

IC 24-5-23

Chapter 23. Marketing by Mortgage Lenders

IC 24-5-23-1

"Mortgage lender"

Sec. 1. As used in this chapter, "mortgage lender" means the original lender under a mortgage and the original lender's successors and assigns, including insurance companies, trust companies, banks, investment companies, savings banks, savings associations, credit unions, executors, trustees, and other fiduciaries, or any other mortgagee authorized to do business in this state.

As added by P.L.10-2006, SEC.22 and P.L.57-2006, SEC.22.

IC 24-5-23-2

Marketing materials and solicitations; use of name of existing mortgage lender prohibited; permissible uses and references; remedies

Sec. 2. (a) Except as provided in subsection (b), a person, firm, limited liability company, or corporation may not use the name of an existing mortgage lender or a name confusingly similar to that of an existing mortgage lender when marketing to or soliciting business from a customer or prospective customer if the reference to the existing mortgage lender is:

- (1) without the consent of the existing mortgage lender; and
- (2) made in a manner that could cause a reasonable person to believe that the marketing material or solicitation:
 - (A) originated from;
 - (B) is endorsed by; or
 - (C) is in any other way the responsibility of;

the existing mortgage lender.

(b) This section does not prohibit the use of or reference to the name of an existing mortgage lender in marketing materials or solicitations if the use or reference does not deceive or confuse a reasonable person regarding whether the marketing material or solicitation:

- (1) originated from;
- (2) is endorsed by; or
- (3) is in any other way the responsibility of;

the existing mortgage lender.

(c) A mortgage lender whose name is used in violation of this section may bring an action to recover the greater of:

- (1) two (2) times the amount of actual damages incurred by the mortgage lender as a result of the violation; or
- (2) one thousand dollars (\$1,000) plus attorney's fees.

(d) A mortgage lender that is a bank or a bank holding company is entitled to any relief available under both:

- (1) subsection (c); and
- (2) IC 28-1-20-4(m);

with respect to the same violation.

As added by P.L.10-2006, SEC.22 and P.L.57-2006, SEC.22.