 (1) the significance of the original information provided by the
 16 informant to the successful enforcement of the judicial or
 17 administrative action under this article;
- 18 (2) the degree of assistance or cooperation provided by the
 19 informant in connection with the judicial or administrative
 20 proceedings;
- 21 (3) the programmatic interest of the commissioner in
 22 detering a violation of this article by making awards to
 23 informants who provide original information leading to the
 24 successful enforcement of this article; and
- 25 (4) any other factors the commissioner considers relevant.

26 **Sec. 9. The commissioner may not provide an award to an
 27 informant under this chapter if the informant:**

- 28 (1) is convicted of a crime in connection with the judicial or
 29 administrative proceeding for which the informant provided
 30 the original information;
- 31 (2) acquired the original information in performing an
 32 examination of financial statements required under securities
 33 laws or regulations, if the informant's subsequent disclosure
 34 of the information acquired constitutes a violation of 15
 35 U.S.C. 78j-1;
- 36 (3) fails to provide the original information to the division in
 37 the manner prescribed by section 7(a)(1) of this chapter and
 38 in accordance with any other requirements prescribed by the
 39 commissioner;
- 40 (4) knowingly or recklessly makes a false, fictitious, or
 41 fraudulent statement or a misrepresentation as part of, or in
 42 connection with:

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- 1 (A) the original information provided; or
- 2 (B) the judicial or administrative proceeding for which the
- 3 original information was provided;
- 4 (5) uses, relies on, or provides a false writing or document
- 5 knowing that, or with reckless disregard as to whether, the
- 6 writing or document contains false, fictitious, or fraudulent
- 7 information;
- 8 (6) knows that, or has a reckless disregard as to whether, the
- 9 original information provided is false, fictitious, or
- 10 fraudulent; or
- 11 (7) has a legal duty to provide the original information to the
- 12 division.

13 **Sec. 10. This chapter does not limit or negate any right or**
 14 **obligation of any individual to present evidence to a grand jury or**
 15 **to share evidence with potential witnesses or defendants in the**
 16 **course of an ongoing criminal investigation.**

17 SECTION 7. IC 23-20-1-26, AS ADDED BY P.L.114-2010,
 18 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2012]: Sec. 26. The money in the fund is continually
 20 appropriated to the division for purposes of:

- 21 (1) awarding restitution assistance under this chapter; ~~and~~
- 22 (2) paying expenses incurred in administering this chapter; **and**
- 23 **(3) making awards to informants under IC 23-19-7.**

24 SECTION 8. IC 25-11-1-3 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 3. (a) Any person
 26 desiring to conduct a collection agency shall make an application to the
 27 secretary of state upon such forms as may be prescribed by the
 28 secretary of state. Such application shall include the following:

- 29 (1) If the applicant is an individual:
 - 30 (A) the individual's name;
 - 31 (B) the individual's residence address;
 - 32 (C) the address of each location from which the individual
 - 33 carries out the activities of the collection agency; and
 - 34 (D) a statement that the individual satisfies the qualifications
 - 35 set forth in section 4 of this chapter.
- 36 (2) If the applicant is a partnership:
 - 37 (A) the name of each partner;
 - 38 (B) the business address of the partnership;
 - 39 (C) the residence address of at least one (1) of the partners;
 - 40 (D) the address of each location from which the partnership
 - 41 carries out the activities of the collection agency; and
 - 42 (E) a statement that each partner in the partnership satisfies the

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- 1 qualifications set forth in section 4 of this chapter.
- 2 (3) If the applicant is a limited liability company:
- 3 (A) the date and place of organization;
- 4 (B) the name of the limited liability company;
- 5 (C) the business address of the limited liability company;
- 6 (D) the residence address of at least one (1) of the managers or
- 7 members of the limited liability company; and
- 8 (E) a statement that each of the managers and members in the
- 9 limited liability company satisfies the qualifications set forth
- 10 in section 4 of this chapter.
- 11 (4) If the applicant is a corporation:
- 12 (A) the date and place of incorporation;
- 13 (B) the name of the corporation;
- 14 (C) the business address of the corporation;
- 15 (D) the residence address of at least one (1) of the officers of
- 16 the corporation; and
- 17 (E) a statement that each of the officers of the corporation
- 18 satisfies the qualifications set forth in section 4 of this chapter.
- 19 The application shall be duly sworn to before an officer qualified to
- 20 administer oaths. The application shall set forth therein any other
- 21 verified information which will assist the secretary of state in
- 22 determining the qualifications of the applicant to meet the requirements
- 23 of a collection agency as hereinunder set forth.
- 24 (b) Every original and renewal application of any person desiring to
- 25 conduct a collection agency shall be accompanied by a fee of one
- 26 hundred dollars (\$100) plus an additional fee of thirty dollars (\$30) for
- 27 each branch office operated by the applicant whether as sole owner,
- 28 partnership, limited liability company, or corporation.
- 29 (c) Any person desiring to secure a renewal of a collection agency
- 30 license shall make a renewal application to the secretary of state not
- 31 later than January 1 of the year following the year in which the person's
- 32 license expires under section 5 of this chapter. The application shall be
- 33 made on such forms as the secretary of state may prescribe. Such
- 34 application shall contain therein verified information that will assist the
- 35 secretary of state in determining whether or not the applicant is in
- 36 default, or is in violation of any of the provisions of this chapter, and
- 37 whether or not the applicant has at all times complied with the
- 38 requirements of this chapter in the operation of the applicant's
- 39 collection agency.
- 40 (d) Each renewal application shall be accompanied by the renewal
- 41 fee and an additional fee of thirty dollars (\$30) for each branch office
- 42 maintained and operated by the applicant.

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1 (e) Every original and renewal application shall be accompanied by
2 the following:

3 (1) A corporate surety bond in the sum of five thousand dollars
4 (\$5,000) for each office the applicant operates in the state of
5 Indiana. All bonds shall run to the people of the state of Indiana
6 and shall be furnished by a surety company authorized to do
7 business in this state. All bonds shall be conditioned upon the
8 faithful accounting of all money collected upon accounts
9 entrusted to such person and shall be continuous in form and shall
10 remain in full force and effect and run continuously with the
11 license period and any renewal thereof. All bonds shall further be
12 conditioned upon the provision that the applicant shall, within
13 sixty (60) days from the date of the collection of any claim, render
14 an account of and pay to the client, for whom collection has been
15 made, the proceeds of such collection less the charges for
16 collection agreed upon by and between the applicant and the
17 client. All bonds shall be filed in the office of the secretary of
18 state and shall be approved by the secretary of state before being
19 filed. All bonds filed and approved shall be for the use and benefit
20 of all persons damaged by the wrongful conversion of any money
21 by such person, and any individual so injured or aggrieved may
22 bring an action upon such bond. The surety company may notify
23 the secretary of state and principal of its desire to terminate its
24 liability under any bond furnished. Thirty (30) days after receipt
25 of such notice by the secretary of state, the secretary of state shall
26 thereupon require the principal to file a new bond or discontinue
27 all operations. If a new bond is filed by the principal all liability
28 under any previous bond shall thereupon cease and terminate. If
29 a new bond shall not be filed within the thirty (30) day period
30 above specified the secretary of state shall, after expiration of the
31 period, revoke the principal's license.

32 (2) Any applicant who is a nonresident of the state of Indiana
33 shall also submit a statement appointing an agent or attorney
34 resident herein, upon whom all legal process against the applicant
35 may be served. The statement shall contain a stipulation that the
36 applicant agrees that service of legal process upon such agent or
37 attorney shall be valid service upon the applicant.

38 **(f) Subject to subsection (g), the secretary of state may designate**
39 **a multistate automated licensing system and repository, established**
40 **and operated by a third party, to serve as the sole entity**
41 **responsible for:**

42 (1) processing applications for:

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1 (A) licenses under this chapter; and
 2 (B) renewals of licenses under this chapter; and
 3 (2) performing other services that the secretary of state
 4 determines are necessary for the orderly administration of the
 5 secretary of state's licensing system under this chapter.
 6 **The secretary of state may take any action necessary to participate**
 7 **in a multistate automated licensing system and repository.**
 8 (g) **The secretary of state's authority to designate a multistate**
 9 **automated licensing system and repository under subsection (f) is**
 10 **subject to the following:**
 11 (1) **The secretary of state may not require any person that is**
 12 **not required to be licensed under this chapter, or any**
 13 **employee or agent of a person that is not required to be**
 14 **licensed under this chapter, to:**
 15 (A) submit information to; or
 16 (B) participate in;
 17 **the multistate automated licensing system and repository.**
 18 (2) **The secretary of state may require a person required**
 19 **under this chapter to submit information to the multistate**
 20 **automated licensing system and repository to pay a processing**
 21 **fee considered reasonable by the secretary of state.**
 22 SECTION 9. IC 25-11-1-5 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 5. (a) The secretary of
 24 state shall investigate the qualifications of the applicant and if the
 25 applicant meets the qualifications of this chapter the secretary of state
 26 shall approve the application. If the application is approved the license
 27 shall be issued forthwith to the applicant. ~~All licenses are valid for two~~
 28 (2) ~~years and shall expire~~ **A license expires** on the thirty-first day of
 29 December of the year ~~following the year~~ in which the license was
 30 issued. If the application for a license is denied, the application fees
 31 shall be retained by the secretary of state.
 32 (b) The secretary of state shall issue a license to any person who
 33 holds and presents with the application a valid and subsisting license
 34 to operate a collection agency issued by another state or state agency
 35 if:
 36 (1) the requirements for the securing of such license were, at the
 37 time of issuance, substantially the same or equal to the
 38 requirements imposed by this chapter;
 39 (2) the state concerned extends reciprocity under similar
 40 circumstances to licensed collection agencies of this state; and
 41 (3) the application is accompanied by the fees and financial
 42 bonding requirements as provided in this chapter.

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1 (c) In the event of the death of an individual licensee, the dissolution
2 of a licensee partnership by death or operation of law, or the
3 termination of employment of the active manager if the licensee is a
4 firm, partnership, limited liability company, or corporation, upon a
5 showing that the bonding requirements provided for in this chapter are
6 complied with, the secretary of state shall issue, without a fee, a
7 provisional license to the personal representative of the deceased, the
8 personal representative's appointee, the surviving partner, the firm, the
9 limited liability company, or the corporation, as the case may be, which
10 shall be for the following purposes only and shall expire at the
11 following times:

12 (1) A provisional license issued to a personal representative or a
13 personal representative's appointee expires one (1) year from the
14 date of the issuance and shall not be subject to renewal. The
15 authority of the provisional license so issued shall be limited to
16 such activities as may be necessary to terminate the business of
17 the former licensee.

18 (2) All other provisional licenses expire three (3) months from the
19 date of issuance unless the provisional licensee, within this
20 period, can meet the requirements for a full license as provided in
21 this chapter.

22 (d) A nonresident collection agency that has only incidental contact
23 with a debtor is not required to be licensed under this chapter. As used
24 in this subsection, "incidental contact" means contact on behalf of
25 nonresident creditors using interstate communications, including
26 telephone, mail service, or facsimile transmissions.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Financial Institutions, to which was referred House Bill 1294, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

BURTON, Chair

Committee Vote: yeas 9, nays 0.

COMMITTEE REPORT

Madam President: The Senate Committee on Insurance and Financial Institutions, to which was referred House Bill No. 1294, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to House Bill 1294 as printed January 23, 2012.)

PAUL, Chairperson

Committee Vote: Yeas 7, Nays 0.

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