2010 ACTS

Second Regular Session of the 116th Indiana General Assembly

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ACTS 2010

Laws enacted by the

116th GENERAL ASSEMBLY

at the

SECOND REGULAR SESSION
(2010)

VOLUME I

(P.L.1-2010 through P.L.75-2010)

By the authority of
INDIANA LEGISLATIVE COUNCIL
(IC 2-6-1.5)

Office of Code Revision
Legislative Services Agency

PREFACE TO 2010 ACTS

ARRANGEMENT

This edition of the Acts of Indiana includes all laws from the Second Regular Session of the 116th General Assembly. The laws are arranged into two categories: first, laws of a permanent nature that amend the Indiana Code or laws that are temporary or special in nature and that do not amend the Code; and second, joint resolutions (if any).

Public Law 1 of the 2010 Second Regular Session of the 116th General Assembly (P.L.1-2010) is a technical, nonsubstantive act to correct technical errors in Indiana's statutory law.

The text of all other laws enacted during the Second Regular Session is arranged, insofar as possible, in the order of the date on which the governor signed the bills into law or the order of the date on which laws not signed and not vetoed by the governor took effect.

PRINTING CODE

A special printing code has been used in publishing the session laws in order that the reader may determine at a glance the specific changes made by any amendment. The following statement appeared at the top of each bill:

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

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

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

Upon the recommendation of the Code Revision Commission, the Legislative Council authorized a change in the style in which bills are printed to highlight the manner in which "blind amendments" are resolved in the technical correction bill prepared by the Code Revision Commission. A "blind amendment" occurs when two or more enrolled acts amend the same section of law but fail to indicate how they are to be read together. P.L.1-2010 (SEA 222-2010), the technical correction bill prepared for the 2010 Session of the General Assembly, uses an *italic typeface* to indicate that one or more words contained in a law enacted in 2009 were absent from other versions of the law enacted in the same session. P.L.1-2010 (SEA 222-2010) in 2010 resolves the differences by striking superfluous words and inserting additional words as needed to harmonize the various versions of the law.

This system is intended to make the session laws more usable to the researcher by eliminating the need to compare each amendment against the text of the prior law in order to determine exactly what changes the General Assembly made.

Of course, these typefaces are intended only as a tool to indicate to the reader the text of the prior law that was deleted by amendment and to highlight any new text that was added by amendment. They are

not a permanent part of the law itself. In reproducing or quoting the law, it is unnecessary to retain these typefaces; instead, all stricken text may be deleted and all boldface and italic may be reproduced in regular type.

PUBLIC LAW CITATION FORM

The public law citation form incorporates the year the public law was enacted as a part of the public law number. For example, Public Law 1 enacted by the 116th Second Regular Session is cited as P.L.1-2010.

CERTIFICATION

IC 2-6-1.5 requires the Indiana Legislative Council to supervise the preparation, indexing, and distribution of the session laws. Under IC 2-6-1.5, the Speaker of the House of Representatives and President Pro Tempore of the Senate must certify that the printed session laws have been compared with the enrolled acts and joint resolutions and have been found correct. The certification immediately follows the text of the session laws at the end of the last volume of the 2010 Acts.

CASH STATEMENT

Article 10, Section 4 of the Constitution of the State of Indiana requires that an "accurate statement of the receipts and expenditures of the public money, shall be published with the laws of each regular session of the General Assembly". The statement for the current year appears in this publication following the certification of the session laws.

TABLES

There are three tables at the end of the last volume of the 2010 Acts, offset from the text by a green divider. The Table of Citations Affected sets out each section of the Code that has been affected by legislation enacted at the Second Regular Session of the 116th General Assembly. The Bill Numbers to Public Law Numbers table provides cross-references from House and Senate bill numbers to public law numbers for the Second Regular Session of the 116th General Assembly. The Public Law Numbers to Bill Numbers table provides cross-references from House and Senate public law numbers to bill numbers for the Second Regular Session of the 116th General Assembly.

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Immediately following the tables at the end of the last volume of the 2010 Acts is a subject index for the legislation enacted at the Second Regular Session of the 116th General Assembly.

LAWS OF INDIANA

passed at the
SECOND REGULAR SESSION
116TH GENERAL ASSEMBLY

P.L.1-2010
[S.222. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning general provisions.

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

SECTION 1. IC 2-3.5-5-3, AS AMENDED BY P.L.165-2009, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The PERF board shall establish alternative investment programs within the fund, based on the following requirements:

(1) The PERF board shall maintain at least one (1) alternative investment program that is an indexed stock fund, one (1) alternative investment program that is a bond fund, and one (1) alternative investment program that is a stable value fund.

(2) The programs should represent a variety of investment objectives.

(3) The programs may not permit a member to withdraw money

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

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

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

(A) the last day of each quarter; or

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

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

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

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

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

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

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

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

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

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

(d) The PERF board shall determine the value of each alternative program in the defined contribution fund, as of the last day of each calendar quarter, as follows:

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

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

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

SECTION 2. IC 3-7-26.7-7, AS ADDED BY P.L.120-2009, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. Except as otherwise provided in this chapter, the county voter registration office shall process the application under ~~IC 3-7.~~ **this article.**

SECTION 3. IC 3-10-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. Each vote cast or registered:

(1) for the nominees for President and Vice President of the United States of:

(A) a political party; **or**

(B) a group of petitioners; or

(2) for a write-in candidate for President or Vice President of the United States;

is a vote cast or registered for all of the candidates for presidential

electors of the party, group, or **write-in** candidate and shall be so counted. These votes shall be counted, canvassed, and certified in the same manner as the votes for candidates for other offices.

SECTION 4. IC 4-2-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) This section does not apply to the governor.

(b) Each elected official of the state is entitled to a housing maintenance allowance of twelve thousand dollars ($12,000) per year in addition to the salary provided under ~~section 1~~ **section 1.5** of this chapter.

SECTION 5. IC 4-4-10.9-1.2, AS AMENDED BY P.L.1-2009, SECTION 5, AND AS AMENDED BY P.L.2-2009, SECTION 1, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.2. "Affected statutes" means all statutes that grant a power to or impose a duty on the authority, including but not limited to IC 4-4-11, IC 4-4-11.4, *IC 4-4-11.6,* IC 4-4-21, ~~*IC 4-4-31,*~~ IC 4-13.5, IC 5-1-16, *IC 5-1-16.5,* IC 8-9.5, IC 8-14.5, IC 8-15, IC 8-15.5, IC 8-16, IC 13-18-13, IC 13-18-21, IC 13-19-5, *and* IC 14-14. ~~*and IC 20-12-63.*~~

SECTION 6. IC 4-12-1-14.2, AS AMENDED BY P.L.145-2006, SECTION 4, AND AS AMENDED BY P.L.181-2006, SECTION 15, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14.2. Notwithstanding any other law, all oil overcharge funds received from the federal government are annually appropriated to the ~~*division of family resources*~~ *lieutenant governor* for the ~~*division's*~~ *lieutenant governor's* use in carrying out the home energy assistance program. The amount of this annual appropriation for a state fiscal year is equal to:

(1) the total amount necessary to carry out the program during that fiscal year; minus

(2) the amount of federal low income energy assistance funds available for the program during that state fiscal year.

SECTION 7. IC 4-13.6-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. Except as provided ~~in section 2.7 of this chapter or~~ in rules adopted under section 2.5 of this chapter, the division shall award a contract to the lowest responsible and responsive contractor.

SECTION 8. IC 4-22-2-37.1, AS AMENDED BY P.L.131-2009,

SECTION 1, AS AMENDED BY P.L.160-2009, SECTION 1, AND AS AMENDED BY P.L.177-2009, SECTION 1, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 37.1. (a) This section applies to a rulemaking action resulting in any of the following rules:

(1) An order adopted by the commissioner of the Indiana department of transportation under IC 9-20-1-3(d) or IC 9-21-4-7(a) and designated by the commissioner as an emergency rule.

(2) An action taken by the director of the department of natural resources under IC 14-22-2-6(d) or IC 14-22-6-13.

(3) An emergency temporary standard adopted by the occupational safety standards commission under IC 22-8-1.1-16.1.

(4) An emergency rule adopted by the solid waste management board under IC 13-22-2-3 and classifying a waste as hazardous.

(5) A rule, other than a rule described in subdivision (6), adopted by the department of financial institutions under IC 24-4.5-6-107 and declared necessary to meet an emergency.

(6) A rule required under IC 24-4.5-1-106 that is adopted by the department of financial institutions and declared necessary to meet an emergency under IC 24-4.5-6-107.

(7) A rule adopted by the Indiana utility regulatory commission to address an emergency under IC 8-1-2-113.

(8) An emergency rule adopted by the state lottery commission under IC 4-30-3-9.

(9) A rule adopted under IC 16-19-3-5 or IC 16-41-2-1 that the executive board of the state department of health declares is necessary to meet an emergency.

(10) An emergency rule adopted by the Indiana finance authority under IC 8-21-12.

(11) An emergency rule adopted by the insurance commissioner under IC 27-1-23-7.

(12) An emergency rule adopted by the Indiana horse racing commission under IC 4-31-3-9.

(13) An emergency rule adopted by the air pollution control board, the solid waste management board, or the water pollution control board under IC 13-15-4-10(4) or to comply with a

deadline required by or other date provided by federal law, provided:

(A) the variance procedures are included in the rules; and

(B) permits or licenses granted during the period the emergency rule is in effect are reviewed after the emergency rule expires.

(14) An emergency rule adopted by the Indiana election commission under IC 3-6-4.1-14.

(15) An emergency rule adopted by the department of natural resources under IC 14-10-2-5.

(16) An emergency rule adopted by the Indiana gaming commission under IC 4-32.2-3-3(b), IC 4-33-4-2, IC 4-33-4-3, IC 4-33-4-14, or IC 4-35-4-2.

(17) An emergency rule adopted by the alcohol and tobacco commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or IC 7.1-3-20-24.4.

(18) An emergency rule adopted by the department of financial institutions under IC 28-15-11.

(19) An emergency rule adopted by the office of the secretary of family and social services under IC 12-8-1-12.

(20) An emergency rule adopted by the office of the children's health insurance program under IC 12-17.6-2-11.

(21) An emergency rule adopted by the office of Medicaid policy and planning under IC 12-15-41-15.

(22) An emergency rule adopted by the Indiana state board of animal health under IC 15-17-10-9.

(23) An emergency rule adopted by the board of directors of the Indiana education savings authority under IC 21-9-4-7.

(24) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-34 (repealed).

(25) An emergency rule adopted by the department of local government finance under IC 6-1.1-4-33 (repealed).

(26) An emergency rule adopted by the boiler and pressure vessel rules board under IC 22-13-2-8(c).

(27) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-37(l) (repealed) or an emergency rule adopted by the department of local government finance under IC 6-1.1-4-36(j) (repealed) or IC 6-1.1-22.5-20.

(28) An emergency rule adopted by the board of the Indiana economic development corporation under IC 5-28-5-8.

(29) A rule adopted by the department of financial institutions under IC 34-55-10-2.5.

(30) A rule adopted by the Indiana finance authority:

(A) under IC 8-15.5-7 approving user fees (as defined in IC 8-15.5-2-10) provided for in a public-private agreement under IC 8-15.5;

(B) under IC 8-15-2-17.2(a)(10):

(i) establishing enforcement procedures; and

(ii) making assessments for failure to pay required tolls;

(C) under IC 8-15-2-14(a)(3) authorizing the use of and establishing procedures for the implementation of the collection of user fees by electronic or other nonmanual means; or

(D) to make other changes to existing rules related to a toll road project to accommodate the provisions of a public-private agreement under IC 8-15.5.

(31) An emergency rule adopted by the board of the Indiana health informatics corporation under IC 5-31-5-8.

(32) An emergency rule adopted by the **state** *athletic commission under IC 25-9-1-4.5.*

~~*(32)*~~ **(33)** *An emergency rule adopted by the department of child services under IC 31-25-2-21, IC 31-27-2-4, IC 31-27-4-2, or IC 31-27-4-3.*

~~*(32)*~~ **(34)** *An emergency rule adopted by the Indiana real estate commission under IC 25-34.1-2-5(15).*

(b) The following do not apply to rules described in subsection (a):

(1) Sections 24 through 36 of this chapter.

(2) IC 13-14-9.

(c) After a rule described in subsection (a) has been adopted by the agency, the agency shall submit the rule to the publisher for the assignment of a document control number. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the format of the rule and other documents to be submitted under this subsection.

(d) After the document control number has been assigned, the

agency shall submit the rule to the publisher for filing. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the format of the rule and other documents to be submitted under this subsection.

(e) Subject to section 39 of this chapter, the publisher shall:

(1) accept the rule for filing; and

(2) electronically record the date and time that the rule is accepted.

(f) A rule described in subsection (a) takes effect on the latest of the following dates:

(1) The effective date of the statute delegating authority to the agency to adopt the rule.

(2) The date and time that the rule is accepted for filing under subsection (e).

(3) The effective date stated by the adopting agency in the rule.

(4) The date of compliance with every requirement established by law as a prerequisite to the adoption or effectiveness of the rule.

(g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6, IC 22-8-1.1-16.1, and IC 22-13-2-8(c), and except as provided in subsections (j), (k), and (l), a rule adopted under this section expires not later than ninety (90) days after the rule is accepted for filing under subsection (e). Except for a rule adopted under subsection (a)(13), (a)(24), (a)(25), or (a)(27), the rule may be extended by adopting another rule under this section, but only for one (1) extension period. The extension period for a rule adopted under subsection (a)(28) may not exceed the period for which the original rule was in effect. A rule adopted under subsection (a)(13) may be extended for two (2) extension periods. Subject to subsection (j), a rule adopted under subsection (a)(24), (a)(25), or (a)(27) may be extended for an unlimited number of extension periods. Except for a rule adopted under subsection (a)(13), for a rule adopted under this section to be effective after one (1) extension period, the rule must be adopted under:

(1) sections 24 through 36 of this chapter; or

(2) IC 13-14-9;

as applicable.

(h) A rule described in subsection (a)(8), (a)(12), or (a)(29) expires on the earlier of the following dates:

(1) The expiration date stated by the adopting agency in the rule.

(2) The date that the rule is amended or repealed by a later rule adopted under sections 24 through 36 of this chapter or this section.

(i) This section may not be used to readopt a rule under IC 4-22-2.5.

(j) A rule described in subsection (a)(24) or (a)(25) expires not later than January 1, 2006.

(k) A rule described in subsection (a)(28) expires on the expiration date stated by the board of the Indiana economic development corporation in the rule.

(l) A rule described in subsection (a)(30) expires on the expiration date stated by the Indiana finance authority in the rule.

(m) A rule described in subsection (a)(5) or (a)(6) expires on the date the department is next required to issue a rule under the statute authorizing or requiring the rule.

SECTION 9. IC 4-33-6.5-2, AS AMENDED BY P.L.142-2009, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A person, including a person who holds or has an interest in an owner's license issued under this article, may file an application with the commission to serve as an operating agent under this chapter. An applicant must pay a nonrefundable application fee to the commission in an amount to be determined by the commission.

(b) An applicant must submit the following on forms provided by the commission:

(1) If the applicant is an individual, two (2) sets of the individual's fingerprints.

(2) If the applicant is not an individual, two (2) sets of fingerprints for each officer and director of the applicant.

(c) This subsection applies to an applicant who applies after ~~the effective date of this subsection~~ **May 12, 2009,** to serve as an operating agent under this chapter. An applicant shall submit for the approval of the commission a written power of attorney identifying the person who, if approved by the commission, would serve as the applicant's trustee to operate the riverboat. The power of attorney submitted under this subsection must:

(1) be executed in the manner required by IC 30-5;

(2) describe the powers that may be delegated to the proposed

trustee;

(3) conform with the requirements established by the commission under IC 4-33-4-3(a)(10); and

(4) be submitted on the date that the applicant pays the application fee described in subsection (a).

(d) The commission shall review the applications filed under this chapter and shall inform each applicant of the commission's decision.

(e) The costs of investigating an applicant to serve as an operating agent under this chapter shall be paid from the application fee paid by the applicant.

(f) An applicant to serve as an operating agent under this chapter must pay all additional costs that are:

(1) associated with the investigation of the applicant; and

(2) greater than the amount of the application fee paid by the applicant.

SECTION 10. IC 5-1.5-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. The executive director appointed under section ~~2~~ **3** of this chapter shall, in addition to other duties fixed by the directors, administer, manage, and direct the employees of the bank. The executive director shall approve all amounts for salaries, allowable expenses of the bank or of any employee or consultant of the bank, and expenses incidental to the operation of the bank. The executive director shall attend the meetings of the board, keep a record of the proceedings of the board, and maintain all books, documents, and papers filed with the bank, the minutes of the board, and the bank's official seal. The executive director may cause copies to be made of all minutes and other records and documents of the bank and may give certificates under seal of the bank to the effect that those copies are true copies, and all persons dealing with the bank may rely upon those certificates.

SECTION 11. IC 5-2-1-9, AS AMENDED BY P.L.77-2009, SECTION 2, AND AS AMENDED BY P.L.93-2009, SECTION 1, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) The board shall adopt in accordance with IC 4-22-2 all necessary rules to carry out the provisions of this chapter. The rules, which shall be adopted only after necessary and proper investigation and inquiry by the board, shall include the establishment of the following:

(1) Minimum standards of physical, educational, mental, and moral fitness which shall govern the acceptance of any person for training by any law enforcement training school or academy meeting or exceeding the minimum standards established pursuant to this chapter.

(2) Minimum standards for law enforcement training schools administered by towns, cities, counties, law enforcement training centers, agencies, or departments of the state.

(3) Minimum standards for courses of study, attendance requirements, equipment, and facilities for approved town, city, county, and state law enforcement officer, police reserve officer, and conservation reserve officer training schools.

(4) Minimum standards for a course of study on cultural diversity awareness that must be required for each person accepted for training at a law enforcement training school or academy.

(5) Minimum qualifications for instructors at approved law enforcement training schools.

(6) Minimum basic training requirements which law enforcement officers appointed to probationary terms shall complete before being eligible for continued or permanent employment.

(7) Minimum basic training requirements which law enforcement officers appointed on other than a permanent basis shall complete in order to be eligible for continued employment or permanent appointment.

(8) Minimum basic training requirements which law enforcement officers appointed on a permanent basis shall complete in order to be eligible for continued employment.

(9) Minimum basic training requirements for each person accepted for training at a law enforcement training school or academy that include six (6) hours of training in interacting with:

(A) persons with *autism,* mental illness, addictive disorders, mental retardation, and developmental disabilities; and

(B) missing endangered adults (as defined in IC 12-7-2-131.3);

to be provided by persons approved by the secretary of family and social services and the board.

(10) Minimum standards for a course of study on human and sexual trafficking that must be required for each person accepted for training at a law enforcement training school or academy and

for inservice training programs for law enforcement officers. The course must cover the following topics:

(A) Examination of the human and sexual trafficking laws (IC 35-42-3.5).

(B) Identification of human and sexual trafficking.

(C) Communicating with traumatized persons.

(D) Therapeutically appropriate investigative techniques.

(E) Collaboration with federal law enforcement officials.

(F) Rights of and protections afforded to victims.

(G) Providing documentation that satisfies the Declaration of Law Enforcement Officer for Victim of Trafficking in Persons (Form I-914, Supplement B) requirements established under federal law.

(H) The availability of community resources to assist human and sexual trafficking victims.

(b) ~~Except as provided in subsection (l),~~ A law enforcement officer appointed after July 5, 1972, and before July 1, 1993, may not enforce the laws or ordinances of the state or any political subdivision unless the officer has, within one (1) year from the date of appointment, successfully completed the minimum basic training requirements established under this chapter by the board. If a person fails to successfully complete the basic training requirements within one (1) year from the date of employment, the officer may not perform any of the duties of a law enforcement officer involving control or direction of members of the public or exercising the power of arrest until the officer has successfully completed the training requirements. This subsection does not apply to any law enforcement officer appointed before July 6, 1972, or after June 30, 1993.

(c) Military leave or other authorized leave of absence from law enforcement duty during the first year of employment after July 6, 1972, shall toll the running of the first year, which shall be calculated by the aggregate of the time before and after the leave, for the purposes of this chapter.

(d) Except as provided in subsections (e), (l), (r), and (s), a law enforcement officer appointed to a law enforcement department or agency after June 30, 1993, may not:

(1) make an arrest;

(2) conduct a search or a seizure of a person or property; or

(3) carry a firearm;

unless the law enforcement officer successfully completes, at a board certified law enforcement academy or at a law enforcement training center under section 10.5 or 15.2 of this chapter, the basic training requirements established by the board under this chapter.

(e) This subsection does not apply to:

(1) a gaming agent employed as a law enforcement officer by the Indiana gaming commission; or

(2) an:

(A) attorney; or

(B) investigator;

designated by the securities commissioner as a police officer of the state under IC 23-19-6-1(i).

Before a law enforcement officer appointed after June 30, 1993, completes the basic training requirements, the law enforcement officer may exercise the police powers described in subsection (d) if the officer successfully completes the pre-basic course established in subsection (f). Successful completion of the pre-basic course authorizes a law enforcement officer to exercise the police powers described in subsection (d) for one (1) year after the date the law enforcement officer is appointed.

(f) The board shall adopt rules under IC 4-22-2 to establish a pre-basic course for the purpose of training:

(1) law enforcement officers;

(2) police reserve officers (as described in IC 36-8-3-20); and

(3) conservation reserve officers (as described in IC 14-9-8-27);

regarding the subjects of arrest, search and seizure, the lawful use of force, *interacting with individuals with autism,* and the operation of an emergency vehicle. The pre-basic course must be offered on a periodic basis throughout the year at regional sites statewide. The pre-basic course must consist of at least forty (40) hours of course work. The board may prepare the classroom part of the pre-basic course using available technology in conjunction with live instruction. The board shall provide the course material, the instructors, and the facilities at the regional sites throughout the state that are used for the pre-basic course. In addition, the board may certify pre-basic courses that may be conducted by other public or private training entities, including postsecondary educational institutions.

(g) The board shall adopt rules under IC 4-22-2 to establish a mandatory inservice training program for police officers. After June 30, 1993, a law enforcement officer who has satisfactorily completed basic training and has been appointed to a law enforcement department or agency on either a full-time or part-time basis is not eligible for continued employment unless the officer satisfactorily completes the mandatory inservice training requirements established by rules adopted by the board. Inservice training must include training in interacting with persons with mental illness, addictive disorders, mental retardation, *autism,* and developmental disabilities, to be provided by persons approved by the secretary of family and social services and the board, and training concerning human and sexual trafficking. The board may approve courses offered by other public or private training entities, including postsecondary educational institutions, as necessary in order to ensure the availability of an adequate number of inservice training programs. The board may waive an officer's inservice training requirements if the board determines that the officer's reason for lacking the required amount of inservice training hours is due to either of the following:

(1) An emergency situation.

(2) The unavailability of courses.

(h) The board shall also adopt rules establishing a town marshal basic training program, subject to the following:

(1) The program must require fewer hours of instruction and class attendance and fewer courses of study than are required for the mandated basic training program.

(2) Certain parts of the course materials may be studied by a candidate at the candidate's home in order to fulfill requirements of the program.

(3) Law enforcement officers successfully completing the requirements of the program are eligible for appointment only in towns employing the town marshal system (IC 36-5-7) and having not more than one (1) marshal and two (2) deputies.

(4) The limitation imposed by subdivision (3) does not apply to an officer who has successfully completed the mandated basic training program.

(5) The time limitations imposed by subsections (b) and (c) for completing the training are also applicable to the town marshal

basic training program.

(6) The program must require training in interacting with individuals with autism.

(i) The board shall adopt rules under IC 4-22-2 to establish an executive training program. The executive training program must include training in the following areas:

(1) Liability.

(2) Media relations.

(3) Accounting and administration.

(4) Discipline.

(5) Department policy making.

(6) Lawful use of force.

(7) Department programs.

(8) Emergency vehicle operation.

(9) Cultural diversity.

(j) A police chief shall apply for admission to the executive training program within two (2) months of the date the police chief initially takes office. A police chief must successfully complete the executive training program within six (6) months of the date the police chief initially takes office. However, if space in the executive training program is not available at a time that will allow completion of the executive training program within six (6) months of the date the police chief initially takes office, the police chief must successfully complete the next available executive training program that is offered after the police chief initially takes office.

(k) A police chief who fails to comply with subsection (j) may not continue to serve as the police chief until completion of the executive training program. For the purposes of this subsection and subsection (j), "police chief" refers to:

(1) the police chief of any city;

(2) the police chief of any town having a metropolitan police department; and

(3) the chief of a consolidated law enforcement department established under IC 36-3-1-5.1.

A town marshal is not considered to be a police chief for these purposes, but a town marshal may enroll in the executive training program.

(l) A fire investigator in the division of fire and building safety

appointed after December 31, 1993, is required to comply with the basic training standards established under this chapter.

(m) The board shall adopt rules under IC 4-22-2 to establish a program to certify handgun safety courses, including courses offered in the private sector, that meet standards approved by the board for training probation officers in handgun safety as required by IC 11-13-1-3.5(3).

(n) The board shall adopt rules under IC 4-22-2 to establish a refresher course for an officer who:

(1) is hired by an Indiana law enforcement department or agency as a law enforcement officer;

(2) has not been employed as a law enforcement officer for at least two (2) years and less than six (6) years before the officer is hired under subdivision (1) due to the officer's resignation or retirement; and

(3) completed at any time a basic training course certified by the board before the officer is hired under subdivision (1).

(o) The board shall adopt rules under IC 4-22-2 to establish a refresher course for an officer who:

(1) is hired by an Indiana law enforcement department or agency as a law enforcement officer;

(2) has not been employed as a law enforcement officer for at least six (6) years and less than ten (10) years before the officer is hired under subdivision (1) due to the officer's resignation or retirement;

(3) is hired under subdivision (1) in an upper level policymaking position; and

(4) completed at any time a basic training course certified by the board before the officer is hired under subdivision (1).

A refresher course established under this subsection may not exceed one hundred twenty (120) hours of course work. All credit hours received for successfully completing the police chief executive training program under subsection (i) shall be applied toward the refresher course credit hour requirements.

(p) Subject to subsection (q), an officer to whom subsection (n) or (o) applies must successfully complete the refresher course described in subsection (n) or (o) not later than six (6) months after the officer's date of hire, or the officer loses the officer's powers of:

(1) arrest;

(2) search; and

(3) seizure.

(q) A law enforcement officer who has worked as a law enforcement officer for less than twenty-five (25) years before being hired under subsection (n)(1) or (o)(1) is not eligible to attend the refresher course described in subsection (n) or (o) and must repeat the full basic training course to regain law enforcement powers. However, a law enforcement officer who has worked as a law enforcement officer for at least twenty-five (25) years before being hired under subsection (n)(1) or (o)(1) and who otherwise satisfies the requirements of subsection (n) or (o) is not required to repeat the full basic training course to regain law enforcement power but shall attend the refresher course described in subsection (n) or (o) and the pre-basic training course established under subsection (f).

(r) This subsection applies only to a gaming agent employed as a law enforcement officer by the Indiana gaming commission. A gaming agent appointed after June 30, 2005, may exercise the police powers described in subsection (d) if:

(1) the agent successfully completes the pre-basic course established in subsection (f); and

(2) the agent successfully completes any other training courses established by the Indiana gaming commission in conjunction with the board.

(s) This subsection applies only to a securities enforcement officer designated as a law enforcement officer by the securities commissioner. A securities enforcement officer may exercise the police powers described in subsection (d) if:

(1) the securities enforcement officer successfully completes the pre-basic course established in subsection (f); and

(2) the securities enforcement officer successfully completes any other training courses established by the securities commissioner in conjunction with the board.

(t) As used in this section, "upper level policymaking position" refers to the following:

(1) If the authorized size of the department or town marshal system is not more than ten (10) members, the term refers to the position held by the police chief or town marshal.

(2) If the authorized size of the department or town marshal system is more than ten (10) members but less than fifty-one (51) members, the term refers to:

(A) the position held by the police chief or town marshal; and

(B) each position held by the members of the police department or town marshal system in the next rank and pay grade immediately below the police chief or town marshal.

(3) If the authorized size of the department or town marshal system is more than fifty (50) members, the term refers to:

(A) the position held by the police chief or town marshal; and

(B) each position held by the members of the police department or town marshal system in the next two (2) ranks and pay grades immediately below the police chief or town marshal.

(u) This subsection applies only to a correctional police officer employed by the department of correction. A correctional police officer may exercise the police powers described in subsection (d) if:

(1) the officer successfully completes the pre-basic course described in subsection (f); and

(2) the officer successfully completes any other training courses established by the department of correction in conjunction with the board.

SECTION 12. IC 5-2-9-1.2, AS ADDED BY P.L.116-2009, SECTION 1, AND AS ADDED BY P.L.130-2009, SECTION 6, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.2. As used in this chapter, "IDACS coordinator" means *an individual who holds* an administrative position within a law enforcement agency that has operational Indiana data and communication system (IDACS) terminals *and who is* appointed by the director of the law enforcement agency.

SECTION 13. IC 5-2-9-1.4, AS ADDED BY P.L.116-2009, SECTION 2, AND AS ADDED BY P.L.130-2009, SECTION 7, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.4. As used in this chapter, *"Indiana protective order registry" or* "registry" means *the* ~~*Indiana protective order registry an*~~ *Internet based registry of protective orders* established under section 5.5 of this chapter *and developed and maintained by the division of state court administration.*

SECTION 14. IC 5-2-9-1.7, AS AMENDED BY P.L.116-2009, SECTION 3, AND AS AMENDED BY P.L.130-2009, SECTION 8, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.7. As used in this chapter, "protected person" means a person or an employer (as defined in IC 34-26-6-4) protected under a protective order, *as defined in section 2.1 of this chapter.*

SECTION 15. IC 5-2-9-5.5, AS ADDED BY P.L.116-2009, SECTION 5, AND AS ADDED BY P.L.130-2009, SECTION 10, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.5. (a) The Indiana protective order registry is established.

(b) The registry is an *Internet based,* electronic depository for protective orders. Copies of all protective orders shall be retained in the registry.

(c) The registry must contain confidential information about protected persons.

(d) The division of state court administration shall create, manage, and maintain the registry.

(e) A protective order retained under section 5 of this chapter may be entered in the registry.

(f) The division of state court administration shall make the protective order registry established by ~~*IC 5-2-9-5.5,*~~ **this section** *available so that county case management systems may interface with the protective order registry by not later than December 31, 2009.*

(g) The division of state court administration shall submit information concerning a standard protocol for county case management systems to interface with the protective order registry to each:

(1) prosecuting attorney; and

(2) court.

SECTION 16. IC 5-2-9-6.5, AS ADDED BY P.L.116-2009, SECTION 7, AND AS ADDED BY P.L.130-2009, SECTION 12, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.5. (a) After a court issues a protective order and issues the order to the registry, an IDACS coordinator may provide additional information about the parties in *the* ~~*an*~~ order, including:

(1) dates of birth;

(2) Social Security numbers;

(3) driver license numbers; and

(4) physical descriptions of the parties;

to ensure the accuracy of the orders in the registry and information in IDACS.

(b) A law enforcement agency that perfects service of a protective order issued to the registry shall enter into the registry:

(1) the date and time the law enforcement agency received the protective order;

(2) the location of the person who is the subject of the protective order, if this information is available;

(3) the name and identification number of the law enforcement officer who *served* ~~*serves*~~ the protective order; and

(4) the manner *in which* ~~*that*~~ the protective order *was* ~~*is*~~ served.

SECTION 17. IC 5-10.2-2-3, AS AMENDED BY P.L.165-2009, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The annuity savings account consists of:

(1) the members' contributions; and

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

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

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

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

following requirements:

(1) Each board shall maintain at least one (1) alternative investment program that is an indexed stock fund and one (1) alternative investment program that is a bond fund.

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

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

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

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

(A) the last day of each quarter; or

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

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

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

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

(3) include a description of prior investment performance.

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

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

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

(3) A member may select any combination of the guaranteed fund or any available alternative investment funds, in ten percent (10%) increments or smaller increments that may be established

by the rules of each board.

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

(5) On the effective date of a member's selection, the board shall reallocate the member's existing balance or balances in accordance with the member's direction, based on:

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

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

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

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

(g) When a member who participates in the guaranteed program transfers the amount credited to the member to an alternative investment program, the amount credited to the member in the guaranteed program is computed without regard to market value and is based on the balance of the member's account in the guaranteed program as of the last day of the quarter preceding the effective date of the transfer. However, each board may by rule provide for an alternate valuation date. When a member who participates in the guaranteed

program retires, becomes disabled, dies, or suspends membership and withdraws from the fund, the amount credited to the member shall be computed without regard to market value and is based on the balance of the member's account in the guaranteed program as of the last day of the quarter preceding the member's distribution or annuitization at retirement, disability, death, or suspension and withdrawal, plus any contributions received since that date plus interest since that date. However, each board may by rule provide for an alternate valuation date.

SECTION 18. IC 5-10.2-3-7.5, AS AMENDED BY P.L.113-2009, SECTION 1, AND AS AMENDED BY P.L.115-2009, SECTION 2, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7.5. (a) *This subsection applies to members who die after March 31, 1990, and before January 1, 2007.* A surviving dependent or surviving spouse of a member who dies in service is entitled to a survivor benefit if:

~~*(1) the member dies after March 31, 1990,*~~

~~*(2)*~~ *(1)* the member has:

(A) at least ten (10) years of creditable service, if the member died in service as a member of the general assembly;

(B) at least fifteen (15) years of creditable service, if the member died in service in any other position covered by the retirement fund; or

(C) at least ten (10) years but not more than fourteen (14) years of creditable service if the member:

(i) was at least sixty-five (65) years of age; and

(ii) died in service in a position covered by the teachers' retirement fund; and

~~*(3)*~~ *(2)* the surviving dependent or surviving spouse qualifies for a survivor benefit under subsection ~~*(b)*~~ *(c)* or ~~*(c).*~~ *(d).*

(b) This subsection applies to members who die after December 31, 2006. A surviving dependent or surviving spouse of a member who dies is entitled to a survivor benefit if:

(1) the member has:

(A) at least ten (10) years of creditable service, if the member died in service as a member of the general assembly;

(B) at least ten (10) years but not more than fourteen (14) years of creditable service if the member was at least sixty-five

(65) years of age and died in service in a position covered by the fund (other than a position described in clause (A)); or

(C) at least fifteen (15) years of creditable service, if the member died in service in a position covered by the fund (other than a position described in clause (A)); and

(2) the surviving dependent or surviving spouse qualifies for a survivor benefit under subsection (c) or (d).

~~(b)~~ *(c)* If a member described in subsection (a) *or (b)* dies with a surviving spouse who was married to the member for at least two (2) years, the surviving spouse is entitled to a survivor benefit equal to the monthly *pension* benefit that would have been payable to the spouse under the joint and survivor option of IC 5-10.2-4-7 upon the member's death following retirement at:

(1) fifty (50) years of age; or

(2) the actual date of death;

whichever is later. However, benefits payable under this subsection are subject to subsections ~~(e)~~ *(f)* and ~~(g).~~ *(h)*.

~~(c)~~ *(d)* If a member described in subsection (a) *or (b)* dies without a surviving spouse who was married to the member for at least two (2) years, but with a surviving dependent, the surviving dependent is entitled to a survivor benefit in a monthly amount equal to the actuarial equivalent of the monthly *pension* benefit that would have been payable to the spouse (assuming the spouse would have had the same birth date as the member) under the joint and survivor option of IC 5-10.2-4-7 upon the member's death following retirement at:

(1) fifty (50) years of age; or

(2) the actual date of death;

whichever is later. If there are two (2) or more surviving dependents, the actuarial equivalent of the benefit described in this subsection shall be calculated and, considering the dependents' attained ages, an equal dollar amount shall be determined as the monthly *pension* benefit to be paid to each dependent. Monthly *pension* benefits under this subsection are payable until the date the dependent becomes eighteen (18) years of age or dies, whichever is earlier. However, if a dependent has a permanent and total disability (using disability guidelines established by the Social Security Administration) at the date the dependent reaches eighteen (18) years of age, the monthly *pension* benefit is payable until the date the dependent no longer has a disability (using

disability guidelines established by the Social Security Administration) or dies, whichever is earlier. Benefits payable under this subsection are subject to subsections ~~(e)~~ *(f)* and ~~(g).~~ *(h)*.

~~(d)~~ *(e) This subsection applies if a member did not designate a beneficiary or the designated beneficiary does not survive the member.* Except as provided in subsections ~~(e)~~ *(f)* and ~~(h);~~ *(i),* the surviving spouse or surviving dependent of a member who is entitled to a survivor benefit under subsection ~~(b)~~ *(c)* or ~~(c)~~ *(d)* or section 7.6 of this chapter may elect to receive a lump sum payment of the total amount credited to the member in the member's annuity savings account or an amount equal to the member's federal income tax basis in the member's annuity savings account as of December 31, 1986. A surviving spouse or surviving dependent who makes such an election is not entitled to an annuity as part of the survivor benefit under subsection ~~(b)~~ *(c)* or ~~(c)~~ *(d)* or section 7.6 of this chapter to the extent of the lump sum payment.

~~(e)~~ *(f)* If a member ~~*described in subsection (a) or (b) or section 7.6(a) of this chapter*~~ is survived by a designated beneficiary, ~~*who is not a surviving spouse or surviving dependent entitled to a survivor benefit under subsection (c) or (d) or section 7.6 of this chapter,*~~ the following provisions apply:

(1) If the member is survived by one (1) designated beneficiary, the designated beneficiary is entitled to receive in a lump sum or over a period of up to five (5) years, as elected by the designated beneficiary, the amount credited to the member's annuity savings account, less any disability benefits paid to the member.

(2) If the member is survived by two (2) or more designated beneficiaries, the designated beneficiaries are entitled to receive in a lump sum or over a period of up to five (5) years, as elected by the designated beneficiary, equal shares of the amount credited to the member's annuity savings account, less any disability benefits paid to the member.

(3) If the member is also survived by a spouse or dependent who is entitled to a survivor benefit under subsection ~~(b)~~ *(c)* or ~~(c)~~ *(d)* or section 7.6 of this chapter, the surviving spouse or dependent is not entitled to an annuity or a lump sum payment as part of the survivor benefit, unless the surviving spouse or dependent is also a designated beneficiary.

~~(f)~~ *(g)* If a member dies:

(1) without a surviving spouse or surviving dependent who qualifies for survivor benefits under subsection ~~(b)~~ *(c)* or ~~(c)~~ *(d)* or section 7.6 of this chapter; and

(2) without a surviving designated beneficiary who is entitled to receive the member's annuity savings account under subsection ~~(e);~~ *(f);*

the amount credited to the member's annuity savings account, less any disability benefits paid to the member, shall be paid to the member's estate.

~~(g)~~ *(h)* Survivor benefits payable under this section or section 7.6 of this chapter shall be reduced by any disability benefits paid to the member.

~~(h)~~ *(i)* Additional annuity contributions, if any, shall not be included in determining survivor benefits under subsection ~~(b)~~ *(c)* or ~~(c)~~ *(d)* or section 7.6 of this chapter, but are payable in a lump sum payment to:

(1) the member's surviving designated beneficiary; or

(2) the member's estate, if there is no surviving designated beneficiary.

~~(i)~~ *(j)* Survivor benefits provided under this section or section 7.6 of this chapter are subject to IC 5-10.2-2-1.5.

~~(j)~~ *(k)* A benefit specified in this section shall be forfeited and credited to the member's retirement fund if no person entitled to the benefit claims it within three (3) years after the member's death. However, the board may honor a claim that is made more than three (3) years after the member's death if the board finds, in the board's discretion, that:

(1) the delay in making the claim was reasonable or other extenuating circumstances justify the award of the benefit to the claimant; and

(2) paying the claim would not cause a violation of the applicable Internal Revenue Service rules.

SECTION 19. IC 5-28-15-10, AS AMENDED BY P.L.182-2009(ss), SECTION 80, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) Subject to subsection (b), an enterprise zone expires ten (10) years after the day on which it is designated by the board.

(b) In the period beginning December 1, 2008, and ending December 31, 2014, an enterprise zone does not expire under this

section if the fiscal body of the municipality in which the enterprise zone is located adopts a resolution renewing the enterprise zone for an additional five (5) years. An enterprise zone may be renewed under this subsection regardless of the number of times the enterprise zone has been renewed under subsections (c) and (d). A municipal fiscal body may adopt a renewal resolution and submit a copy of the resolution to the board:

(1) before August 1, 2009, in the case of an enterprise zone that expired after November 30, 2008, or is scheduled to expire before September 1, 2009; or

(2) at least thirty (30) days before the expiration date of the enterprise zone, in the case of an enterprise zone scheduled to expire after August 31, 2009.

If an enterprise zone is renewed under this subsection after having been renewed under subsection (d), the enterprise zone may not be renewed after the expiration of this final five (5) year period.

(c) The two (2) year period immediately before the day on which the enterprise zone expires is the phaseout period. During the phaseout period, the board may review the success of the enterprise zone based on the following criteria and may, with the consent of the budget committee, renew the enterprise zone, including all provisions of this chapter, for five (5) years:

(1) Increases in capital investment in the zone.

(2) Retention of jobs and creation of jobs in the zone.

(3) Increases in employment opportunities for residents of the zone.

(d) If an enterprise zone is renewed under ~~subsection (a),~~ **subsection (c),** the two (2) year period immediately before the day on which the enterprise zone expires is another phaseout period. During the phaseout period, the board may review the success of the enterprise zone based on the criteria set forth in ~~subsection (a)~~ **subsection (c)** and, with the consent of the budget committee, may again renew the enterprise zone, including all provisions of this chapter, for a final period of five (5) years. The zone may not be renewed after the expiration of this final five (5) year period.

SECTION 20. IC 6-1.1-1-24, AS AMENDED BY P.L.3-2008, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. If a transfer from a township assessor to

the county assessor of the assessment duties prescribed by this article results from the failure of a person elected to the office of township assessor to attain the certification of a level two assessor-appraiser as provided in IC 3-8-1-23.6, as described in ~~IC 36-2-15-5(c),~~ **IC 36-2-15-5(c),** a reference to the township assessor in this article is considered to be a reference to the county assessor.

SECTION 21. IC 6-1.1-12-2, AS AMENDED BY P.L.182-2009(ss), SECTION 108, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Except as provided in section 17.8 of this chapter and subject to section 45 of this chapter, **for a person** to qualify for the deduction provided by section 1 of this chapter, a statement must be filed under subsection (b) or (c).

(b) Subject to subsection (c), to apply for the deduction under section 1 of this chapter with respect to real property, the person recording the mortgage, contract, or memorandum of the contract with the county recorder may file a written statement with the county recorder containing the information described in subsection (e)(1), (e)(2), (e)(3), (e)(4), (e)(6), (e)(7), and (e)(8). The statement must be prepared on the form prescribed by the department of local government finance and be signed by the property owner or contract purchaser under the penalties of perjury. The form must have a place for the county recorder to insert the record number and page where the mortgage, contract, or memorandum of the contract is recorded. Upon receipt of the form and the recording of the mortgage, contract, or memorandum of the contract, the county recorder shall insert on the form the record number and page where the mortgage, contract, or memorandum of the contract is recorded and forward the completed form to the county auditor. The county recorder may not impose a charge for the county recorder's duties under this subsection. The statement must be completed and dated in the calendar year for which the person wishes to obtain the deduction and filed with the county recorder on or before January 5 of the immediately succeeding calendar year.

(c) With respect to:

(1) real property as an alternative to a filing under subsection (b); or

(2) a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property;

to apply for a deduction under section 1 of this chapter, a person who desires to claim the deduction may file a statement in duplicate, on forms prescribed by the department of local government finance, with the auditor of the county in which the real property, mobile home not assessed as real property, or manufactured home not assessed as real property is located. With respect to real property the statement must be completed and dated in the calendar year for which the person wishes to obtain the deduction and filed with the county auditor on or before January 5 of the immediately succeeding calendar year. With respect to a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property, the statement must be filed during the twelve (12) months before March 31 of each year for which the individual wishes to obtain the deduction. The statement may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. In addition to the statement required by this subsection, a contract buyer who desires to claim the deduction must submit a copy of the recorded contract or recorded memorandum of the contract, which must contain a legal description sufficient to meet the requirements of IC 6-1.1-5, with the first statement that the buyer files under this section with respect to a particular parcel of real property.

(d) Upon receipt of:

(1) the statement under subsection (b); or

(2) the statement under subsection (c) and the recorded contract or recorded memorandum of the contract;

the county auditor shall assign a separate description and identification number to the parcel of real property being sold under the contract.

(e) The statement referred to in subsections (b) and (c) must be verified under penalties for perjury. The statement must contain the following information:

(1) The balance of the person's mortgage or contract indebtedness on the assessment date of the year for which the deduction is claimed.

(2) The assessed value of the real property, mobile home, or manufactured home.

(3) The full name and complete residence address of the person and of the mortgagee or contract seller.

(4) The name and residence of any assignee or bona fide owner or

holder of the mortgage or contract, if known, and if not known, the person shall state that fact.

(5) The record number and page where the mortgage, contract, or memorandum of the contract is recorded.

(6) A brief description of the real property, mobile home, or manufactured home which is encumbered by the mortgage or sold under the contract.

(7) If the person is not the sole legal or equitable owner of the real property, mobile home, or manufactured home, the exact share of the person's interest in it.

(8) The name of any other county in which the person has applied for a deduction under this section and the amount of deduction claimed in that application.

(f) The authority for signing a deduction application filed under this section may not be delegated by the real property, mobile home, or manufactured home owner or contract buyer to any person except upon an executed power of attorney. The power of attorney may be contained in the recorded mortgage, contract, or memorandum of the contract, or in a separate instrument.

(g) A closing agent (as defined in ~~IC 6-1.1-12-43(a)(2),~~ **section 43(a)(2) of this chapter)** is not liable for any damages claimed by the property owner or contract purchaser because of:

(1) the closing agent's failure to provide the written statement described in subsection (b);

(2) the closing agent's failure to file the written statement described in subsection (b);

(3) any omission or inaccuracy in the written statement described in subsection (b) that is filed with the county recorder by the closing agent; or

(4) any determination made with respect to a property owner's or contract purchaser's eligibility for the deduction under section 1 of this chapter.

(h) The county recorder may not refuse to record a mortgage, contract, or memorandum because the written statement described in subsection (b):

(1) is not included with the mortgage, contract, or memorandum of the contract;

(2) does not contain the signatures required by subsection (b);

(3) does not contain the information described in subsection (e); or

(4) is otherwise incomplete or inaccurate.

SECTION 22. IC 6-1.1-12-9, AS AMENDED BY P.L.144-2008, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) An individual may obtain a deduction from the assessed value of the individual's real property, or mobile home or manufactured home which is not assessed as real property, if:

(1) the individual is at least sixty-five (65) years of age on or before December 31 of the calendar year preceding the year in which the deduction is claimed;

(2) the combined adjusted gross income (as defined in Section 62 of the Internal Revenue Code) of:

(A) the individual and the individual's spouse; or

(B) the individual and all other individuals with whom:

(i) the individual shares ownership; or

(ii) the individual is purchasing the property under a contract;

as joint tenants or tenants in common;

for the calendar year preceding the year in which the deduction is claimed did not exceed twenty-five thousand dollars ($25,000);

(3) the individual has owned the real property, mobile home, or manufactured home for at least one (1) year before claiming the deduction; or the individual has been buying the real property, mobile home, or manufactured home under a contract that provides that the individual is to pay the property taxes on the real property, mobile home, or manufactured home for at least one (1) year before claiming the deduction, and the contract or a memorandum of the contract is recorded in the county recorder's office;

(4) the individual and any individuals covered by subdivision (2)(B) reside on the real property, mobile home, or manufactured home;

(5) the assessed value of the real property, mobile home, or manufactured home does not exceed one hundred eighty-two thousand four hundred thirty dollars ($182,430);

(6) the individual receives no other property tax deduction for the year in which the deduction is claimed, except the deductions

provided by sections 1, 37, and 38 of this chapter; and

(7) the person:

~~(1)~~ **(A)** owns the real property, mobile home, or manufactured home; or

~~(2)~~ **(B)** is buying the real property, mobile home, or manufactured home under contract;

on the date the statement required by section 10.1 of this chapter is filed.

(b) Except as provided in subsection (h), in the case of real property, an individual's deduction under this section equals the lesser of:

(1) one-half (1/2) of the assessed value of the real property; or

(2) twelve thousand four hundred eighty dollars ($12,480).

(c) Except as provided in subsection (h) and section 40.5 of this chapter, in the case of a mobile home that is not assessed as real property or a manufactured home which is not assessed as real property, an individual's deduction under this section equals the lesser of:

(1) one-half (1/2) of the assessed value of the mobile home or manufactured home; or

(2) twelve thousand four hundred eighty dollars ($12,480).

(d) An individual may not be denied the deduction provided under this section because the individual is absent from the real property, mobile home, or manufactured home while in a nursing home or hospital.

(e) For purposes of this section, if real property, a mobile home, or a manufactured home is owned by:

(1) tenants by the entirety;

(2) joint tenants; or

(3) tenants in common;

only one (1) deduction may be allowed. However, the age requirement is satisfied if any one (1) of the tenants is at least sixty-five (65) years of age.

(f) A surviving spouse is entitled to the deduction provided by this section if:

(1) the surviving spouse is at least sixty (60) years of age on or before December 31 of the calendar year preceding the year in which the deduction is claimed;

(2) the surviving spouse's deceased husband or wife was at least

sixty-five (65) years of age at the time of a death;

(3) the surviving spouse has not remarried; and

(4) the surviving spouse satisfies the requirements prescribed in subsection (a)(2) through (a)(7).

(g) An individual who has sold real property to another person under a contract that provides that the contract buyer is to pay the property taxes on the real property may not claim the deduction provided under this section against that real property.

(h) In the case of tenants covered by subsection (a)(2)(B), if all of the tenants are not at least sixty-five (65) years of age, the deduction allowed under this section shall be reduced by an amount equal to the deduction multiplied by a fraction. The numerator of the fraction is the number of tenants who are not at least sixty-five (65) years of age, and the denominator is the total number of tenants.

SECTION 23. IC 6-1.1-12-11, AS AMENDED BY P.L.144-2008, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) Except as provided in section 40.5 of this chapter, an individual may have the sum of twelve thousand four hundred eighty dollars ($12,480) deducted from the assessed value of real property, mobile home not assessed as real property, or manufactured home not assessed as real property that the individual owns, or that the individual is buying under a contract that provides that the individual is to pay property taxes on the real property, mobile home, or manufactured home, if the contract or a memorandum of the contract is recorded in the county recorder's office, and if:

(1) the individual is blind or the individual has a disability;

(2) the real property, mobile home, or manufactured home is principally used and occupied by the individual as the individual's residence;

(3) the individual's taxable gross income for the calendar year preceding the year in which the deduction is claimed did not exceed seventeen thousand dollars ($17,000); and

(4) the individual:

~~(1)~~ **(A)** owns the real property, mobile home, or manufactured home; or

~~(2)~~ **(B)** is buying the real property, mobile home, or manufactured home under contract;

on the date the statement required by section 12 of this chapter is

filed.

(b) For purposes of this section, taxable gross income does not include income which is not taxed under the federal income tax laws.

(c) For purposes of this section, "blind" has the same meaning as the definition contained in IC 12-7-2-21(1).

(d) For purposes of this section, "individual with a disability" means a person unable to engage in any substantial gainful activity by reason of a medically determinable physical or mental impairment which:

(1) can be expected to result in death; or

(2) has lasted or can be expected to last for a continuous period of not less than twelve (12) months.

(e) An individual with a disability filing a claim under this section shall submit proof of disability in such form and manner as the department shall by rule prescribe. Proof that a claimant is eligible to receive disability benefits under the federal Social Security Act (42 U.S.C. 301 et seq.) shall constitute proof of disability for purposes of this section.

(f) An individual with a disability not covered under the federal Social Security Act shall be examined by a physician and the individual's status as an individual with a disability determined by using the same standards as used by the Social Security Administration. The costs of this examination shall be borne by the claimant.

(g) An individual who has sold real property, a mobile home not assessed as real property, or a manufactured home not assessed as real property to another person under a contract that provides that the contract buyer is to pay the property taxes on the real property, mobile home, or manufactured home may not claim the deduction provided under this section against that real property, mobile home, or manufactured home.

SECTION 24. IC 6-1.1-12-13, AS AMENDED BY P.L.144-2008, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) Except as provided in section 40.5 of this chapter, an individual may have twenty-four thousand nine hundred sixty dollars ($24,960) deducted from the assessed value of the taxable tangible property that the individual owns, or real property, a mobile home not assessed as real property, or a manufactured home not assessed as real property that the individual is buying under a contract that provides that the individual is to pay property taxes on the

real property, mobile home, or manufactured home, if the contract or a memorandum of the contract is recorded in the county recorder's office and if:

(1) the individual served in the military or naval forces of the United States during any of its wars;

(2) the individual received an honorable discharge;

(3) the individual has a disability with a service connected disability of ten percent (10%) or more;

(4) the individual's disability is evidenced by:

(A) a pension certificate, an award of compensation, or a disability compensation check issued by the United States Department of Veterans Affairs; or

(B) a certificate of eligibility issued to the individual by the Indiana department of veterans' affairs after the Indiana department of veterans' affairs has determined that the individual's disability qualifies the individual to receive a deduction under this section; and

(5) the individual:

~~(1)~~ **(A)** owns the real property, mobile home, or manufactured home; or

~~(2)~~ **(B)** is buying the real property, mobile home, or manufactured home under contract;

on the date the statement required by section 15 of this chapter is filed.

(b) The surviving spouse of an individual may receive the deduction provided by this section if the individual would qualify for the deduction if the individual were alive.

(c) One who receives the deduction provided by this section may not receive the deduction provided by section 16 of this chapter. However, the individual may receive any other property tax deduction which the individual is entitled to by law.

(d) An individual who has sold real property, a mobile home not assessed as real property, or a manufactured home not assessed as real property to another person under a contract that provides that the contract buyer is to pay the property taxes on the real property, mobile home, or manufactured home may not claim the deduction provided under this section against that real property, mobile home, or manufactured home.

SECTION 25. IC 6-1.1-17-1, AS AMENDED BY P.L.146-2008, SECTION 146, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) On or before August 1 of each year, the county auditor shall send a certified statement, under the seal of the board of county commissioners, to the fiscal officer of each political subdivision of the county and the department of local government finance. The statement shall contain:

(1) information concerning the assessed valuation in the political subdivision for the next calendar year;

(2) an estimate of the taxes to be distributed to the political subdivision during the last six (6) months of the current calendar year;

(3) the current assessed valuation as shown on the abstract of charges;

(4) the average growth in assessed valuation in the political subdivision over the preceding three (3) budget years, excluding years in which a general reassessment occurs, determined according to procedures established by the department of local government finance;

(5) the amount of the political subdivision's assessed valuation reduction determined under section 0.5(d) of this chapter;

(6) for counties with taxing units that cross into or intersect with other counties, the assessed valuation as shown on the most current abstract of property; and

(7) any other information at the disposal of the county auditor that might affect the assessed value used in the budget adoption process.

(b) The estimate of taxes to be distributed shall be based on:

(1) the abstract of taxes levied and collectible for the current calendar year, less any taxes previously distributed for the calendar year; and

(2) any other information at the disposal of the county auditor which might affect the estimate.

(c) The fiscal officer of each political subdivision shall present the county auditor's statement to the proper officers of the political subdivision.

(d) Subject to subsection (e), ~~and except as provided in subsection (f),~~ after the county auditor sends a certified statement under subsection

(a) or an amended certified statement under this subsection with respect to a political subdivision and before the department of local government finance certifies its action with respect to the political subdivision under section 16(f) of this chapter, the county auditor may amend the information concerning assessed valuation included in the earlier certified statement. The county auditor shall send a certified statement amended under this subsection, under the seal of the board of county commissioners, to:

(1) the fiscal officer of each political subdivision affected by the amendment; and

(2) the department of local government finance.

(e) Except as provided in subsection ~~(g),~~ **(f),** before the county auditor makes an amendment under subsection (d), the county auditor must provide an opportunity for public comment on the proposed amendment at a public hearing. The county auditor must give notice of the hearing under IC 5-3-1. If the county auditor makes the amendment as a result of information provided to the county auditor by an assessor, the county auditor shall give notice of the public hearing to the assessor.

~~(f) Subsection (d) does not apply to an adjustment of assessed valuation under IC 36-7-15.1-26.9(d).~~

~~(g)~~ **(f)** The county auditor is not required to hold a public hearing under subsection (e) if:

(1) the amendment under subsection (d) is proposed to correct a mathematical error made in the determination of the amount of assessed valuation included in the earlier certified statement;

(2) the amendment under subsection (d) is proposed to add to the amount of assessed valuation included in the earlier certified statement assessed valuation of omitted property discovered after the county auditor sent the earlier certified statement; or

(3) the county auditor determines that the amendment under subsection (d) will not result in an increase in the tax rate or tax rates of the political subdivision.

SECTION 26. IC 6-1.1-18-2, AS AMENDED BY P.L.146-2008, SECTION 165, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Before January 1, 2009, the state may not impose a combined ad valorem property tax rate on tangible property that exceeds the sum of the ad valorem property tax

rates permitted under IC 4-9.1-1-8, ~~IC 14-23-3-3, and~~ IC 15-1.5-7-3 (before July 1, 2008), and IC 15-13-8-3 (after June 30, 2008, and before January 1, 2009). The state tax rate is not subject to review by county boards of tax adjustment or county auditors.

(b) Except as permitted under IC 4-9.1-1-8 to repay notes issued to meet casual deficits in state revenue, the state may not impose an ad valorem property tax rate on tangible property after December 31, 2008.

(c) This section does not apply to political subdivisions of the state.

SECTION 27. IC 6-1.1-18-3, AS AMENDED BY P.L.146-2008, SECTION 166, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Except as provided in subsection (b), the sum of all tax rates for all political subdivisions imposed on tangible property within a political subdivision may not exceed:

(1) forty-one and sixty-seven hundredths cents ($0.4167) on each one hundred dollars ($100) of assessed valuation in territory outside the corporate limits of a city or town; or

(2) sixty-six and sixty-seven hundredths cents ($0.6667) on each one hundred dollars ($100) of assessed valuation in territory inside the corporate limits of a city or town.

(b) The proper officers of a political subdivision shall fix tax rates which are sufficient to provide funds for the purposes itemized in this subsection. The portion of a tax rate fixed by a political subdivision shall not be considered in computing the tax rate limits prescribed in subsection (a) if that portion is to be used for one (1) of the following purposes:

(1) To pay the principal or interest on a funding, refunding, or judgment funding obligation of the political subdivision.

(2) To pay the principal or interest on an outstanding obligation issued by the political subdivision if notice of the sale of the obligation was published before March 9, 1937.

(3) To pay the principal or interest upon:

(A) an obligation issued by the political subdivision to meet an emergency which results from a flood, fire, pestilence, war, or any other major disaster; or

(B) a note issued under IC 36-2-6-18, IC 36-3-4-22, IC 36-4-6-20, or IC 36-5-2-11 to enable a city, town, or county

to acquire necessary equipment or facilities for municipal or county government.

(4) To pay the principal or interest upon an obligation issued in the manner provided in:

(A) IC 6-1.1-20-3 (before its repeal);

(B) IC 6-1.1-20-3.1 through IC 6-1.1-20-3.2; or

(C) IC 6-1.1-20-3.5 through IC 6-1.1-20-3.6.

(5) To pay a judgment rendered against the political subdivision.

~~(6) This subdivision expires January 1, 2009. To meet the requirements of the family and children's fund for child services (as defined in IC 12-19-7-1, before its repeal).~~

~~(7) This subdivision expires January 1, 2009. To meet the requirements of the county hospital care for the indigent fund.~~

~~(8) This subdivision expires January 1, 2009. To meet the requirements of the children's psychiatric residential treatment services fund for children's psychiatric residential treatment services (as defined in IC 12-19-7.5-1, before its repeal).~~

(c) Except as otherwise provided in IC 6-1.1-19 (before January 1, 2009), IC 6-1.1-18.5, IC 20-45 (before January 1, 2009), or IC 20-46, a county board of tax adjustment, a county auditor, or the department of local government finance may review the portion of a tax rate described in subsection (b) only to determine if it exceeds the portion actually needed to provide for one (1) of the purposes itemized in that subsection.

SECTION 28. IC 6-1.1-18.5-1, AS AMENDED BY P.L.154-2006, SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter:

"Ad valorem property tax levy for an ensuing calendar year" means the total property taxes imposed by a civil taxing unit for current property taxes collectible in that ensuing calendar year.

"Adopting county" means any county in which the county adjusted gross income tax is in effect.

"Civil taxing unit" means any taxing unit except a school corporation.

"Maximum permissible ad valorem property tax levy for the preceding calendar year" means the greater of:

(1) the remainder of:

(A) the civil taxing unit's maximum permissible ad valorem

property tax levy for the calendar year immediately preceding the ensuing calendar year, as that levy was determined under section 3 of this chapter; minus

(B) one-half (1/2) of the remainder of:

(i) the civil taxing unit's maximum permissible ad valorem property tax levy referred to in clause (A); minus

(ii) the civil taxing unit's ad valorem property tax levy for the calendar year immediately preceding the ensuing calendar year referred to in subdivision (2); or

(2) the civil taxing unit's ad valorem property tax levy for the calendar year immediately preceding the ensuing calendar year, as that levy was determined by the department of local government finance in fixing the civil taxing unit's budget, levy, and rate for that preceding calendar year under IC 6-1.1-17, and after eliminating the effects of temporary excessive levy appeals and temporary adjustments made to the working maximum levy for the calendar year immediately preceding the ensuing calendar year, as determined by the department of local government finance.

"Taxable property" means all tangible property that is subject to the tax imposed by this article and is not exempt from the tax under IC 6-1.1-10 or any other law. For purposes of sections 2 and 3 of this chapter, the term "taxable property" is further defined in section 6 of this chapter.

~~"Unadjusted assessed value" means the assessed value of a civil taxing unit as determined by local assessing officials and the department of local government finance in a particular calendar year before the application of an annual adjustment under IC 6-1.1-4-4.5 for that particular calendar year or any calendar year since the last general reassessment preceding the particular calendar year.~~

SECTION 29. IC 6-1.1-18.5-4.5, AS ADDED BY P.L.219-2007, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.5. The department of local government finance shall adjust the maximum permissible ad valorem tax levy of each county and township to reflect any transfer of duties between assessors under IC 36-2-15-5 or IC 36-6-5-2 **(repealed).**

SECTION 30. IC 6-1.1-20.6-7, AS AMENDED BY P.L.146-2008, SECTION 222, IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE UPON PASSAGE]: Sec. 7. ~~(a) This subsection expires January 1, 2009. In the case of a credit authorized under section 6 of this chapter or provided by section 6.5(a) or 6.5(b) of this chapter for property taxes first due and payable in a calendar year:~~

~~(1) a person is entitled to a credit against the person's property tax liability for property taxes first due and payable in that calendar year attributable to:~~

~~(A) the person's qualified residential property located in the county, in the case of a calendar year before 2008; or~~

~~(B) the person's homestead. (as defined in IC 6-1.1-20.9-1) property located in the county, in the case of a calendar year after 2007 and before 2009; and~~

~~(2) the amount of the credit is the amount by which the person's property tax liability attributable to:~~

~~(A) the person's qualified residential property, in the case of a calendar year before 2008; or~~

~~(B) the person's homestead property, in the case of a calendar year after 2007 and before 2009;~~

~~for property taxes first due and payable in that calendar year exceeds two percent (2%) of the gross assessed value that is the basis for determination of property taxes on the qualified residential property (in the case of a calendar year before 2008) or the person's homestead property (in the case of a calendar year after 2007 and before 2009) for property taxes first due and payable in that calendar year, as adjusted under subsection (b).~~

~~(b) This subsection expires January 1, 2009. This subsection applies to property taxes first due and payable in 2008. The amount of a credit to which a person is entitled under subsection (a) in a county shall be determined without including a taxpayer's property tax liability for tuition support. Notwithstanding any other provision of this chapter, a school corporation's tuition support property tax levy collections may not be reduced because of a credit under this chapter.~~

~~(c)~~ **(a)** This subsection applies to property taxes first due and payable in 2009. A person is entitled to a credit against the person's property tax liability for property taxes first due and payable in 2009. The amount of the credit is the amount by which the person's property tax liability attributable to the person's:

(1) homestead exceeds one and five-tenths percent (1.5%);

(2) residential property exceeds two and five-tenths percent (2.5%);

(3) long term care property exceeds two and five-tenths percent (2.5%);

(4) agricultural land exceeds two and five-tenths percent (2.5%);

(5) nonresidential real property exceeds three and five-tenths percent (3.5%); or

(6) personal property exceeds three and five-tenths percent (3.5%);

of the gross assessed value of the property that is the basis for determination of property taxes for that calendar year.

~~(d)~~ **(b)** This subsection applies to property taxes first due and payable in 2009. Property taxes imposed after being approved by the voters in a referendum or local public question shall not be considered for purposes of calculating a person's credit under this section.

~~(e)~~ **(c)** This subsection applies to property taxes first due and payable in 2009. As used in this subsection, "eligible county" means only a county for which the general assembly determines in 2008 that limits to property tax liability under this chapter are expected to reduce in 2010 the aggregate property tax revenue that would otherwise be collected by all units of local government and school corporations in the county by at least twenty percent (20%). Property taxes imposed in an eligible county to pay debt service or make lease payments for bonds or leases issued or entered into before July 1, 2008, shall not be considered for purposes of calculating a person's credit under this section.

SECTION 31. IC 6-1.1-22-8.1, AS AMENDED BY P.L.87-2009, SECTION 7, AND AS AMENDED BY P.L.136-2009, SECTION 7, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8.1. (a) ~~*This section applies only to property taxes and special assessments first due and payable after December 31, 2007.*~~

~~*(b)*~~ The county treasurer shall:

(1) *except as provided in subsection (h),* mail to the last known address of each person liable for any property taxes or special assessment, as shown on the tax duplicate or special assessment records, or to the last known address of the most recent owner shown in the transfer book; and

(2) transmit by written, electronic, or other means to a mortgagee maintaining an escrow account for a person who is liable for any property taxes or special assessments, as shown on the tax duplicate or special assessment records;

a statement in the form required under subsection ~~(c).~~ *(b)*. However, for property taxes first due and payable in 2008, the county treasurer may choose to use a tax statement that is different from the tax statement prescribed by the department under subsection ~~(c).~~ *(b)*. If a county chooses to use a different tax statement, the county must still transmit (with the tax bill) the statement in either color type or black-and-white type.

~~(c)~~ *(b)* The department of local government finance shall prescribe a form, subject to the approval of the state board of accounts, for the statement under subsection ~~(b)~~ *(a)* that includes at least the following:

(1) A statement of the taxpayer's current and delinquent taxes and special assessments.

(2) A breakdown showing the total property tax and special assessment liability and the amount of the taxpayer's liability that will be distributed to each taxing unit in the county.

(3) An itemized listing for each property tax levy, including:

(A) the amount of the tax rate;

(B) the entity levying the tax owed; and

(C) the dollar amount of the tax owed.

(4) Information designed to show the manner in which the taxes and special assessments billed in the tax statement are to be used.

(5) A comparison showing any change in the assessed valuation for the property as compared to the previous year.

(6) A comparison showing any change in the property tax and special assessment liability for the property as compared to the previous year. The information required under this subdivision must identify:

(A) the amount of the taxpayer's liability distributable to each taxing unit in which the property is located in the current year and in the previous year; and

(B) the percentage change, if any, in the amount of the taxpayer's liability distributable to each taxing unit in which the property is located from the previous year to the current year.

(7) An explanation of the following:

(A) ~~*The*~~ Homestead ~~*credit and*~~ *credits under IC 6-1.1-20.4, IC 6-3.5-6-13, or another law that are available in the taxing district where the property is located.*

(B) All property tax deductions *that are available in the taxing district where the property is located.*

~~*(B)*~~ *(C)* The procedure and deadline for filing for ~~*the*~~ *any available* homestead ~~*credit*~~ *credits under IC 6-1.1-20.4, IC 6-3.5-6-13, or another law* and each deduction.

~~*(C)*~~ *(D)* The procedure that a taxpayer must follow to:

(i) appeal a current assessment; or

(ii) petition for the correction of an error related to the taxpayer's property tax and special assessment liability.

~~*(D)*~~ *(E)* The forms that must be filed for an appeal or a petition described in clause ~~*(C).*~~ *(D).*

(F) The procedure and deadline that a taxpayer must follow and the forms that must be used if a credit or deduction has been granted for the property and the taxpayer is no longer eligible for the credit or deduction.

~~*(E)*~~ **(G)** *Notice that an appeal described in clause* ~~*(C)*~~ **(D)** *requires evidence relevant to the true tax value of the taxpayer's property as of the assessment date that is the basis for the taxes payable on that property.*

The department of local government finance shall provide the explanation required by this subdivision to each county treasurer.

(8) A checklist that shows:

(A) ~~*the*~~ homestead ~~*credit*~~ *credits under IC 6-1.1-20.4, IC 6-3.5-6-13, or another law* and all property tax deductions; and

(B) whether ~~*the*~~ *each* homestead credit and ~~each~~ property tax deduction applies in the current statement for the property transmitted under subsection ~~*(b).*~~ *(a).*

(9) This subdivision applies to any property for which a deduction or credit is listed under subdivision (8) if the notice required under this subdivision was not provided to a taxpayer on a reconciling statement under IC 6-1.1-22.5-12. The statement must include in 2010, 2011, and 2012 a notice that must be returned by the taxpayer to the county auditor with the taxpayer's

verification of the items required by this subdivision. The notice must explain the tax consequences and applicable penalties if a taxpayer unlawfully claims a standard deduction under IC 6-1.1-12-37 on:

(A) more than one (1) parcel of property; or

(B) property that is not the taxpayer's principal place of residence or is otherwise not eligible for the standard deduction.

The notice must include a place for the taxpayer to indicate, under penalties of perjury, for each deduction and credit listed under subdivision (8), whether the property is eligible for the deduction or credit listed under subdivision (8). The notice must also include a place for each individual who qualifies the property for a deduction or credit listed in subdivision (8) to indicate the name of the individual and the name of the individual's spouse (if any), as the names appear in the records of the United States Social Security Administration for the purposes of the issuance of a Social Security card and Social Security number (or that they use as their legal names when they sign their names on legal documents), and either the last five (5) digits of each individual's Social Security number or, if an individual does not have a Social Security number, the numbers required from the individual under IC 6-1.1-12-37(e)(4)(B). The notice must explain that the taxpayer must complete and return the notice with the required information and that failure to complete and return the notice may result in disqualification of property for deductions and credits listed in subdivision (8), must explain how to return the notice, and must be on a separate form printed on paper that is a different color than the tax statement. The notice must be prepared in the form prescribed by the department of local government finance and include any additional information required by the department of local government finance. This subdivision expires January 1, 2015.

~~(d)~~ *(c)* The county treasurer may mail or transmit the statement one (1) time each year at least fifteen (15) days before the date on which the first or only installment is due. Whenever a person's tax liability for a year is due in one (1) installment under IC 6-1.1-7-7 or section 9 of this chapter, a statement that is mailed must include the date on which

the installment is due and denote the amount of money to be paid for the installment. Whenever a person's tax liability is due in two (2) installments, a statement that is mailed must contain the dates on which the first and second installments are due and denote the amount of money to be paid for each installment. *If a statement is returned to the county treasurer as undeliverable and the forwarding order is expired, the county treasurer shall notify the county auditor of this fact. Upon receipt of the county treasurer's notice, the county auditor may, at the county auditor's discretion, treat the property as not being eligible for any deductions under IC 6-1.1-12 or any homestead credits under IC 6-1.1-20.4 and IC 6-3.5-6-13.*

~~(e)~~ *(d)* All payments of property taxes and special assessments shall be made to the county treasurer. The county treasurer, when authorized by the board of county commissioners, may open temporary offices for the collection of taxes in cities and towns in the county other than the county seat.

~~(f)~~ *(e)* The county treasurer, county auditor, and county assessor shall cooperate to generate the information to be included in the statement under subsection ~~(c).~~ *(b).*

~~(g)~~ *(f)* The information to be included in the statement under subsection ~~(c)~~ *(b)* must be simply and clearly presented and understandable to the average individual.

~~(h)~~ *(g)* After December 31, 2007, a reference in a law or rule to IC 6-1.1-22-8 (expired January 1, 2008, and repealed) shall be treated as a reference to this section.

(h) Transmission of statements and other information under this subsection applies in a county only if the county legislative body adopts an authorizing ordinance. Subject to subsection (i), in a county in which an ordinance is adopted under this subsection for property taxes and special assessments first due and payable after 2009, a person may direct the county treasurer and county auditor to transmit the following to the person by electronic mail:

(1) A statement that would otherwise be sent by the county treasurer to the person by regular mail under subsection (a)(1), including a statement that reflects installment payment due dates under section 9.5 or 9.7 of this chapter.

(2) A provisional tax statement that would otherwise be sent by the county treasurer to the person by regular mail under

IC 6-1.1-22.5-6.

(3) A reconciling tax statement that would otherwise be sent by the county treasurer to the person by regular mail under any of the following:

(A) Section 9 of this chapter.

(B) Section 9.7 of this chapter.

(C) IC 6-1.1-22.5-12, including a statement that reflects installment payment due dates under IC 6-1.1-22.5-18.5.

(4) A statement that would otherwise be sent by the county auditor to the person by regular mail under IC 6-1.1-17-3(b).

(5) Any other information that:

(A) concerns the property taxes or special assessments; and

(B) would otherwise be sent:

(i) by the county treasurer or the county auditor to the person by regular mail; and

(ii) before the last date the property taxes or special assessments may be paid without becoming delinquent.

(i) For property with respect to which more than one (1) person is liable for property taxes and special assessments, subsection (h) applies only if all the persons liable for property taxes and special assessments designate the electronic mail address for only one (1) individual authorized to receive the statements and other information referred to in subsection (h).

(j) Before 2010, the department of local government finance shall create a form to be used to implement subsection (h). The county treasurer and county auditor shall:

(1) make the form created under this subsection available to the public;

(2) transmit a statement or other information by electronic mail under subsection (h) to a person who, at least thirty (30) days before the anticipated general mailing date of the statement or other information, files the form created under this subsection:

(A) with the county treasurer; or

(B) with the county auditor; and

(3) publicize the availability of the electronic mail option under this subsection through appropriate media in a manner reasonably designed to reach members of the public.

(k) The form referred to in subsection (j) must:

(1) explain that a form filed as described in subsection (j)(2) remains in effect until the person files a replacement form to:

(A) change the person's electronic mail address; or

(B) terminate the electronic mail option under subsection (h); and

(2) allow a person to do at least the following with respect to the electronic mail option under subsection (h):

(A) Exercise the option.

(B) Change the person's electronic mail address.

(C) Terminate the option.

(D) For a person other than an individual, designate the electronic mail address for only one (1) individual authorized to receive the statements and other information referred to in subsection (h).

(E) For property with respect to which more than one (1) person is liable for property taxes and special assessments, designate the electronic mail address for only one (1) individual authorized to receive the statements and other information referred to in subsection (h).

(l) The form created under subsection (j) is considered filed with the county treasurer or the county auditor on the postmark date. If the postmark is missing or illegible, the postmark is considered to be one (1) day before the date of receipt of the form by the county treasurer or the county auditor.

(m) The county treasurer shall maintain a record that shows at least the following:

(1) Each person to whom a statement or other information is transmitted by electronic mail under this section.

(2) The information included in the statement.

(3) Whether the person received the statement.

SECTION 32. IC 6-1.1-37-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. An officer of state or local government who recklessly violates or fails to perform a duty imposed on him under:

(1) IC 6-1.1-10-1(b);

(2) IC 6-1.1-12-6;

(3) IC 6-1.1-12-7;

~~(4) IC 6-1.1-12-8;~~

~~(5)~~ **(4)** IC 6-1.1-17-1;
~~(6)~~ **(5)** IC 6-1.1-17-3(a);
~~(7)~~ **(6)** IC 6-1.1-17-5(d)(1);
~~(8)~~ **(7)** IC 6-1.1-18-1;
~~(9)~~ **(8)** IC 6-1.1-18-5;
~~(10)~~ **(9)** IC 6-1.1-18-6;
~~(11)~~ **(10)** IC 6-1.1-20-5;
~~(12)~~ **(11)** IC 6-1.1-20-6;
~~(13)~~ **(12)** IC 6-1.1-20-7;
~~(14)~~ **(13)** IC 6-1.1-30-14; or
~~(15)~~ **(14)** IC 6-1.1-36-13;

commits a Class A misdemeanor. In addition, the officer is liable for the damages sustained by a person as a result of the officer's violation of the provision or the officer's failure to perform the duty.

SECTION 33. IC 6-1.1-37-9, AS AMENDED BY P.L.219-2007, SECTION 81, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) This section applies when:

(1) an assessment is made or increased after the date or dates on which the taxes for the year for which the assessment is made were originally due;

(2) the assessment upon which a taxpayer has been paying taxes under IC 6-1.1-15-10(a)(1) or IC 6-1.1-15-10(a)(2) while a petition for review or a judicial proceeding has been pending is less than the assessment that results from the final determination of the petition for review or judicial proceeding; or

(3) the collection of certain ad valorem property taxes has been enjoined under IC 33-26-6-2, and under the final determination of the petition for judicial review the taxpayer is liable for at least part of those taxes.

(b) Except as provided in subsections (c) and (g), a taxpayer shall pay interest on the taxes the taxpayer is required to pay as a result of an action or a determination described in subsection (a) at the rate of ten percent (10%) per year from the original due date or dates for those taxes to:

(1) the date of payment; or

(2) the date on which penalties for the late payment of a tax installment may be charged under subsection (e) or (f);

whichever occurs first.

(c) Except as provided in subsection (g), a taxpayer shall pay interest on the taxes the taxpayer is ultimately required to pay in excess of the amount that the taxpayer is required to pay under IC 6-1.1-15-10(a)(1) while a petition for review or a judicial proceeding has been pending at the overpayment rate established under Section 6621(c)(1) of the Internal Revenue Code in effect on the original due date or dates for those taxes from the original due date or dates for those taxes to:

(1) the date of payment; or

(2) the date on which penalties for the late payment of a tax installment may be charged under subsection (e) or (f);

whichever occurs first.

(d) With respect to an action or determination described in subsection (a), the taxpayer shall pay the taxes resulting from that action or determination and the interest prescribed under subsection (b) or (c) on or before:

(1) the next May 10; or

(2) the next November 10;

whichever occurs first.

(e) A taxpayer shall, to the extent that the penalty is not waived under section ~~10.5 or~~ 10.7 of this chapter, begin paying the penalty prescribed in section 10 of this chapter on the day after the date for payment prescribed in subsection (d) if:

(1) the taxpayer has not paid the amount of taxes resulting from the action or determination; and

(2) the taxpayer either:

(A) received notice of the taxes the taxpayer is required to pay as a result of the action or determination at least thirty (30) days before the date for payment; or

(B) voluntarily signed and filed an assessment return for the taxes.

(f) If subsection (e) does not apply, a taxpayer who has not paid the amount of taxes resulting from the action or determination shall, to the extent that the penalty is not waived under section ~~10.5 or~~ 10.7 of this chapter, begin paying the penalty prescribed in section 10 of this chapter on:

(1) the next May 10 which follows the date for payment prescribed in subsection (d); or

(2) the next November 10 which follows the date for payment prescribed in subsection (d);

whichever occurs first.

(g) A taxpayer is not subject to the payment of interest on real property assessments under subsection (b) or (c) if:

(1) an assessment is made or increased after the date or dates on which the taxes for the year for which the assessment is made were due;

(2) the assessment or the assessment increase is made as the result of error or neglect by the assessor or by any other official involved with the assessment of property or the collection of property taxes; and

(3) the assessment:

(A) would have been made on the normal assessment date if the error or neglect had not occurred; or

(B) increase would have been included in the assessment on the normal annual assessment date if the error or neglect had not occurred.

SECTION 34. IC 6-1.1-41-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. At least:

(1) ten (10) taxpayers in the tax district, if the fund is authorized under IC 8-10-5-17, IC 8-16-3-1, IC 8-16-3.1-4, IC 14-27-6-48, IC 14-33-21-2, ~~IC 16-22-4-3,~~ IC 36-8-14-2, IC 36-9-4-48, or IC 36-10-4-36; or

(2) fifty (50) taxpayers in the area where a property tax for a fund is imposed, if subdivision (1) does not apply;

may file with the county auditor, by noon August 1 of a year, a petition for reduction or revision of the levy approved under this chapter. The petition must state the taxpayers' objections to the levy. The county auditor shall certify the petition to the department of local government finance, and the same procedure for notice and hearing must be followed that was required for the original levy. After a hearing on the petition, the department of local government finance may confirm, reduce, or rescind the levy. The department of local government finance's action is final and conclusive.

SECTION 35. IC 6-6-1.1-906 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 906. The department shall adopt necessary rules and regulations consistent with

this chapter ~~and IC 6-3-3-7~~ for the filing of refund or credit claims and for the granting of refunds or credits.

SECTION 36. IC 6-8.1-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) This chapter and IC 6-8.1-2 through IC 6-8.1-10-1 (except IC 6-8.1-5-2) apply after December 31, 1980, regardless of when the tax liability arose. If the tax liability was assessed before January 1, 1981, the rights and duties of the taxpayer and the state are determined (except for interest on the liability for which IC 6-8.1-10-1 applies beginning January 1, 1981) with regard to the assessment, hearing, and appeals procedures and limitations that existed at the time of the tax liability assessment and before January 1, 1981, notwithstanding the repeal of those procedures and limitations.

(b) Except as provided in subsection (c), IC 6-8.1-5-2 and IC 6-8.1-10-2.1 through IC 6-8.1-10-7 apply only with respect to taxes imposed for periods ending after December 31, 1980. Tax liabilities arising before January 1, 1981, are, with respect to additions to tax and penalties, determined, administered, and assessed under the appropriate listed tax laws in effect on December 31, 1980, instead of under this article. The rights and duties of the taxpayers and the state under those laws are fully and completely preserved with respect to the additions to tax and penalties.

(c) IC 6-8.1-10-2.1 through ~~IC 6-8.1-10-8~~ **IC 6-8.1-10-7** may apply to tax liabilities arising during any period that ends before January 1, 1981, if:

(1) the commissioner has not issued an assessment with respect to that prior period; or

(2) the commissioner has issued the assessment that is or may be the subject of a petition for reassessment and the commissioner's decision on that assessment has not been issued as of January 1, 1981, and the taxpayer elects to have all of IC 6-8.1-10-2.1 through IC 6-8.1-10-7 apply as fully as if those sections had been in effect at the time the tax liability arose. The election must be made within sixty (60) days after assessment or before June 1, 1981, whichever occurs last. An election under this subsection may not shorten the statute of limitations upon assessments otherwise applying to tax liabilities arising before January 1, 1981.

SECTION 37. IC 6-8.1-14-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The department shall accept proposals from taxpayers at the hearing for changes in statutes and rules to better implement the findings set forth in ~~IC 6-8.1-11-1.~~ **IC 6-8.1-11-2.**

SECTION 38. IC 7.1-2-3-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. ~~Regulation of Sales.~~ The commission shall have the power to prohibit or regulate, by rule or regulation, the sale of alcoholic beverages within this state when the sale is being carried on in violation of IC ~~1971,~~ 24-3-1 **(repealed).**

SECTION 39. IC 8-1-2.8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. As used in this chapter, "Indiana Telephone Relay Access Corporation for the Hearing and Speech Impaired" or "InTRAC" means a corporation formed under IC 23-7-1.1 **(before its repeal on August 1, 1991) or IC 23-17** that meets the requirements of section 18 of this chapter.

SECTION 40. IC 8-1-2.8-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. A LEC that collects a surcharge under this chapter shall pay the amount collected for the surcharge on the terms and in the manner determined under section 21(2) of this chapter to a not-for-profit corporation formed under IC 23-7-1.1 **(before its repeal on August 1, 1991) or IC 23-17** and named "The Indiana Telephone Relay Access Corporation for the Hearing and Speech Impaired". However, no payments under this section may be made to the InTRAC until the following occur:

(1) The InTRAC files with the commission the following:

(A) A certificate of existence issued by the secretary of state that certifies that the InTRAC is in existence under Indiana law.

(B) A certificate in which two (2) authorized officers of the InTRAC certify that the corporation meets the requirements of section 18 of this chapter.

(C) A document executed by an authorized officer of the InTRAC in which the InTRAC agrees to meet the requirements of sections 18 and 21 of this chapter.

(2) Copies of the certificates described in subdivision (1)(A) and (1)(B) have been delivered to each LEC that collects the surcharge required by this chapter.

SECTION 41. IC 8-1-2.8-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. The articles of incorporation of the InTRAC may contain provisions in addition to those specified in section 18 of this chapter that:

(1) the members of the InTRAC provide in accordance with IC 23-7-1.1 **(before its repeal on August 1, 1991) or IC 23-17;** and

(2) do not violate the provisions required under section 18 of this chapter.

SECTION 42. IC 8-1-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) All fees herein prescribed shall be paid into the treasury of the state of Indiana through the secretary of the commission, **a quietus shall be issued,** and ~~quietused~~ **the fees shall be deposited** into an account to be known as the commission public utility fund account. This account shall be used for enforcing the provisions of IC 8-1-1 and IC 8-1-2 and shall be utilized only for the purpose of funding the expenses of the commission and the consumer counselor in amounts not in excess of their respective appropriations by the general assembly, plus the contingency fund. All appropriations under this chapter paid out of the commission public utility fund account shall be subject to the prior approval of the general assembly, the governor, and the state budget agency.

(b) Fees collected from municipalities under IC 8-1-2-85 shall also be deposited in the commission public utility fund account, as if they were fees collected from public utilities under this chapter.

SECTION 43. IC 8-1-26-24, AS ADDED BY P.L.62-2009, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. (a) The underground plant protection account is established to provide funding for the following programs established and administered by the commission:

(1) Public awareness programs concerning underground plant protection.

(2) Training and educational programs for contractors, excavators, locators, operators, and other persons involved in underground plant protection.

(3) Incentive programs for contractors, excavators, locators, operators, and other persons involved in underground plant protection to reduce the number of violations of this chapter.

(b) The commission shall administer the account.

(c) The treasurer of state shall invest money in the account not currently needed to meet the obligations of the account in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the account.

(d) Money in the account at the end of a state fiscal year does not revert to the state general fund.

(e) The expenses of administering the account shall be paid from money in the account.

(f) The account consists of penalties deposited under section ~~23(i)~~ **23(k)** of this chapter.

SECTION 44. IC 8-2.1-24-18, AS AMENDED BY P.L.21-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) 49 CFR Parts 40, 375, 380, 382 through 387, 390 through 393, and 395 through 398 are incorporated into Indiana law by reference, and, except as provided in subsections (d), (e), (f), and (g), must be complied with by an interstate and intrastate motor carrier of persons or property throughout Indiana. Intrastate motor carriers subject to compliance reviews under 49 CFR 385 shall be selected according to criteria determined by the superintendent which must include but are not limited to factors such as previous history of violations found in roadside compliance checks and other recorded violations. However, the provisions of 49 CFR 395 that regulate the hours of service of drivers, including requirements for the maintenance of logs, do not apply to a driver of a truck that is registered by the bureau of motor vehicles and used as a farm truck under IC 9-18, or a vehicle operated in intrastate construction or construction related service, or the restoration of public utility services interrupted by an emergency. Except as provided in subsection (i), intrastate motor carriers not operating under authority issued by the United States Department of Transportation shall comply with the requirements of 49 CFR 390.21(b)(3) by registering with the department of state revenue as an intrastate motor carrier and displaying the certification number issued by the department of state revenue preceded by the letters "IN". Except as provided in subsection (i), all other requirements of 49 CFR 390.21 apply equally to interstate and intrastate motor carriers.

(b) 49 CFR 107 subpart (F) and subpart (G), 171 through 173, 177

through 178, and 180, are incorporated into Indiana law by reference, and every:

(1) private carrier;

(2) common carrier;

(3) contract carrier;

(4) motor carrier of property, intrastate;

(5) hazardous material shipper; and

(6) carrier otherwise exempt under section 3 of this chapter;

must comply with the federal regulations incorporated under this subsection, whether engaged in interstate or intrastate commerce.

(c) Notwithstanding subsection (b), nonspecification bulk and nonbulk packaging, including cargo tank motor vehicles, may be used only if all the following conditions exist:

(1) The maximum capacity of the vehicle is less than three thousand five hundred (3,500) gallons.

(2) The shipment of goods is limited to intrastate commerce.

(3) The vehicle is used only for the purpose of transporting fuel oil, kerosene, diesel fuel, gasoline, gasohol, or any combination of these substances.

All additional federal standards for the safe transportation of hazardous materials apply until July 1, 2000. After June 30, 2000, the maintenance, inspection, and marking requirements of 49 CFR 173.8 and Part 180 are applicable. In accordance with federal hazardous materials regulations, new or additional nonspecification cargo tank motor vehicles may not be placed in service under this subsection after June 30, 1998.

(d) For the purpose of enforcing this section, only:

(1) a state police officer or state police motor carrier inspector who:

(A) has successfully completed a course of instruction approved by the United States Department of Transportation; and

(B) maintains an acceptable competency level as established by the state police department; or

(2) an employee of a law enforcement agency who:

(A) before January 1, 1991, has successfully completed a course of instruction approved by the United States Department of Transportation; and

(B) maintains an acceptable competency level as established by the state police department;

on the enforcement of 49 CFR, may, upon demand, inspect the books, accounts, papers, records, memoranda, equipment, and premises of any carrier, including a carrier exempt under section 3 of this chapter.

(e) A person hired before September 1, 1985, who operates a motor vehicle intrastate incidentally to the person's normal employment duties and who is not employed as a chauffeur (as defined in IC 9-13-2-21(a)) is exempt from 49 CFR 391 as incorporated by this section.

(f) Notwithstanding any provision of 49 CFR 391 to the contrary, a person at least eighteen (18) years of age and less than twenty-one (21) years of age may be employed as a driver to operate a commercial motor vehicle intrastate. However, a person employed under this subsection is not exempt from any other provision of 49 CFR 391.

(g) Notwithstanding subsection (a) or (b), the following provisions of 49 CFR do not apply to private carriers of property operated only in intrastate commerce or any carriers of property operated only in intrastate commerce while employed in construction or construction related service:

(1) Subpart 391.41(b)(3) as it applies to physical qualifications of a driver who has been diagnosed as an insulin dependent diabetic, if the driver has applied for and been granted an intrastate medical waiver by the bureau of motor vehicles pursuant to this subsection. The same standards and the following procedures shall apply for this waiver whether or not the driver is required to hold a commercial driver's license. An application for the waiver shall be submitted by the driver and completed and signed by a certified endocrinologist or the driver's treating physician attesting that the driver:

(A) is not otherwise physically disqualified under Subpart 391.41 to operate a motor vehicle, whether or not any additional disqualifying condition results from the diabetic condition, and is not likely to suffer any diminution in driving ability due to the driver's diabetic condition;

(B) is free of severe hypoglycemia or hypoglycemia unawareness and has had less than one (1) documented, symptomatic hypoglycemic reaction per month;

(C) has demonstrated the ability and willingness to properly monitor and manage the driver's diabetic condition;

(D) has agreed to and, to the endocrinologist's or treating physician's knowledge, has carried a source of rapidly absorbable glucose at all times while driving a motor vehicle, has self monitored blood glucose levels one (1) hour before driving and at least once every four (4) hours while driving or on duty before driving using a portable glucose monitoring device equipped with a computerized memory; and

(E) has submitted the blood glucose logs from the monitoring device to the endocrinologist or treating physician at the time of the annual medical examination.

A copy of the blood glucose logs shall be filed along with the annual statement from the endocrinologist or treating physician with the bureau of motor vehicles for review by the driver licensing medical advisory board established under IC 9-14-4. A copy of the annual statement shall also be provided to the driver's employer for retention in the driver's qualification file, and a copy shall be retained and held by the driver while driving for presentation to an authorized federal, state, or local law enforcement official. Notwithstanding the requirements of this subdivision, the endocrinologist, the treating physician, the advisory board of the bureau of motor vehicles, or the bureau of motor vehicles may, where medical indications warrant, establish a short period for the medical examinations required under this subdivision.

(2) Subpart 396.9 as it applies to inspection of vehicles carrying or loaded with a perishable product. However, this exemption does not prohibit a law enforcement officer from stopping these vehicles for an obvious violation that poses an imminent threat of an accident or incident. The exemption is not intended to include refrigerated vehicles loaded with perishables when the refrigeration unit is working.

(3) Subpart 396.11 as it applies to driver vehicle inspection reports.

(4) Subpart 396.13 as it applies to driver inspection.

(h) For purposes of ~~49 CFR 395.1(l),~~ **49 CFR 395.1(k)(2),** "planting and harvesting season" refers to the period between January 1 and

December 31 of each year. The intrastate commerce exception set forth in ~~49 CFR 395.1(l),~~ **49 CFR 395.1(k),** as it applies to the transportation of agricultural commodities and farm supplies, is restricted to single vehicles and cargo tank motor vehicles with a capacity of not more than five thousand four hundred (5,400) gallons.

(i) The requirements of 49 CFR 390.21 do not apply to an intrastate carrier or a guest operator not engaged in interstate commerce and operating a motor vehicle as a farm vehicle in connection with agricultural pursuits usual and normal to the user's farming operation or for personal purposes unless the vehicle is operated either part time or incidentally in the conduct of a commercial enterprise.

(j) The superintendent of state police may adopt rules under IC 4-22-2 governing the parts and subparts of 49 CFR incorporated by reference under this section.

SECTION 45. IC 9-13-2-28, AS AMENDED BY P.L.107-2008, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28. ~~(a) This subsection expires January 1, 2009. "Commercial driver training school", for purposes of IC 9-24-10-4 and IC 9-27-4, has the meaning set forth in IC 9-27-4-2.~~

~~(b) This subsection applies after December 31, 2008.~~ "Commercial driver training school", for purposes of IC 9-24-10-4, has the meaning set forth in IC 5-2-6.5-5.

SECTION 46. IC 9-24-11-3, AS AMENDED BY P.L.101-2009, SECTION 8, AS AMENDED BY P.L.76-2009, SECTION 4, AND P.L.162-2009, SECTION 2, AND AS AMENDED BY P.L.145-2009, SECTION 5, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. *(a) This section applies to a probationary operator's license issued before July 1, 2009.*

~~*(a)*~~ *(b)* A license issued to an individual less than eighteen (18) years of age is a probationary license.

~~*(b)*~~ *(c)* An individual holds a probationary license subject to the following conditions:

(1) Except as provided in IC 31-37-3, the individual may not operate a motor vehicle during the curfew hours specified in IC 31-37-3-2.

(2) During the ninety (90) days following the issuance of the probationary license, the individual may not operate a motor vehicle in which there are passengers unless another individual:

~~who:~~

(A) **who** is at least twenty-one (21) years of age and ~~(B)~~ holds a valid operator's license issued under this article; *or*

(B) **who** *is the* ~~*individual's*~~ *parent, guardian, or stepparent of the* ~~*operator*~~ ~~*who*~~ **individual holding a probationary license and who** *is at least twenty-one (21) years of age;*

is present in the front seat of the motor vehicle.

(3) The individual may operate a motor vehicle only if:

(A) a safety belt is properly fastened about the body of the individual; and

(B) a safety belt is properly fastened about the body of each occupant of the motor vehicle;

~~has a safety belt properly fastened about the occupant's body~~ at all times when the motor vehicle is in motion.

~~(c)~~ *(d)* An individual who holds a probationary license issued under this section may receive an operator's license, a chauffeur's license, a public passenger chauffeur's license, or a commercial driver's license when the individual is at least eighteen (18) years of age.

~~(d)~~ *(e)* Except as provided in subsection ~~(e),~~ *(f),* a probationary license issued under this section:

(1) expires at midnight of the twenty-first birthday of the holder; and

(2) may not be renewed.

~~(e)~~ *(f)* A probationary license issued under this section to an individual who complies with IC 9-24-9-2.5(5) through ~~*IC 9-24-9-2.5(9)*~~ *IC 9-24-9-2.5(10)* expires:

(1) at midnight one (1) year after issuance if there is no expiration date on the authorization granted to the individual to remain in the United States; or

(2) if there is an expiration date on the authorization granted to the individual to remain in the United States, the earlier of the following:

(A) At midnight of the date the authorization to remain in the United States expires.

(B) At midnight of the twenty-first birthday of the holder.

SECTION 47. IC 9-24-11-3.3, AS ADDED BY P.L.101-2009, SECTION 9, AND AS ADDED BY P.L.145-2009, SECTION 6, IS CORRECTED AND AMENDED TO READ AS FOLLOWS

[EFFECTIVE UPON PASSAGE]: Sec. 3.3. (a) This section applies to a probationary operator's license issued after June 30, 2009.

(b) A license issued to *or held by* an individual less than eighteen (18) years of age is a probationary license. ~~(c)~~ An individual holds a probationary license subject to the following conditions:

(1) Except as provided in *subdivision (3),* ~~*subsection (c),*~~ the individual may not operate a motor vehicle from 10 p.m. until 5 a.m. of the following morning during the first one hundred eighty (180) days after issuance of the probationary license.

(2) Except as provided in *subdivision (3),* ~~*subsection (c),*~~ after one hundred eighty (180) days after issuance of the probationary license, and until the individual becomes eighteen (18) years of age, an individual may not operate a motor vehicle:

(A) between 1 a.m. and 5 a.m. on a Saturday or Sunday;

(B) after 11 p.m. on Sunday, Monday, Tuesday, Wednesday, or Thursday; or

(C) before 5 a.m. on Monday, Tuesday, Wednesday, Thursday, or Friday.

(3) The individual may operate a motor vehicle during the periods described in subdivisions (1) and (2) if the individual operates the motor vehicle while:

(A) participating in, going to, or returning from:

(i) lawful employment;

(ii) a school sanctioned activity; or

(iii) a religious event; or

(B) accompanied by a licensed driver at least twenty-five (25) years of age.

(4) The individual may not operate a motor vehicle while using a telecommunications device until the individual becomes eighteen (18) years of age unless the telecommunications device is being used to make a 911 emergency call.

(5) Except as provided in subdivision (6), during the one hundred eighty (180) days after the issuance of the probationary license, the individual may not operate a motor vehicle in which there are passengers until the individual becomes eighteen (18) years of age unless another individual:

(A) who:

(i) is at least twenty-five (25) years of age; and

(ii) holds a valid operator's, chauffeur's, public passenger chauffeur's, or commercial driver's license issued under this article;

(B) who is a certified driver education instructor; or

(C) who is the parent, guardian, or stepparent of the operator ~~*who*~~ **and** *is at least twenty-one (21) years of age;*

is present in the front seat of the motor vehicle.

~~*(3) Except as provided in subsection (f), during the one hundred eighty (180) days after the issuance of the probationary license, the individual may not operate a motor vehicle in which there are passengers unless another individual:*~~

~~*(A) who:*~~

~~*(i) is at least twenty-five (25) years of age; and*~~

~~*(ii) holds a valid operator's, chauffeur's, public passenger chauffeur's, or commercial driver's license issued under this article; or*~~

~~*(B) who is a certified driver education instructor;*~~

~~*is present in the front seat of the motor vehicle:*~~

~~*(4) The individual may operate a motor vehicle only if the individual and each occupant of the motor vehicle have:*~~

~~*(A) a safety belt; or*~~

~~*(B) if the occupant is a child who must be properly fastened and restrained in a child restraint system according to the manufacturer's instructions under IC 9-19-11, a child restraint system;*~~

~~*properly fastened about the occupant's body at all times when the motor vehicle is in motion:*~~

~~*(d) An individual who holds a probationary license to which this section applies may not operate a motor vehicle while using a telecommunications device unless the telecommunications device is being used to make a 911 emergency call:*~~

~~*(e) An individual may operate a motor vehicle during the period referred to in subsection (c)(1) or (c)(2) if the individual operates the motor vehicle while:*~~

~~*(1) participating in, going to, or returning from:*~~

~~*(A) lawful employment;*~~

~~*(B) a school sanctioned activity; or*~~

~~*(C) a religious event; or*~~

~~*(2) accompanied by a licensed driver at least twenty-five (25) years of age.*~~

(6) ~~*(f)*~~ *The* ~~*An*~~ individual ~~*subject to this section*~~ may operate a motor vehicle and transport:

(A) a child of the individual;

(B) a sibling of the individual;

(C) a child and a sibling of the individual; ~~*or*~~

(D) the spouse of the individual; *or*

(E) a child and the spouse of the individual;

without another accompanying individual present in the motor vehicle.

(7) The individual may operate a motor vehicle only if the individual and each occupant of the motor vehicle ~~*(A)*~~ *are:*

(A) *properly restrained by a properly fastened safety belt; or*

(B) if the occupant is a child, ~~*the child must be*~~ **restrained in a** *properly fastened* ~~*and restrained in a*~~ *child restraint system according to the manufacturer's instructions under IC 9-19-11;*

properly fastened about the occupant's body at all times when the motor vehicle is in motion.

(c) An individual who holds a probationary license issued under this section may receive an operator's license, a chauffeur's license, a public passenger chauffeur's license, or a commercial driver's license when the individual is at least eighteen (18) years of age.

(d) Except as provided in IC 9-24-12-1(e), a probationary license issued under this section:

(1) expires at midnight of the date thirty (30) days after the twenty-first birthday of the holder; and

(2) may not be renewed.

SECTION 48. IC 9-24-11-5, AS AMENDED BY P.L.76, SECTION 5, AND AS AMENDED BY P.L.162-2009, SECTION 3, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except as provided in subsection (i), a permit or license issued under this chapter must contain the following information:

(1) The full legal name of the permittee or licensee.

(2) The date of birth of the permittee or licensee.

(3) The address of the principal residence of the permittee or

licensee.

(4) The hair color and eye color of the permittee or licensee.

(5) The date of issue and expiration date of the permit or license.

(6) The gender of the permittee or licensee.

(7) The unique identifying number of the permit or license.

(8) The weight of the permittee or licensee.

(9) The height of the permittee or licensee.

(10) A reproduction of the signature of the permittee or licensee.

(11) If the permittee or licensee is less than eighteen (18) years of age at the time of issuance, the dates on which the permittee or licensee will become:

(A) eighteen (18) years of age; and

(B) twenty-one (21) years of age.

(12) If the permittee or licensee is at least eighteen (18) years of age but less than twenty-one (21) years of age at the time of issuance, the date on which the permittee or licensee will become twenty-one (21) years of age.

(13) Except as provided in subsection (b) or (c), a digital photograph of the permittee or licensee.

(b) The following permits or licenses do not require a digital photograph:

(1) Temporary motorcycle learner's permit issued under IC 9-24-8.

(2) Motorcycle learner's permit issued under IC 9-24-8.

(c) The bureau may provide for the omission of a photograph or computerized image from any other license or permit if there is good cause for the omission. However, a license issued without a digital photograph must include the language described in subsection (f).

(d) The information contained on the permit or license as required by subsection (a)(11) or (a)(12) for a permittee or licensee who is less than twenty-one (21) years of age at the time of issuance shall be printed prominently on the permit or license.

(e) This subsection applies to a permit or license issued after January 1, 2007. If the applicant for a permit or license submits information to the bureau concerning the applicant's medical condition, the bureau shall place an identifying symbol on the face of the permit or license to indicate that the applicant has a medical condition of note. The bureau shall include information on the permit or license that

briefly describes the medical condition of the holder of the permit or license. The information must be printed in a manner that alerts a person reading the permit or license to the existence of the medical condition. The permittee or licensee is responsible for the accuracy of the information concerning the medical condition submitted under this subsection. The bureau shall inform an applicant that submission of information under this subsection is voluntary.

(f) Any license or permit issued by the state that does not require a digital photograph must include a statement that indicates *that* the license or permit may not be accepted by any federal agency for federal identification or any other federal purpose.

(g) A license or permit issued by the state to an individual who:

(1) has a valid, unexpired nonimmigrant visa or has nonimmigrant visa status for entry in the United States;

(2) has a pending application for asylum in the United States;

(3) has a pending or approved application for temporary protected status in the United States;

(4) has approved deferred action status; or

(5) has a pending application for adjustment of status to that of an alien lawfully admitted for permanent residence in the United States or conditional permanent residence status in the United States;

must be clearly identified as a temporary license or permit. A temporary license or permit issued under this subsection may not be renewed without the presentation of valid documentary evidence proving that the licensee's or permitee's temporary status has been extended.

(h) The bureau may adopt rules under IC 4-22-2 to carry out this section.

(i) For purposes of subsection (a), an individual certified as a program participant in the address confidentiality program under IC 5-26.5 is not required to provide the address of the individual's principal residence, but may provide an address designated by the office of the attorney general under IC 5-26.5 as the address of the individual's principal residence.

SECTION 49. IC 9-29-5-2, AS AMENDED BY P.L.97-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. ~~(a) This subsection expires December 31,~~

~~2008. The fee for the registration of a motorcycle is twenty-seven dollars ($27). The revenue from this fee shall be allocated as follows:~~

~~(1) Seven dollars ($7) to the motorcycle operator safety education fund established by IC 20-30-13-11.~~

~~(2) An amount prescribed as a license branch service charge under IC 9-29-3.~~

~~(3) Ten dollars ($10) to the spinal cord and brain injury fund established by IC 16-41-42.2-3.~~

~~(4) The balance to the state general fund for credit to the motor vehicle highway account.~~

~~(b) This subsection applies after December 31, 2008.~~ The fee for the registration of a motorcycle is seventeen dollars and thirty cents ($17.30). The revenue from this fee shall be allocated as follows:

(1) Seven dollars ($7) to the motorcycle operator safety education fund established by IC 20-30-13-11.

(2) An amount prescribed as a license branch service charge under IC 9-29-3.

(3) Thirty cents ($0.30) to the spinal cord and brain injury fund under IC 16-41-42.2-3, as provided under section 0.5 of this chapter.

(4) The balance to the state general fund for credit to the motor vehicle highway account.

SECTION 50. IC 9-29-5-28, AS AMENDED BY P.L.79-2006, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28. Except as provided in ~~IC 9-29-12-2.5(e)~~ **IC 9-18-12-2.5(e)** and section 32.5 of this chapter, the registration fee for an antique motor vehicle under IC 9-18-12 is twelve dollars ($12).

SECTION 51. IC 9-30-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) A motor club that is a domestic corporation or a foreign corporation qualified to transact business in Indiana under IC 23-1 or ~~IC 23-7-1.1~~ **IC 23-17,** or otherwise duly qualified to transact business in Indiana under Indiana corporation law, may guarantee as security the club's motor club card or any card of a motor club affiliated with the motor club, if the motor club files a plan guaranteeing to pay the security in the amount of the fine and costs. The ability to pay the security in the amount of the fine and costs must be demonstrated by evidence of the motor club's financial responsibility that must be:

(1) a balance sheet certified by a certified public accountant at the end of the club's last available fiscal year showing net assets of the motor club in excess of five hundred thousand dollars ($500,000); or

(2) a deposit by a surety company qualified to transact business in Indiana of an annual bond in the amount of twenty-five thousand dollars ($25,000) payable to the state guaranteeing, in the amount of fines and costs, the motor club cards covered by the plan when used as a security deposit.

(b) A motor club that is a foreign corporation not qualified to transact business in Indiana under IC 23-1, ~~IC 23-7-1.1~~ **IC 23-17,** or any other Indiana corporation law shall demonstrate the club's ability to guarantee payment of the club's card or cards of an affiliated member as a security deposit upon the filing of a plan with the secretary of state guaranteeing payment of the fines and costs of the security and a deposit, by a surety company qualified to transact business in Indiana, of an annual bond in the amount of twenty-five thousand dollars ($25,000) payable to the state, guaranteeing, in the amount of fines and costs, the motor club's cards covered by the plan when used as a security deposit.

(c) A motor club must, upon filing a plan with the secretary of state, pay a filing fee of fifty dollars ($50).

(d) A motor club must annually renew the club's motor card plan. Renewal must be made by filing before May 1 of each year a new certified balance sheet or surety bond together with a renewal fee of fifty dollars ($50) with the secretary of state.

(e) An approved plan may be terminated by the motor club sixty (60) days after written notice or termination has been delivered to the secretary of state. Upon failure of a motor club to guarantee a security deposit, the motor club plan may be terminated by the secretary of state under IC 4-21.5-3.

(f) Termination by the secretary of state does not relieve a motor club of the club's obligation to pay judgments on cards covered by the club's plan and accepted as security as provided in this chapter. The attorney general may bring an action for the state in an Indiana court against a motor club to enforce an obligation.

(g) The secretary of state shall, by June 1 of each year and at other times necessary for the administration of this section, prepare and

distribute to all courts having jurisdiction over minor traffic violations and to the superintendent of the state police department lists of motor club cards that may be accepted as a security deposit.

SECTION 52. IC 10-12-2-5, AS AMENDED BY P.L.99-2007, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The department may establish, operate, and make necessary contributions to a disability reserve account for the payment of disability expense reimbursements and disability pensions to ~~beneficiaries of an~~ employee **beneficiaries** with a disability. The department also may do the following:

(1) Establish, under the terms of a supplementary trust agreement, disability expense reimbursements and disability pensions to be paid to employee beneficiaries who incur a disability in the line of duty.

(2) Establish, under the terms of a supplementary trust agreement, disability expense reimbursements and disability pensions to be paid to employee beneficiaries who incur a disability not in the line of duty.

(3) Seek rulings from the Internal Revenue Service as to the federal tax treatment for the line of duty disability benefits authorized by this section.

Except as provided in subsection (d), a monthly disability pension may not exceed the maximum basic pension amount. However, in the case of disability incurred in the line of duty, an employee beneficiary may receive not more than forty dollars ($40) per month for each dependent parent and dependent child less than eighteen (18) years of age, in addition to the monthly disability pension payment under this chapter. Time in disability pension status is considered qualifying active service for purposes of calculating a retirement pension.

(b) This section shall be administered in a manner that is consistent with the Americans with Disabilities Act (42 U.S.C. 12101 et seq.) and the regulations and amendments related to that act, to the extent required by that act.

(c) A disability payment made under this chapter is worker's compensation instead of a payment under IC 22-3-2 through IC 22-3-7.

(d) A regular, paid police employee of the state police department who has a permanent and total disability from a catastrophic personal injury that:

(1) is sustained in the line of duty after January 1, 2001; and

(2) permanently prevents the employee from performing any gainful work;

shall receive a disability pension equal to the employee's regular salary at the commencement of the disability. The disability pension provided under this subsection is provided instead of the regular monthly disability pension. The disability pension provided under this subsection must be increased at a rate equal to any salary increases the employee would have received if the employee remained in active service.

SECTION 53. IC 10-13-3-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. As used in this chapter, "no contact order" means an order that prohibits a person from having direct or indirect contact with another person and that is issued under any of the following:

(1) IC 31-32-13.

~~(2) IC 31-34-17.~~

~~(3)~~ **(2)** IC 31-34-20.

~~(4) IC 31-37-16.~~

~~(5)~~ **(3)** IC 31-37-19-1.

~~(6)~~ **(4)** IC 31-37-19-6.

~~(7)~~ **(5)** IC 33-39-1-8.

~~(8)~~ **(6)** IC 35-33-8-3.2.

~~(9)~~ **(7)** IC 35-38-2-2.3.

SECTION 54. IC 10-14-3-10.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10.6. (a) As used in this section, "participating unit" refers to a unit that does not opt out under subsection (c) from participating in the statewide mutual aid program.

(b) As used in this section, "unit" has the meaning set forth in IC 36-1-2-23.

(c) A unit may choose not to participate in the statewide mutual aid program if the unit:

(1) adopts an ordinance or a resolution declaring that the unit will not participate in the statewide mutual aid program; and

(2) provides a copy of the ordinance or resolution to:

(A) the local emergency management organization that serves the unit; and

(B) the department.

(d) Each participating unit shall establish an incident management system and a unified command system to be used in a response to a disaster or an emergency.

(e) A participating unit may request the assistance of at least one (1) other participating unit to:

(1) manage disaster response or recovery; or

(2) conduct disaster response or recovery related exercises, testing, or training.

(f) A request for assistance to a participating unit under subsection (e) shall be made by and to the executive of the unit or the executive's authorized representative. A request may be oral or in writing. A written request shall be made on forms developed by the department. An oral request shall be confirmed in writing not later than twenty-four (24) hours after the oral request is made.

(g) A request must include the following information:

(1) A description of the disaster response and recovery functions for which assistance is needed, including the following:

(A) Fire.

(B) Law enforcement.

(C) Emergency medical.

(D) Transportation.

(E) Communications.

(F) Public works and engineering.

(G) Building inspection.

(H) Planning and information assistance.

(I) Mass care.

(J) Resource support.

(K) Health and other medical services.

(L) Search and rescue.

(2) The amount and type of services, equipment, supplies, materials, personnel, and other resources needed and a reasonable estimate of the length of time they will be needed.

(3) The specific place and time for staging of the assisting participating unit's provision of assistance and a point of contact at that location.

(h) A participating unit that is requested to render assistance shall take the necessary action to provide and make available the requested

services, equipment, supplies, materials, personnel, and other resources.

(i) A participating unit's obligation to provide assistance is subject to the following restrictions:

(1) A participating unit's request to receive assistance is effective only:

(A) upon declaration of a local disaster emergency by the executive officer of the unit under ~~section 23~~ **section 29** of this chapter; or

(B) upon the commencement of the exercises, testing, or training.

(2) The assistance shall continue as long as:

(A) the state of emergency remains in effect and the loaned resources are required by the receiving participating unit or the loaned resources remain in the receiving participating unit; or

(B) the exercises, testing, or training is in progress.

(3) The participating unit rendering the assistance may withhold resources or recall loaned resources to the extent necessary to provide for the participating unit's own reasonable protection.

(4) Emergency forces providing assistance shall continue under the command and control of their regular leaders, but operationally those forces shall be under the control of the incident commander or unified commander designated by the requesting participating unit.

SECTION 55. IC 10-15-2-10, AS AMENDED BY P.L.1-2006, SECTION 178, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. The foundation may do the following:

(1) Adopt bylaws for the regulation of the foundation's affairs and the conduct of the foundation's business.

(2) Adopt an official seal, which may not be the seal of the state.

(3) Maintain a principal office and other offices the foundation designates.

(4) Sue and be sued in the name and style of "Indiana ~~Emergency Management, Fire and Building Services, and Public Safety Training~~ **Homeland Security** Foundation", with service of process being made to the chairperson of the foundation by leaving a copy at the principal office of the foundation or at the

residence of the chairperson if the foundation has no principal office.

(5) Exercise the powers or perform the following duties of the foundation:

(A) Acquire by any means a right or an interest in or upon personal property of any kind or nature. The foundation shall hold the legal title to property acquired in the name of the foundation.

(B) Dispose of a right or an interest in personal property.

(6) Make and enter into all contracts, undertakings, and agreements necessary or incidental to the performance of the duties and the execution of the powers of the foundation under this chapter.

(7) Assist the department to develop projects.

(8) Receive and accept from any person grants for or in aid of the acquisition, construction, improvement, or development of any part of the projects of the foundation and receive and accept aid or contributions from any source of money, personal property, labor, or other things of value to be held, used, applied, or disposed of only for the purposes consistent with the purposes of this chapter for which the grants and contributions may be made.

(9) Hold, use, administer, and expend money that may be acquired by the foundation.

(10) Do all acts and things necessary or proper to carry out the powers expressly granted in this chapter.

SECTION 56. IC 12-7-2-154.8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 154.8. "Qualified entity", ~~means the following:~~

~~(1) For purposes of IC 12-15-2.2, has the meaning set forth in IC 12-15-2.2-1.~~

~~(2)~~ for purposes of IC 12-15-2.3, has the meaning set forth in IC 12-15-2.3-2.

SECTION 57. IC 12-15-1-20.4, AS ADDED BY P.L.114-2009, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20.4. (a) If a Medicaid recipient is:

(1) less than eighteen (18) years of age;

(2) adjudicated to be a delinquent child and placed in:

(A) a community based correctional facility for children;

(B) a juvenile detention facility; or

(C) a secure facility, not including a facility licensed as a child caring institution under IC 31-27; and

(3) ineligible to participate in the Medicaid program during the placement described in subdivision (2) because of federal Medicaid law;

the division of family resources, upon notice that a child has been adjudicated to be a delinquent child and placed in a facility described in ~~subsection (a)(2),~~ **subdivision (2)** shall suspend the child's participation in the Medicaid program for up to six (6) months before terminating the child's eligibility.

(b) If the division of family resources receives:

(1) a dispositional decree under IC 31-37-19-28; or

(2) a modified disposition order under IC 31-37-22-9;

and the department of correction gives the division at least forty (40) days notice that a child will be released from a facility described in subsection (a)(2)(C), the division of family resources shall take action necessary to ensure that a child described in subsection (a) is eligible to participate in the Medicaid program upon the child's release, if the child is eligible to participate.

SECTION 58. IC 12-15-2-0.5, AS AMENDED BY P.L.161-2007, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 0.5. (a) This section applies to a person who qualifies for assistance:

(1) under sections 13 through 16 of this chapter;

(2) under section 6 of this chapter when the person becomes ineligible for medical assistance under IC 12-14-2-5.1 or IC 12-14-2-5.3; or

(3) as an individual with a disability if the person is less than eighteen (18) years of age and otherwise qualifies for assistance.

(b) Notwithstanding any other law, the following may not be construed to limit health care assistance to a person described in subsection (a):

(1) IC 12-8-1-13.

(2) IC 12-14-1-1.

(3) IC 12-14-1-1.5.

(4) IC 12-14-2-5.1.

(5) IC 12-14-2-5.2.

(6) IC 12-14-2-5.3.
(7) IC 12-14-2-17.
(8) IC 12-14-2-18.
(9) IC 12-14-2-20.
(10) IC 12-14-2-21.
(11) IC 12-14-2-24.
(12) IC 12-14-2-25.
(13) IC 12-14-2-26.
(14) IC 12-14-2.5.
(15) IC 12-14-5.5.
(16) Section 21 of this chapter.
~~(17) IC 12-15-5-3.~~

SECTION 59. IC 12-15-44.2-19, AS ADDED BY P.L.3-2008, SECTION 98, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) The office may adopt rules under IC 4-22-2 necessary to implement this chapter.

(b) The office may adopt emergency rules under IC 4-22-2-37.1 to implement the plan on an emergency basis.

~~(c) Notwithstanding IC 12-8-1-9 and IC 12-8-3, rules adopted under this section before January 1, 2009, are not subject to review or approval by the family and social services committee established by IC 12-8-3-2. This subsection expires December 31, 2009.~~

SECTION 60. IC 13-11-2-203.5, AS ADDED BY P.L.178-2009, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 203.5. (a) Except as provided in subsection (b), "small business", for purposes of section 47.7 of this chapter, means a business that satisfies all the following:

(1) The business is independently owned and operated.
(2) The principal office of the business is located in Indiana.
(3) The business satisfies either of the following:
(A) The business has not more than:
(i) one hundred (100) employees; and
(ii) average annual gross receipts of ten million dollars ($10,000,000).
(B) If the business is a manufacturing business, the business does not have more than one hundred (100) employees.

(b) "Small business" does not include a business subject to electronic waste regulation under ~~329 IAC 16-3-1.~~ **329 IAC 16.**

SECTION 61. IC 13-14-2-8, AS ADDED BY P.L.78-2009, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) Subject to subsection (b), a restrictive covenant executed after June 30, 2009, is not subject to approval by the department.

(b) The department shall:

(1) review; and

(2) approve, disapprove, or partially approve and partially disapprove;

activities and land use restrictions described in ~~IC 13-11-2-193.5(1)~~ **IC 13-11-2-193.5(2)** that are proposed as part of a remediation, closure, cleanup, corrective action, or determination exercising enforcement discretion or of no further action being required to be included in a restrictive covenant.

SECTION 62. IC 13-18-10-1, AS AMENDED BY P.L.81-2009, SECTION 2, AND AS AMENDED BY P.L.127-2009, SECTION 5, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. A person may not start:

(1) construction of a confined feeding operation; *or*

(2) expansion of a confined feeding operation that increases animal capacity or manure containment capacity, or both;

without obtaining the prior approval of the department.

SECTION 63. IC 13-18-10-1.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE MAY 12, 2009 (RETROACTIVE)]: **Sec. 1.9. (a) This section applies:**

(1) to a confined feeding operation for which a person is required to submit an application for approval under section 1 of this chapter if an application for approval under section 1 of this chapter submitted with respect to the confined feeding operation was not approved by the department before May 12, 2009; and

(2) notwithstanding the effective date of the addition or amendment by P.L.127-2009 of the provisions listed in subsection (b)(1) through (b)(8).

(b) The following, as added or amended by P.L.127-2009, effective July 1, 2009, apply to a confined feeding operation described in subsection (a)(1) in the same manner as if they had

been in effect on the date on which the application was submitted with respect to the confined feeding operation under section 1 of this chapter:

(1) IC 13-11-2-8.

(2) IC 13-11-2-40.

(3) IC 13-11-2-191.

(4) Section 1 of this chapter.

(5) Section 2 of this chapter.

(6) Section 2.1 of this chapter.

(7) Section 2.2 of this chapter.

(8) Section 4 of this chapter.

SECTION 64. IC 14-25-15-13, AS ADDED BY P.L.4-2008, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) As used in this section, "product" ~~(1)~~ refers to a product, regardless of whether the product is distributed inside or outside the basin, that:

~~(A)~~ **(1)** is produced in the Indiana portion of the basin; ~~and~~

~~(B)~~ **(2)** is packaged and intended for intermediate or end-use consumers; and

~~(C)~~ **(3)** includes water:

~~(i)~~ **(A)** withdrawn from the basin; and

~~(ii)~~ **(B)** packaged in containers with a capacity of not more than five and seven-tenths (5.7) gallons.

(b) Any incorporation of water into a product:

(1) is a consumptive use; and

(2) does not constitute a diversion for purposes of the compact.

SECTION 65. IC 15-13-8-3, AS ADDED BY P.L.146-2008, SECTION 431, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The fund consists of the following:

(1) Revenue from the property tax imposed under IC 15-13-9 **(repealed)** before January 1, 2009.

(2) Appropriations made by the general assembly.

(3) Interest accruing from investment of money in the fund.

(4) Certain proceeds from the operation of the fair.

(b) The fund is divided into the following accounts:

(1) Agricultural fair revolving contingency account.

(2) Other accounts established by the commission.

(c) The money credited to the agricultural fair revolving contingency account may be used only to pay start-up expenses for the fair each year. Money used to pay the start-up expenses from the account must be replaced using proceeds from the operation of the fair before the proceeds may be used for any other purpose.

SECTION 66. IC 15-21-1-1, AS ADDED BY P.L.111-2009, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) This article does not apply to:

(1) an animal shelter;

(2) a humane society;

(3) an animal rescue operation;

(4) a hobby breeder;

(5) a person who breeds at least seventy-five **percent** (75%) of the person's dogs as sport dogs for hunting purposes; or

(6) a person who breeds at least seventy-five **percent** (75%) of the person's dogs as service dogs or as dogs for use by the police or the armed forces.

(b) As used in this section, "animal rescue operation" means a person or organization:

(1) that accepts within one (1) year:

(A) more than twelve (12) dogs; or

(B) more than nine (9) dogs and more than three (3) unweaned litters of puppies;

that are available for adoption for human companionship as pets or as companion animals in permanent adoptive homes and that are maintained in a private residential dwelling; or

(2) that uses a system of private residential dwellings as foster homes for the dogs.

The term does not include a person or organization that breeds dogs.

(c) As used in this section, "hobby breeder" means a person who maintains fewer than twenty (20) unaltered female dogs that are at least twelve (12) months of age.

SECTION 67. IC 16-18-2-0.5, AS ADDED BY P.L.57-2009, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 0.5. (a) "Abatement", for purposes of IC 16-41-39.8, means any measure or set of measures designed to permanently eliminate lead-based paint hazards. The term includes the following:

(1) The removal of lead-based paint and lead-contaminated dust.

(2) The permanent enclosure or encapsulation of lead-based paint.

(3) The replacement of lead-painted surfaces or fixtures.

(4) The removal or covering of lead-contaminated soil.

(5) All preparation, cleanup, disposal, and postabatement clearance testing activities associated with subdivisions (1) through (4).

(6) A project for which there is a written contract or other documentation, providing that a person will be conducting activities in or to a residential dwelling or child occupied facility that:

(A) will permanently eliminate lead-based paint hazards; or

(B) are designed to permanently eliminate lead-based paint hazards as described under subdivisions (1) through (5).

(7) A project resulting in the permanent elimination of lead-based paint hazards, conducted by persons certified under 40 CFR 745.226 or ~~IC 13-17-14,~~ **IC 16-41-39.8,** unless the project is described under subsection (b) or (c).

(8) A project resulting in the permanent elimination of lead-based paint hazards, conducted by persons who, through the person's company name or promotional literature, represent, advertise, or hold themselves out to be in the business of performing lead-based paint activities, unless those projects are described under subsection (b) or (c).

(9) A project resulting in the permanent elimination of lead-based paint hazards that is conducted in response to state or local abatement orders.

(b) The term does not include renovation, remodeling, landscaping, or other activities when those activities are not designed to permanently eliminate lead-based paint hazards but are designed to repair, restore, or remodel a structure or dwelling, even though these activities may incidentally result in a reduction or elimination of lead-based paint hazards.

(c) The term does not include interim controls, operations, or maintenance activities or other measures designed to temporarily reduce lead-based paint hazards.

SECTION 68. IC 16-18-2-54.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS

[EFFECTIVE UPON PASSAGE]: **Sec. 54.3. "Child", for purposes of IC 16-35-8, has the meaning set forth in IC 16-35-8-1.**

SECTION 69. IC 16-18-2-143, AS AMENDED BY P.L.57-2009, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 143. (a) "Fund", for purposes of IC 16-26-2, has the meaning set forth in IC 16-26-2-2.

(b) "Fund", for purposes of IC 16-31-8.5, has the meaning set forth in IC 16-31-8.5-2.

(c) "Fund", for purposes of IC 16-41-39.4, refers to the childhood lead poisoning prevention fund established by IC 16-41-39.4-3.1.

(d) "Fund", for purposes of IC 16-41-39.8, refers to the lead trust fund established by IC 16-41-39.8-7.

(e) "Fund", for purposes of IC 16-46-5, has the meaning set forth in IC 16-46-5-3.

(f) "Fund", for purposes of IC 16-46-12, has the meaning set forth in IC 16-46-12-1.

(g) "Fund", for purposes of IC 16-41-42.2, has the meaning set forth in IC 16-41-42.2-2.

(h) "Fund", for purposes of IC 16-35-8, has the meaning set forth in IC 16-35-8-2.

SECTION 70. IC 16-18-2-328.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 328.2. "Service animal", for purposes of IC 16-32-3, has the meaning set forth in IC 16-32-3-1.5.**

SECTION 71. IC 16-19-3-4.4, AS ADDED BY P.L.83-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.4. (a) The executive board shall adopt reasonable rules under IC 4-22-2 necessary to protect the health, safety, and welfare of persons living in mobile camps, including provisions relating to sanitary conditions, light, air, safety protection from fire hazards, equipment, maintenance, and operation of the camp, sewage disposal through septic tank absorption fields, and other matters appropriate for the security of the life and health of occupants.

(b) The rules adopted under subsection (a) shall be enforced by local health officers under IC 16-20-1-19 and ~~IC 16-22-8-34(a)(22).~~ **IC 16-22-8-34(a)(23).**

(c) The rules must include the following:

(1) A requirement for an inspection fee necessary to cover all the

expenses incurred in the process of conducting inspections of a mobile camp, to be paid by the railroad company operating the mobile camp.

(2) A provision that the inspection fee shall be paid to the:

(A) local health department under IC 16-20-1-2; or

(B) municipal corporation created under IC 16-22-8-6;

before initiation of the inspection. The fee shall be deposited in the general fund of the local health department or the municipal corporation.

(3) A requirement that the railroad company, after the departure of the mobile camp, restore the property upon which the mobile camp existed to its condition before the arrival of the mobile camp.

(4) A provision that the officials of the local health department or the municipal corporation referenced in subdivision (2) may conduct either:

(A) independent inspections of the mobile camp without the presence of the railroad company or a union representative; or

(B) joint inspections of the mobile camp with the presence of the railroad company and a union representative of each craft of employees working for the railroad company.

SECTION 72. IC 16-41-8-4, AS ADDED BY P.L.125-2009, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) This section applies to the release of medical information that may be relevant to the prosecution or defense of a person who has been charged with a potentially disease transmitting offense.

(b) A:

(1) prosecuting attorney may seek to obtain access to a defendant's medical information if the defendant has been charged with a potentially disease ~~causing~~ **transmitting** offense; and

(2) defendant who has been charged with a potentially disease ~~causing~~ **transmitting** offense may seek access to the medical information of another person if the medical information would be relevant to the defendant's defense;

by filing a verified petition for the release of medical information with the court.

(c) The prosecuting attorney or defendant who files a petition under subsection (b) shall serve a copy of the petition on:

(1) the person whose medical information is sought;

(2) the guardian, guardian ad litem, or court appointed special advocate appointed for a minor, parent, or custodian of a person who is incompetent, if applicable; and

(3) the provider that maintains the record, or the attorney general if the provider is a state agency;

at the time of filing in accordance with Indiana Trial Rule 4.

(d) The court shall set the matter for hearing not later than twenty (20) days after the date of filing.

(e) If, following a hearing for release of a person's medical information, the court finds probable cause to believe that the medical information may be relevant to the prosecution or defense of a person who has been charged with a potentially disease transmitting offense, the court shall order the person having custody of the person's medical information to release the medical information to the court.

(f) The court shall examine the person's medical information in camera. If, after examining the medical information in camera and considering the evidence presented at the hearing, the court finds probable cause to believe that the medical information is relevant to the prosecution or defense of a person who has been charged with a potentially disease transmitting offense, the court may order the release of a person's medical information to the petitioner.

(g) In an order issued under subsection (f), the court shall:

(1) permit the disclosure of only those parts of the person's medical information that are essential to fulfill the objective of the order;

(2) restrict access to the medical information to those persons whose need for the information is the basis of the order; and

(3) include in its order any other appropriate measures to limit disclosure of the medical information to protect the right to privacy of the person who is the subject of the medical information.

(h) A hearing for the release of a person's medical information may be closed to the public. The transcript of the hearing, the court's order, and all documents filed in connection with the hearing are confidential. In addition, if a person's medical information is disclosed in a legal

proceeding, the court shall order the record or transcript of the testimony to be preserved as a confidential court record.

(i) This section does not prohibit the application to medical information of any law concerning medical information that is not addressed by this section.

SECTION 73. IC 16-41-39.8-6, AS ADDED BY P.L.57-2009, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) Rules adopted by the air pollution control board before July 1, 2009, under IC 13-17-14-5 (repealed) are considered rules of the state department after December 31, 2009.

(b) The state department shall adopt rules under IC 4-22-2 to replace the rules of the air pollution control board described in subsection (a) and to implement this chapter. The rules adopted by the state department must contain at least the elements required to receive program authorization under 40 CFR 745, Subpart L, as in effect July 1, 2002, and must do the following:

(1) Establish minimum requirements for the issuance of a license for:

(A) lead-based paint activities inspectors, risk assessors, project designers, supervisors, abatement workers, and contractors; and

(B) clearance examiners.

(2) Establish minimum requirements for approval of the providers of:

(A) lead-based paint activities training courses; and

(B) clearance examiner training courses.

(3) Establish minimum qualifications for:

(A) lead-based paint activities training course instructors; and

(B) clearance examiner training course instructors.

(4) Extend the applicability of the licensing requirements to other facilities as determined necessary by the board.

(5) Establish work practice standards.

(6) Establish a state department or third party examination process.

(7) Identify activities, if any, that are exempted from licensing requirements.

(8) Establish a reasonable fee based on current market value per person, per license, for the period the license is in effect for a

person seeking a license under section 3 of this chapter. However, the following may not be required to pay a fee established under this subdivision:

(A) A state.

(B) A municipal corporation (as defined in IC 36-1-2-10).

(C) A unit (as defined in IC 36-1-2-23).

(9) Establish a reasonable fee based on current market value per course, per year, for a lead-based paint **activities** training program seeking approval of a lead-based paint **activities** training course under section 4 of this chapter. However, the following may not be required to pay a fee established under this subdivision:

(A) A state.

(B) A municipal corporation (as defined in IC 36-1-2-10).

(C) A unit (as defined in IC 36-1-2-23).

(D) An organization exempt from income taxation under 26 U.S.C. 501(a).

(10) Establish a reasonable fee based on current market value per course, per year, for a clearance examiner training program seeking approval of a clearance examiner training course under section 5 of this chapter. However, the following may not be required to pay a fee established under this subdivision:

(A) A state.

(B) A municipal corporation (as defined in IC 36-1-2-10).

(C) A unit (as defined in IC 36-1-2-23).

(D) An organization exempt from income taxation under 26 U.S.C. 501(a).

(c) The amount of the fees under subsection (b) may not be more than is necessary to recover the cost of administering this chapter.

(d) The proceeds of the fees under subsection (b) must be deposited in the lead trust fund established by section 7 of this chapter.

(e) The minimum requirements established under subsection (b)(1) must be sufficient to allow the clearance examiner to perform clearance examinations without the approval of a certified risk assessor or inspector as provided in 24 CFR 35.1340(b)(1)(iv), as in effect July 1, 2002.

SECTION 74. IC 20-19-3-9.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 9.2. The department shall**

establish and maintain a searchable data base of information concerning employees and former employees who have been reported to the department under IC 20-28-5-8. The department shall make the data base available to the public.

SECTION 75. IC 20-19-3-9.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 9.4. Beginning January 1, 2010, the department may obtain and maintain student test number information in a manner and form that permits any person who is authorized to review the information to:**

(1) access the information at any time; and

(2) accurately determine:

(A) where each student is enrolled and attending classes; and

(B) the number of students enrolled in a school corporation or charter school and residing in the area served by a school corporation;

as of any date after December 31, 2009, occurring before two

(2) regular instructional days before the date of the inquiry.

Each school corporation and charter school shall provide the information to the department in the form and on a schedule that permits the department to comply with this section. The department shall provide technical assistance to school corporations and charter schools to assist school corporations and charter schools in complying with this section.

SECTION 76. IC 20-23-6-18, AS ADDED BY P.L.182-2009(ss), SECTION 310, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) Before January 1, 2011, Prairie Township School Corporation shall reorganize by consolidating with an adjacent school corporation under this chapter.

~~(c)~~ **(b)** If the governing body of Prairie Township School Corporation does not comply with this section before January 1, 2011, the state board shall, after December 31, 2010, develop a reorganization plan for the school corporation and require the governing body to implement the plan.

SECTION 77. IC 20-23-16-3, AS AMENDED BY P.L.1-2006, SECTION 321, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. With respect to a proposed

community school corporation formed out of two (2) or more school corporations operating a joint high school that has an enrollment of at least six hundred (600) in grades 9 through 12 at the time of the adoption of a preliminary plan adopted under IC 20-23-4-11 through IC 20-23-4-17 ~~IC 20-23-16-1,~~ and ~~IC 20-23-16-2,~~ **section 1 of this chapter,** the preliminary plan or final plan adopted under IC 20-23-4-11 through IC 20-23-4-17 **and** ~~sections~~ **section** 1 ~~and 2~~ of this chapter may provide for a board of nine (9) members.

SECTION 78. IC 20-24-7-13, AS ADDED BY P.L.182-2009(ss), SECTION 315, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) As used in this ~~SECTION,~~ **section,** "virtual charter school" means any charter school, including a conversion charter school, that provides for the delivery of more than fifty percent (50%) of instruction to students through:

(1) virtual distance learning;

(2) online technologies; or

(3) computer based instruction.

(b) The department shall establish a pilot program to provide funding for a statewide total of up to two hundred (200) students who attend virtual charter schools in the school year ending in 2010 and five hundred (500) students who attend virtual charter schools in the school year ending in 2011. The department shall choose an entity or entities to operate the virtual charter school. The pilot program must focus on children who have medical disabilities or circumstances that prevent them from attending school or for whom a virtual charter school is a better alternative than a traditional school. At least seventy-five percent (75%) of the students enrolled in virtual charter schools under this section must have been included in the ADM count for the previous school year.

(c) A virtual charter school is entitled to receive funding from the state in an amount equal to the product of:

(1) the number of students included in the virtual charter school's ADM who are participating in the pilot program; multiplied by

(2) eighty percent (80%) of the statewide average basic tuition support.

(d) The department shall adopt rules under IC 4-22-2 to govern the operation of virtual charter schools.

(e) Beginning in 2009, the department shall before December 1 of

each year submit an annual report to the ~~state~~ budget committee concerning the program under this section.

SECTION 79. IC 20-30-7-7, AS AMENDED BY P.L.2-2007, SECTION 221, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. The parties to an agreement under section 5 of this chapter may provide educational programs:

(1) that are not regularly provided as part of the established curriculum during the school year; and

(2) for which a student who successfully completes a program may receive high school and college credit under an articulation agreement or dual credit provision under IC 20-32-3-9 **or** IC 21-43-2. ~~or IC 21-43-3.~~

SECTION 80. IC 20-33-2-9, AS AMENDED BY P.L.185-2006, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) The governing body of each school corporation shall designate the appropriate employees of the school corporation to conduct the exit interviews for students described in section ~~6(a)(3)~~ **6(3)** of this chapter. Each exit interview must be personally attended by:

(1) the student's parent;

(2) the student;

(3) each designated appropriate school employee; and

(4) the student's principal.

(b) A student who is at least sixteen (16) years of age but less than eighteen (18) years of age is bound by the requirements of compulsory school attendance and may not withdraw from school before graduation unless:

(1) the student, the student's parent, and the principal agree to the withdrawal;

(2) at the exit interview, the student provides written acknowledgment of the withdrawal that meets the requirements of subsection (c) and the:

(A) student's parent; and

(B) school principal;

each provide written consent for the student to withdraw from school; and

(3) the withdrawal is due to:

(A) financial hardship and the individual must be employed to

support the individual's family or a dependent;

(B) illness; or

(C) an order by a court that has jurisdiction over the student.

(c) A written acknowledgment of withdrawal under subsection (b) must include a statement that the student and the student's parent understand that withdrawing from school is likely to:

(1) reduce the student's future earnings; and

(2) increase the student's likelihood of being unemployed in the future.

SECTION 81. IC 20-38-3-3, AS ADDED BY P.L.21-2009, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. ARTICLE III. APPLICABILITY

A. Except as otherwise provided **in** paragraph B, this compact applies to the children of the following:

1. An active duty member of the uniformed services, including a member of the National Guard and Reserve on active duty orders under 10 U.S.C. 1209 and 10 U.S.C 1211.

2. A member or veteran of the uniformed services who is severely injured and medically discharged or retired for at least one (1) year after medical discharge or retirement.

3. A member of the uniformed services who dies on active duty or as a result of injuries sustained on active duty, for one (1) year after the member's death.

B. This compact applies only to local education agencies as defined in this compact.

C. This compact does not apply to the children of the following:

1. Inactive members of the National Guard and military reserves.

2. Retired members of the uniformed services, except as provided in paragraph A.

3. Veterans of the uniformed services, except as provided in paragraph A.

4. Other United States Department of Defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

SECTION 82. IC 20-38-3-13, AS ADDED BY P.L.21-2009, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. ARTICLE XIII. OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

A. Oversight

1. The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and take all actions necessary and appropriate to effectuate the compact's purposes and intent. This compact and the rules adopted under this compact have standing as statutory law.

2. All courts shall take judicial notice of this compact and the rules adopted under this compact in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact that may affect the powers, responsibilities, or actions of the interstate commission.

3. The interstate commission is entitled to receive all service of process in any proceeding and has standing to intervene in the proceeding for all purposes. Failure to provide service of process to the interstate commission renders a judgment or an order void as to the interstate commission, this compact, or adopted rules.

B. If the interstate commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, the bylaws, or the adopted rules, the interstate commission shall do the following:

1. Provide written notice to the defaulting state and other member states of the nature of the default, the means of curing the default, and any action taken by the interstate commission. The interstate commission shall specify the conditions by which the defaulting state must cure its default.

2. Provide remedial training and specific technical assistance regarding the default.

3. If the defaulting state fails to cure the default, the defaulting state shall be withdrawn from this compact upon an affirmative vote of a majority of the member states, and all rights, privileges, and benefits conferred by this compact are terminated from the effective date of the defaulting state's withdrawal. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.

4. Suspension or termination of membership in this compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or withdraw shall be given by the interstate commission to the governor, the

majority and minority leaders of the defaulting state's legislature, and each of the member states.

5. The member state that has been suspended or withdrawn is responsible for all assessments, obligations, and liabilities incurred through the effective date of its suspension or termination, including obligations, the performance of which extends beyond the effective date of suspension or withdrawal.

6. The interstate commission shall not bear any costs relating to any member state that has been found to be in default or that has been suspended or withdrawn from this compact unless otherwise mutually agreed upon in writing between the interstate commission and the defaulting member state.

7. The defaulting member state may appeal the action of the interstate commission by petitioning the United States District Court for the District of Columbia or the federal district where the interstate commission has its principal offices. The prevailing party shall be awarded all costs of such litigation, including reasonable attorney's fees.

C. Dispute Resolution

1. The interstate commission shall attempt, upon the request of a member state, to resolve disputes that are subject to this compact and that may arise among member states and between member and nonmember states.

2. The interstate commission shall adopt a rule providing for both mediation and binding dispute resolution for disputes as appropriate.

D. Enforcement

1. The interstate commission, in the reasonable exercise of its discretion, shall enforce the provisions and rules of this compact.

2. The interstate commission may, by majority vote of the members, initiate legal action in the United ~~State~~ **States** District Court for the District of Columbia or, at the discretion of the interstate commission, in the federal district where the interstate commission has its principal offices, to enforce compliance with this compact and its adopted rules and bylaws against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation,

including reasonable attorney's fees.

3. The remedies set forth in this section are not the exclusive remedies of the interstate commission. The interstate commission may avail itself of any other remedies available under state law or the regulation of a profession.

SECTION 83. IC 20-48-1-2, AS AMENDED BY P.L.1-2007, SECTION 155, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) As used in this section, "retirement or severance liability" means the payments anticipated to be required to be made to employees of a school corporation upon or after termination of the employment of the employees by the school corporation under an existing or previous employment agreement.

(b) This section applies to each school corporation that:

(1) did not issue bonds under IC 20-5-4-1.7 before its repeal; or

(2) issued bonds under IC 20-5-4-1.7 **(repealed):**

(A) before April 14, 2003; or

(B) after April 13, 2003, if an order approving the issuance of the bonds was issued by the department of local government finance before April 14, 2003.

(c) In addition to the purposes set forth in section 1 of this chapter, a school corporation described in subsection (b) may issue bonds to implement solutions to contractual retirement or severance liability. The issuance of bonds for this purpose is subject to the following conditions:

(1) The school corporation may issue bonds under this section only one (1) time.

(2) A school corporation described in subsection (b)(1) or (b)(2)(A) must issue the bonds before July 1, 2006. ~~A school corporation described in subsection (b)(2)(B) must file a petition with the department of local government finance under IC 6-1.1-19-8 requesting approval to incur bond indebtedness under this section before July 1, 2006.~~

(3) The solution to which the bonds are contributing must be reasonably expected to reduce the school corporation's unfunded contractual liability for retirement or severance payments as it existed on June 30, 2001.

(4) The amount of the bonds that may be issued for the purpose described in this section may not exceed:

(A) two percent (2%) of the true tax value of property in the school corporation, for a school corporation that did not issue bonds under IC 20-5-4-1.7 (before its repeal); or

(B) the remainder of:

(i) two percent (2%) of the true tax value of property in the school corporation as of the date that the school corporation issued bonds under IC 20-5-4-1.7 (before its repeal); minus

(ii) the amount of bonds that the school corporation issued under IC 20-5-4-1.7 (before its repeal);

for a school corporation that issued bonds under IC 20-5-4-1.7 **(repealed)** as described in subsection (b)(2).

(5) Each year that a debt service levy is needed under this section, the school corporation shall reduce the total property tax levy for the school corporation's transportation, school bus replacement, capital projects, and art association and historical society funds, as appropriate, in an amount equal to the property tax levy needed for the debt service under this section. The property tax rate for each of these funds shall be reduced each year until the bonds are retired.

(6) The school corporation shall establish a separate debt service fund for repayment of the bonds issued under this section.

(d) Bonds issued for the purpose described in this section shall be issued in the same manner as other bonds of the school corporation.

(e) Bonds issued under this section are not subject to the petition and remonstrance process under IC 6-1.1-20 or to the limitations contained in IC 36-1-15.

SECTION 84. IC 21-29-2-3, AS ADDED BY P.L.226-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Notwithstanding any other law, the following records regarding alternative investments in which institutional investment funds invest are not subject to disclosure under IC 5-14-3, unless the information has already been publicly released by the keeper of the information:

(1) Due diligence materials that are proprietary to the institutional investment fund or the alternative vehicle.

(2) Quarterly and annual financial statements of alternative investment vehicles.

(3) Meeting materials of alternative investment vehicles that

contain individual portfolio holdings.

(4) Records containing information regarding the underlying portfolio positions in which alternative investment vehicles invest.

(5) Capital call and distribution notices.

(6) Alternative investment agreements and all related documents.

(b) Notwithstanding subsection (a), the following information contained in records described in subsection (a) regarding alternative investments in which institutional investment funds invest is subject to disclosure under this chapter and is not considered a trade secret or confidential financial information exempt from disclosure:

(1) The name, address, and vintage year of each alternative investment vehicle.

(2) The dollar amount of the commitment made to each alternative investment vehicle by the institutional investment fund since inception.

(3) The dollar amount of cash contributions by the institutional investment fund to each alternative investment vehicle since inception.

(4) The dollar amount, on a fiscal year-end basis, of cash distributions received by the institutional investment fund from each alternative investment vehicle.

(5) The dollar amount, on a fiscal year-end basis, of cash distributions received by the institutional investment fund plus the remaining value of partnership assets attributable to the institutional investment fund's investment in each alternative investment vehicle.

(6) The net internal rate of return of each alternative investment vehicle since inception.

(7) The investment multiple of each alternative investment vehicle since inception.

(8) The schedule of management fees and costs assessed by each alternative vehicle to the institutional investment fund.

(9) The dollar amount of cash profit received by institutional investment funds from each alternative vehicle on a fiscal year-end basis.

(c) The following definitions apply throughout this section:

(1) "Alternative investment" means an investment in a private

equity fund, real estate fund, venture fund, hedge fund, natural resource, or absolute return fund.

(2) "Alternative investment vehicle" means a limited partnership, limited liability company, or similar legal structure that is not publicly traded through which an institutional investment fund invests in portfolio companies.

(3) "Institutional investment fund" means a fund that consists of money managed in an endowment fund, including a quasi-endowment, and the returns on the endowment fund, that is held and invested by a state educational institution. ~~(as defined in IC 20-12-0.5-1).~~

(4) "Portfolio positions" means individual portfolio investments made by alternative investment vehicles.

SECTION 85. IC 22-3-4-13, AS AMENDED BY P.L.1-2007, SECTION 159, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) Every employer shall keep a record of all injuries, fatal or otherwise, received by or claimed to have been received by the employer's employees in the course of their employment. Within seven (7) days after the occurrence and knowledge thereof, as provided in IC 22-3-3-1, of any injury to an employee causing death or absence from work for more than one (1) day, a report thereof shall be made in writing and mailed to the employer's insurance carrier or, if the employer is self insured, delivered to the worker's compensation board in the manner provided in subsections (b) and (c). The insurance carrier shall deliver the report to the worker's compensation board in the manner provided in subsections (b) and (c) not later than seven (7) days after receipt of the report or fourteen (14) days after the employer's knowledge of the injury, whichever is later. An employer or insurance carrier that fails to comply with this subsection is subject to a civil penalty of fifty dollars ($50), to be assessed and collected by the board. Civil penalties collected under this section shall be deposited in the state general fund.

(b) All insurance carriers, companies who carry risk without insurance, and third party administrators reporting accident information to the board in compliance with subsection (a) shall:

(1) report the information using electronic data interchange standards prescribed by the board no later than June 30, 1999; or

(2) in the alternative, the reporting entity shall have an

implementation plan approved by the board no later than June 30, 2000, that provides for the ability to report the information using electronic data interchange standards prescribed by the board no later than December 31, 2000.

Prior to the June 30, 2000, and December 31, 2000, deadlines, the reporting entity may continue to report accidents to the board by mail in compliance with subsection (a).

(c) The report shall contain the name, nature, and location of the business of the employer, the name, age, sex, wages, occupation of the injured employee, the date and hour of the accident causing the alleged injury, the nature and cause of the injury, and such other information as may be required by the board.

(d) A person who violates any provision of this article, except IC 22-3-5-1, IC 22-3-7-34(b), or IC 22-3-7-34(c), commits a Class C infraction. A person who violates IC 22-3-5-1, IC 22-3-7-34(b), or IC 22-3-7-34(c) commits a Class A infraction. The worker's compensation board in the name of the state may seek relief from any court of competent jurisdiction to enjoin any violation of this article.

(e) The venue of all ~~criminal~~ actions under this section lies in the county in which the employee was injured. The prosecuting attorney of the county shall prosecute all such violations upon written request of the worker's compensation board. Such violations shall be prosecuted in the name of the state.

(f) In an action before the board against an employer who at the time of the injury to or occupational disease of an employee had failed to comply with IC 22-3-5-1, IC 22-3-7-34(b), or IC 22-3-7-34(c), the board may award to the employee or the dependents of a deceased employee:

(1) compensation not to exceed double the compensation provided by this article;

(2) medical expenses; and

(3) reasonable attorney fees in addition to the compensation and medical expenses.

(g) In an action under subsection ~~(c)~~ **(d),** the court may:

(1) order the employer to cease doing business in Indiana until the employer furnishes proof of insurance as required by IC 22-3-5-1 and IC 22-3-7-34(b) or IC 22-3-7-34(c);

(2) require satisfactory proof of the employer's financial ability to

pay any compensation or medical expenses in the amount and manner and when due as provided for in IC 22-3, for any injuries which occurred during any period of noncompliance; and

(3) require the employer to deposit with the worker's compensation board an acceptable security, indemnity, or bond to secure the payment of such compensation and medical expense liabilities.

(h) The penalty provisions of subsection ~~(c)~~ **(d)** shall apply only to the employer and shall not apply for a failure to exact a certificate of insurance under IC 22-3-2-14 or IC 22-3-7-34(i) or IC 22-3-7-34(j).

SECTION 86. IC 22-4-11-2, AS AMENDED BY P.L.175-2009, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Except as provided in IC 22-4-11.5, the department shall for each year determine the contribution rate applicable to each employer.

(b) The balance shall include contributions with respect to the period ending on the computation date and actually paid on or before July 31 immediately following the computation date and benefits actually paid on or before the computation date and shall also include any voluntary payments made in accordance with IC 22-4-10-5 or IC 22-4-10-5.5:

(1) for each calendar year, an employer's rate shall be determined in accordance with the rate schedules in section 3.3 or 3.5 of this chapter; and

(2) for each calendar year, an employer's rate shall be two and seven-tenths percent (2.7%) before January 1, 2010, and two and five-tenths percent (2.5%) after December 31, 2009, except as otherwise provided in IC 22-4-37-3, unless and until:

(A) the employer has been subject to this article throughout the thirty-six (36) consecutive calendar months immediately preceding the computation date; and

(B) there has been some annual payroll in each of the three (3) twelve (12) month periods immediately preceding the computation date.

(c) This subsection applies before January 1, 2010. In addition to the conditions and requirements set forth and provided in subsection (b)(2)(A) and (b)(2)(B), an employer's rate shall not be less than five and six-tenths percent (5.6%) unless all required contribution and wage

reports have been filed within thirty-one (31) days following the computation date and all contributions, penalties, and interest due and owing by the employer or the employer's predecessors for periods prior to and including the computation date have been paid:

(1) within thirty-one (31) days following the computation date; or

(2) within ten (10) days after the department has given the employer a written notice by registered mail to the employer's last known address of:

(A) the delinquency; or

(B) failure to file the reports;

whichever is the later date.

The board or the board's designee may waive the imposition of rates under this subsection if the board finds the employer's failure to meet the deadlines was for excusable cause. The department shall give written notice to the employer before this additional condition or requirement shall apply.

(d) This subsection applies after December 31, 2009. In addition to the conditions and requirements set forth and provided in subsection (b)(2)(A) and (b)(2)(B), an employer's rate shall not be less than twelve percent (12%) unless all required contributions and wage reports have been filed within thirty-one (31) days following the computation date and all contributions, penalties, and interest due and ~~owning~~ **owing** by the employer or the employer's predecessor for periods before and including the computation date have been paid:

(1) within thirty-one (31) days following the computation date; or

(2) within ten (10) days after the department has given the employer a written notice by registered mail to the employer's last known address of:

(A) the delinquency; or

(B) failure to file the reports;

whichever is the later date. The board or the board's designee may waive the imposition of rates under this subsection if the board finds the employer's failure to meet the deadlines was for excusable cause. The department shall give written notice to the employer before this additional condition or requirement shall apply.

(e) However, if the employer is the state or a political subdivision of the state or any instrumentality of a state or a political subdivision, or any instrumentality which is wholly owned by the state and one (1)

or more other states or political subdivisions, the employer may contribute at a rate of:

(1) one percent (1%), before January 1, 2010; or

(2) one and six-tenths percent (1.6%), after December 31, 2009;

until it has been subject to this article throughout the thirty-six (36) consecutive calendar months immediately preceding the computation date.

(f) On the computation date every employer who had taxable wages in the previous calendar year shall have the employer's experience account charged with the amount determined under the following formula:

STEP ONE: Divide:

(A) the employer's taxable wages for the preceding calendar year; by

(B) the total taxable wages for the preceding calendar year.

STEP TWO: Multiply the quotient determined under STEP ONE by the total amount of benefits charged to the fund under section 1 of this chapter.

(g) One (1) percentage point of the rate imposed under subsection (c) or (d), or the amount of the employer's payment that is attributable to the increase in the contribution rate, whichever is less, shall be imposed as a penalty that is due and shall be deposited upon collection into the special employment and training services fund established under IC 22-4-25-1. The remainder of the contributions paid by an employer pursuant to the maximum rate shall be:

(1) considered a contribution for the purposes of this article; and

(2) deposited in the unemployment insurance benefit fund established under IC 22-4-26.

SECTION 87. IC 22-4-11-3, AS AMENDED BY P.L.175-2009, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The applicable schedule of rates for calendar years before January 1, 2010, shall be determined by the ratio resulting when the balance in the fund as of the determination date is divided by the total payroll of all subject employers for the immediately preceding calendar year. Schedule A, B, C, or D, appearing on the line opposite the fund ratio in the schedule below, shall be applicable in determining and assigning each employer's contribution rate for the calendar year immediately following the determination date. For the

purposes of this subsection, "total payroll" means total remuneration reported by all contributing employers as required by this article and does not include the total payroll of any employer who elected to become liable for payments in lieu of contributions (as defined in IC 22-4-2-32). For the purposes of this subsection, "subject employers" means those employers who are subject to contribution.

FUND RATIO SCHEDULE

When the Fund Ratio Is:

As Much As	But Less Than	Applicable Schedule
	1.0%	A
1.0%	1.5%	B
1.5%	2.25%	C
2.25%		D

(b) Except as provided in subsection (c), the applicable schedule of rates for calendar years after December 31, 2009, shall be determined by the ratio resulting when the balance in the fund as of the determination date is divided by the total payroll of all subject employers for the immediately preceding calendar year. Schedules A through I appearing on the line opposite the fund ratio in the schedule below are applicable in determining and assigning each employer's contribution rate for the calendar year immediately following the determination date. For purposes of this subsection, "total payroll" means total remuneration reported by all contributing employers as required by this article and does not include the total payroll of any employer who elected ~~or is required~~ to become liable for payments in lieu of contributions (as defined in IC 22-4-2-32). For purposes of this subsection, "subject employers" means those employers who are subject to contribution.

FUND RATIO SCHEDULE

When the Fund Ratio Is:

As Much As	But Less Than	Applicable Schedule
	0.2%	A
0.2%	0.4%	B
0.4%	0.6%	C
0.6%	0.8%	D
0.8%	1.0%	E

1.0%	1.2%	F
1.2%	1.4%	G
1.4%	1.6%	H
1.6%		I

(c) For calendar year 2010 only, Schedule B applies in determining and assigning each employer's contribution rate.

(d) Any adjustment in the amount charged to any employer's experience account made subsequent to the assignment of rates of contributions for any calendar year shall not operate to alter the amount charged to the experience accounts of any other base-period employers.

SECTION 88. IC 22-4-17-2, AS AMENDED BY P.L.175-2009, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) When an individual files an initial claim, the department shall promptly follow the procedure described in subsections (b) through (e) to make a determination of the individual's status as an insured worker in a form prescribed by the department. A written notice of the determination of insured status shall be furnished to the individual promptly. The notice must include the time by which the employer is required to respond to the department's notice of the individual's claim, and complete information about the rules of evidence and standards of proof that the department will apply to determine the validity of the individual's claim, if the employer disputes the claim. Each such determination shall be based on and include a written statement showing the amount of wages paid to the individual for insured work by each employer during the individual's base period and shall include a finding as to whether such wages meet the requirements for the individual to be an insured worker, and, if so, the week ending date of the first week of the individual's benefit period, the individual's weekly benefit amount, and the maximum amount of benefits that may be paid to the individual for weeks of unemployment in the individual's benefit period. For the individual who is not insured, the notice shall include the reason for the determination. Unless the individual, within ten (10) days after such determination was mailed to the individual's last known address, or otherwise delivered to the individual, asks a hearing thereon before an administrative law judge, such determination shall be final and benefits shall be paid or denied in accordance therewith.

(b) Not later than January 1, 2010, the department shall establish an

unemployment claims compliance center. When an individual files an initial claim after the unemployment claims compliance center is established, the department, before making a determination that the individual is eligible for benefits, shall compare the information provided by the individual making the claim with information from the separating employer concerning the individual's eligibility for benefits. If the information provided by the individual making the claim does not match the information from the separating employer, the department may not pay the individual benefits and shall refer the individual's claim to the department's unemployment claims compliance center for investigation. The department shall provide a written notice to the individual who filed the claim that the individual's claim is being referred to the unemployment claims compliance center, including the reason for the referral.

(c) After receiving a claim from the department, the unemployment claims compliance center shall contact the separating employer that provided information that does not match information provided by the individual making the claim to obtain information about the claim that is accurate and sufficient for the department to determine whether the individual is eligible for benefits. The center shall also obtain from the employer the name and address of a person to receive without delay notices served on the employer concerning the claim.

(d) Except as provided in subsection (e), the department may not pay the individual benefits under this article as long as the discrepancy between the information provided by the individual and the information provided by the individual's separating employer is unresolved. If the information provided by an individual and the information provided by the individual's separating employer does not match, the department shall notify both the separating employer and the individual that they have forty-eight (48) hours to resolve the discrepancy. If the discrepancy is not resolved at the end of the forty-eighth hour, the department shall use the information provided by the employer to determine the individual's eligibility for benefits.

(e) If the employer does not respond to the inquiry from the unemployment claims compliance center within five (5) days after the date of the inquiry, the center shall report to the department that the employer has not responded, and the department shall use the information provided by the individual to determine the individual's

eligibility for benefits.

(f) After the department makes a determination concerning the individual's eligibility for benefits, the department shall promptly furnish each employer in the base period whose experience or reimbursable account is potentially chargeable with benefits to be paid to such individual with a notice in writing of the employer's benefit liability. The notice shall contain the date, the name and Social Security account number of the individual, the ending date of the individual's base period, the week ending date of the first week of the individual's benefit period, the time by which the employer is required to respond to the notice, and complete information about the rules of evidence and standards of proof that the department will apply to determine the validity of a claim, if an employer disputes the claim. The notice shall further contain information as to the proportion of benefits chargeable to the employer's experience or reimbursable account in ratio to the earnings of such individual from such employer. Unless the employer within ten (10) days after such notice of benefit liability was mailed to the employer's last known address, or otherwise delivered to the employer, asks a hearing thereon before an administrative law judge, such determination shall be final and benefits paid shall be charged in accordance therewith.

(g) An employing unit, including an employer, having knowledge of any facts which may affect an individual's eligibility or right to waiting period credits or benefits, shall notify the department of such facts within ten (10) days after the mailing of notice that a former employee has filed an initial or additional claim for benefits on a form prescribed by the department.

(h) If, after the department determines that additional information is necessary to make a determination under this chapter:

(1) the department makes a request in writing for additional information from an employing unit, including an employer, on a form prescribed by the department; and

(2) the employing unit fails to respond within ten (10) days after the date the request is delivered to the employing unit;

the department shall make the determination with the information available.

(i) If:

(1) an employer subsequently obtains a determination by the

department that the employee is not eligible for benefits; and

(2) the determination is at least in part based on information that the department requested from the employer under subsection (h), but which the employer failed to provide within ten (10) days after the department's request was delivered to the employer;

the employer's experience account shall be charged an amount equal to fifty percent (50%) of the benefits paid to the employee to which the employee was not entitled.

(j) If:

(1) the employer's experience account is charged under subsection (i); and

(2) the employee repays all or a part of the benefits on which the charge under subsection (i) is based;

the employer shall receive a credit to the employer's experience account that is equal to the amount of the employee's repayment up to the amount charged to the employer's experience account under subsection (i).

(k) In addition to the foregoing determination of insured status by the department, the deputy shall, throughout the benefit period, determine the claimant's eligibility with respect to each week for which the claimant claims waiting period credit or benefit rights, the validity of the claimant's claim therefor, and the cause for which the claimant left the claimant's work, or may refer such claim to an administrative law judge who shall make the initial determination with respect thereto in accordance with the procedure in section 3 of this chapter.

(l) In cases where the claimant's benefit eligibility or disqualification is disputed, the department shall promptly notify the claimant and the employer or employers directly involved or connected with the issue raised as to the validity of such claim, the eligibility of the claimant for waiting period credit or benefits, or the imposition of a disqualification period or penalty, or the denial thereof, and of the cause for which the claimant left the claimant's work, of such determination and the reasons thereof.

(m) Except as otherwise hereinafter provided in this section regarding parties located in Alaska, Hawaii, and Puerto Rico, unless the claimant or such employer, within ten (10) days after the notification required by subsection ~~(k)~~ **(l)** was mailed to the claimant's or the employer's last known address or otherwise delivered to the

claimant or the employer, asks for a hearing before an administrative law judge thereon, such decision shall be final and benefits shall be paid or denied in accordance therewith.

(n) For a notice of disputed administrative determination or decision mailed or otherwise delivered to the claimant or employer either of whom is located in Alaska, Hawaii, or Puerto Rico, unless the claimant or employer, within fifteen (15) days after the notification required by subsection ~~(k)~~ **(l)** was mailed to the claimant's or employer's last known address or otherwise delivered to the claimant or employer, asks for a hearing before an administrative law judge thereon, such decision shall be final and benefits shall be paid or denied in accordance therewith.

(o) If a claimant or an employer requests a hearing under subsection (m) or (n), the request therefor shall be filed with the department in writing within the prescribed periods as above set forth in this section and shall be in such form as the department may prescribe. In the event a hearing is requested by an employer or the department after it has been administratively determined that benefits should be allowed to a claimant, entitled benefits shall continue to be paid to said claimant unless said administrative determination has been reversed by a due process hearing. Benefits with respect to any week not in dispute shall be paid promptly regardless of any appeal.

(p) A person may not participate on behalf of the department in any case in which the person is an interested party.

(q) Solely on the ground of obvious administrative error appearing on the face of an original determination, and within the benefit year of the affected claims, the commissioner, or a representative authorized by the commissioner to act in the commissioner's behalf, may reconsider and direct the deputy to revise the original determination so as to correct the obvious error appearing therein. Time for filing an appeal and requesting a hearing before an administrative law judge regarding the determinations handed down pursuant to this subsection shall begin on the date following the date of revision of the original determination and shall be filed with the commissioner in writing within the prescribed periods as above set forth in subsection (g).

(r) Notice to the employer and the claimant that the determination of the department is final if a hearing is not requested shall be prominently displayed on the notice of the determination which is sent to the employer and the claimant.

(s) If an allegation of the applicability of IC 22-4-15-1(c)(8) is made by the individual at the time of the claim for benefits, the department shall not notify the employer of the claimant's current address or physical location.

SECTION 89. IC 22-8-1.1-35.7, AS ADDED BY P.L.33-2009, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 35.7. (a) If an employer fails to pay a penalty assessed under this chapter within ten (10) calendar days of the date that the assessment is final under section 35.6 of this chapter, the commissioner or the commissioner's representative may file with the circuit court clerk of any county in which the employer owns any interest in property, real or personal, tangible or intangible, a warrant for the amount of the assessment and interest, if applicable. The commissioner or the commissioner's representative may also send the warrant to the sheriff of any county in which the employer owns real or personal property and direct the sheriff to file the warrant with the circuit court clerk.

(b) When the circuit court clerk receives the warrant from the commissioner, the commissioner's representative, or the sheriff, the clerk shall record the warrant by making an entry in the judgment debtor's column of the judgment record listing the following:

(1) The name of the employer stated in the warrant.

(2) The amount of the warrant.

(3) The date the warrant was filed with the clerk.

(c) When the entry is made, the total amount of the warrant becomes a judgment against the employer. The judgment creates a lien in favor of the state that attaches to all the employer's interest in any real or personal property in the county.

(d) At least thirty (30) calendar days before the date on which the commissioner intends to file a warrant as provided by subsection (a) in order to impose a lien on real or personal property, the commissioner or the commissioner's representative must send a written notice:

(1) to the owner of the real or personal property that would be subject to the lien; or

(2) if the owner of record cannot be identified, to the tenant or other person having control of the real or personal property;

of the date on which the commissioner or the commissioner's representative intends to file the warrant in order to impose a lien on

the real or personal property. The commissioner or the commissioner's representative shall provide the circuit court clerk of the county in which the real or personal property that would be subject to the lien is located with a copy of the written notice described in this subsection.

(e) A judgment obtained under subsection (c) is valid for ten (10) years from the date the ~~judgement~~ **judgment** is filed.

(f) A judgment obtained under subsection (c) shall be released by the commissioner:

(1) after the judgment, including all accrued interest to the date of payment, has been fully satisfied; or

(2) if the commissioner determines that the assessment or the issuance of the warrant was in error.

(g) If the commissioner determines that the filing of a warrant was in error, the commissioner or the commissioner's representative shall mail a release of the judgment to the employer and the circuit court clerk of each county where the warrant was filed. The commissioner or the commissioner's representative shall mail the release as soon as possible but not later than seven (7) calendar days after:

(1) the determination by the commissioner that the filing of the warrant was in error; and

(2) the receipt of information by the commissioner or the commissioner's representative that the judgment has been recorded under subsection (b).

(h) A release issued under subsection (g) must state that the filing of the warrant was in error.

(i) After a warrant becomes a judgment under subsection ~~(b),~~ **(c),** the commissioner may levy upon the property of the employer that is held by a financial institution (as defined in IC 5-13-4-10) by sending a claim to the financial institution. Upon receipt of a claim under this subsection, the financial institution shall surrender to the commissioner or the commissioner's representative the employer's property. If the **amount or value of the** employer's property exceeds the amount owed to the state by the employer, the financial institution shall surrender the employer's property in ~~a~~ **an** amount equal to the amount owed. After receiving the commissioner's notice of levy, the financial institution is required to place a sixty (60) day hold ~~on~~ or restriction on the withdrawal of funds the employer has on deposit or subsequently deposits, in an amount not to exceed the amount owed.

SECTION 90. IC 22-12-6-15, AS AMENDED BY P.L.1-2006, SECTION 356, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) As used in this section, "credit card" means a bank card, debit card, charge card, prepaid card, or other similar device used for payment.

(b) In addition to other methods of payment allowed by law, the department may accept payment by credit card for certifications, licenses, and fees, and other amounts payable to the following:

(1) The department.

(2) The division of preparedness and training.

(3) The fire prevention and building safety commission.

(4) The regulated amusement device safety board.

(5) The boiler and pressure vessel rules board.

(6) The Indiana ~~emergency management, fire and building services, and public safety training~~ **homeland security** foundation.

(7) The division of fire and building safety.

(c) The department may enter into appropriate agreements with banks or other organizations authorized to do business in Indiana to enable the department to accept payment by credit card.

(d) The department may recognize net amounts remitted by the bank or other organization as payment in full of amounts due the department.

(e) The department may pay any applicable credit card service charge or fee.

SECTION 91. IC 23-1-17-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) After July 31, 1987, this article applies to all domestic corporations in existence on July 31, 1987, that were incorporated under IC 23-1-1 through IC 23-1-12 (repealed August 1, 1987) or any other prior law. It also applies to all corporations incorporated under IC 23-1-21.

(b) Before August 1, 1987, the provisions of IC 23-1-18 through IC 23-1-54 do not apply to any domestic corporation, except in accordance with the following:

(1) The corporation's board of directors must adopt a resolution electing to have IC 23-1-18 through IC 23-1-54 (except for IC 23-1-18-3, IC 23-1-21, and IC 23-1-53-3) apply to the corporation.

(2) The resolution must specify a date (after March 31, 1986, and

before August 1, 1987) on and after which those provisions will apply to the corporation.

(3) The resolution must be filed in the office of the secretary of state before the date specified under subdivision (2).

(c) The provisions of IC 23-1-18 through IC 23-1-54 (except for IC 23-1-18-3, IC 23-1-21, and IC 23-1-53-3) apply to each domestic corporation that complies with all the conditions prescribed by subsection (b). In addition, such a corporation shall continue to comply with the requirements of IC 23-1-8 and IC 23-3-2 until August 1, 1987, but it is not subject to the provisions of IC 23-1-1 through IC 23-1-7, IC 23-1-9 through IC 23-1-12, IC 23-3-1, and IC 23-3-9.

(d) The provisions of IC 6-8.1-10-9 and IC 22-4-32-23 apply to the officers and directors of each domestic corporation that complies with all the conditions prescribed by subsection (b). In addition, such a corporation is not subject to the provisions of IC 6-8.1-10-8 and IC 22-4-32-22 **(repealed August 1, 1987).**

(e) After a corporation becomes subject to IC 23-1-18 through IC 23-1-54, all references in the articles of incorporation of the corporation to the former Indiana General Corporation Act (IC 23-1-1 through IC 23-1-12) (repealed August 1, 1987) shall be considered to refer to the Indiana Business Corporation Law (IC 23-1-17 through IC 23-1-54), unless otherwise determined by resolution of the board of directors. Whenever the board of directors adopts such a resolution, it shall be filed in the office of the secretary of state.

SECTION 92. IC 23-1-35-5, AS ADDED BY P.L.133-2009, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) A director's taking advantage, directly or indirectly, of a business opportunity may not be the subject of equitable relief, or give rise to an award of damages or other sanctions against the director, in a proceeding by or in the right of the corporation on the ground that the opportunity should have first been offered to the corporation, if one (1) or more of the following applies:

(1) The opportunity and all material facts concerning the opportunity then known to the director were disclosed to or known by the board of directors or a committee of the board of directors before the director became legally obligated regarding the opportunity, and the board of directors or committee of the board of directors disclaimed the corporation's interest in the

opportunity.

(2) The opportunity and all material facts concerning the business opportunity then known to the director were disclosed to or known by the shareholders entitled to vote before the director became legally obligated regarding the opportunity, and the shareholders disclaimed the corporation's interest in the opportunity.

(b) For purposes of subsection (a)(1), a business opportunity is disclaimed if approved in the manner provided in ~~IC 23-1-35-2(c)~~ **section 2(c) of this chapter** as if the business opportunity were a conflict of interest transaction.

(c) For purposes of subsection (a)(2), a business opportunity is disclaimed if approved in the manner provided in ~~IC 23-1-35-2(d)~~ **section 2(d) of this chapter** as if the business opportunity were a conflict of interest transaction.

(d) In any proceeding seeking equitable relief or other remedies against a director for the director allegedly improperly taking advantage of a business opportunity, the fact that the director did not employ the procedure described in subsection (a) before taking advantage of the opportunity does not create an inference that the opportunity should have been first presented to the corporation or alter the burden of proof otherwise applicable to establish that the director breached a duty to the corporation under the circumstances.

SECTION 93. IC 23-17-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) After July 31, 1993, this article applies to a domestic corporation in existence on July 31, 1993, that was incorporated under or subject to the following:

(1) IC 23-7-1.1 **(repealed).**

(2) The Indiana general not for profit corporation act of 1935.

(b) After July 31, 1991, an entity organized under Indiana law for a purpose for which a corporation may be organized under this article may accept the provisions of this article and avail the corporation of the rights, privileges, immunities, and franchises provided by this article by taking the following actions:

(1) The entity's board of directors or governing body must adopt a resolution electing to have this article apply to the entity.

(2) The resolution must specify a date after July 31, 1991, after which the provisions of this article will apply to the entity.

(3) The resolution must be filed with the secretary of state, with a statement providing the name and address of the entity's registered agent before the date specified under subdivision (2).

SECTION 94. IC 23-19-4-11, AS AMENDED BY P.L.149-2009, SECTION 1, AND AS AMENDED BY P.L.156-2009, SECTION 22, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) Subject to Section 15(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(h)) or Section 222 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-18a), a rule adopted or order issued under this article may establish minimum financial requirements for broker-dealers registered or required to be registered under this article and investment advisers registered or required to be registered under this article.

(b) Subject to Section 15(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(h)) or Section 222(b) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-18a(b)), a broker-dealer registered or required to be registered under this article and an investment adviser registered or required to be registered under this article shall file such financial reports as are required by a rule adopted or order issued under this article. If the information contained in a record filed under this subsection is or becomes inaccurate or incomplete in a material respect, the registrant shall promptly file a correcting amendment.

(c) Subject to Section 15(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(h)) or Section 222 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-18a):

(1) a broker-dealer registered or required to be registered under this article and an investment adviser registered or required to be registered under this article shall make and maintain the accounts, correspondence, memoranda, papers, books, and other records required by rule adopted or order issued under this article;

(2) broker-dealer records required to be maintained under subdivision (1) may be maintained in any form of data storage acceptable under Section 17(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78q(a)) if they are readily accessible to the commissioner; and

(3) investment adviser records required to be maintained under subdivision (1) may be maintained in any form of data storage required by rule adopted or order issued under this article.

(d) The records of a broker-dealer registered or required to be registered under this article and of an investment adviser registered or required to be registered under this article are subject to such reasonable periodic, special, or other audits or inspections by a representative of the commissioner, within or outside this state, as the commissioner considers necessary or appropriate in the public interest and for the protection of investors. An audit or inspection may be made at any time and without prior notice. The commissioner may copy, and remove for audit or inspection copies of, all records the commissioner reasonably considers necessary or appropriate to conduct the audit or inspection. The commissioner may assess a reasonable charge for conducting an audit or inspection under this subsection.

(e) Subject to Section 15(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(h)) or Section 222 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-18a), a rule adopted or order issued under this article may require a broker-dealer or investment adviser that has custody of or discretionary authority over funds or securities of a customer or client to obtain insurance or post a bond or other satisfactory form of security in an amount not to exceed fifty thousand dollars ($50,000). The commissioner may determine the requirements of the insurance, bond, or other satisfactory form of security. Insurance or a bond or other satisfactory form of security may not be required of a broker-dealer registered under this article whose net capital exceeds, or of an investment adviser registered under this article whose minimum financial requirements exceed, the amounts required by rule or order under this article. The insurance, bond, or other satisfactory form of security must permit an action by a person to enforce any liability on the insurance, bond, or other satisfactory form of security if instituted within the time limitations in IC 23-19-5-9(g).

(f) Subject to Section 15(h) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(h)) or Section 222 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-18a), an agent may not have custody of funds or securities of a customer except under the supervision of a broker-dealer and an investment adviser representative may not have custody of funds or securities of a client except under the supervision of an investment adviser or a federal covered investment adviser. A rule adopted or order issued under this article may prohibit, limit, or impose conditions on a broker-dealer regarding custody of funds or securities

of a customer and on an investment adviser regarding custody of securities or funds of a client.

(g) With respect to an investment adviser registered or required to be registered under this article, a rule adopted or order issued under this article may require that information or other records be furnished or disseminated to clients or prospective clients in this state as necessary or appropriate in the public interest and for the protection of investors and advisory clients.

(h) A rule adopted or order issued under this article may require an individual registered under section 2 or 4 of this chapter to participate in a continuing education program approved by the Securities and Exchange Commission and administered by a self-regulatory organization or, in the absence of such a program, a rule adopted or order issued under this article may require continuing education for an individual registered under section 4 of this chapter.

(i) *Subject to section 11.5 of this chapter,* the commissioner may annually select as many as twenty-five percent (25%) of all Indiana home and branch offices of registered broker-dealers for completion of compliance reports. *Subject to section 11.5 of this chapter,* each broker-dealer office that is selected shall file its compliance report according to rules adopted by the commissioner under this article not ~~*more*~~ *later* than ~~*ninety (90)*~~ *forty-five (45)* days after being notified of selection under this subsection. No charges or other examination fees may be assessed against a registered broker-dealer as a result of the examination of a compliance report filed under this subsection unless the examination results in an investigation or examination made under IC 23-19-6-2(a).

SECTION 95. IC 24-4-17-9, AS ADDED BY P.L.85-2009, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) If ~~a~~ **an** item is trust property under section 8 of this chapter when a retail merchant initially receives it, the item remains trust property until the balance due the consignor from the sale of the item is paid in full, even if the retail merchant directly or indirectly purchases the item for the retail merchant's own account.

(b) If ~~an~~ **a** retail merchant resells an item described in subsection (a) to a bona fide purchaser before the consignor has been paid in full, the item ceases to be trust property and the proceeds of the resale are trust funds in the hands of the retail merchant for the benefit of the

consignor to the extent necessary to pay any balance due the consignor. The trusteeship of the proceeds continues until the fiduciary obligation of the retail merchant with respect to the transaction is discharged in full.

SECTION 96. IC 24-4-17-10, AS ADDED BY P.L.85-2009, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. Trust property under section ~~10 or 11~~ **8 or 9** of this chapter is not subject to a claim, lien, or security interest of a creditor of the retail merchant.

SECTION 97. IC 24-4-17-11, AS ADDED BY P.L.85-2009, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) A retail merchant may accept an item for commission on consignment from a person only if, not later than seven (7) days after accepting the item, the retail merchant enters into a written contract with the person that specifies the following:

(1) The value of the item.

(2) The time within which the proceeds from the sale must be paid to the consignor if the item is sold.

(3) The commission the retail merchant is to receive if the item is sold.

(4) The minimum price for the sale of the item.

(5) Any discounts ordinarily given by the retail merchant in the regular course of business.

(b) If a ~~consignor~~ **retail merchant** violates this section, the consignor may bring an action in a court with jurisdiction to void the consignor's contractual obligations to the retail merchant. A retail merchant who violates this section is liable to the consignor in an amount equal to:

(1) fifty dollars ($50);

(2) any actual, consequential, or incidental damages sustained by the consignor because of the violation of this section; and

(3) reasonable attorney's fees.

SECTION 98. IC 24-4.6-1-202 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 202. The provisions of IC ~~1971,~~ 24-5-6 **(repealed)** concerning sales at the residence of a consumer shall not apply to consumer credit sales or consumer leases but shall apply to all other sales at the residence of a consumer.

SECTION 99. IC 24-9-9-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The county auditor shall credit fifty cents ($0.50) of the fee collected under IC 36-2-7-10(b)(11) for each mortgage recorded to the county recorder's records perpetuation fund established under ~~IC 36-2-7-10(c).~~ **IC 36-2-7-10(d).**

SECTION 100. IC 25-1-2-6, AS AMENDED BY P.L.122-2009, SECTION 1, AND AS AMENDED BY P.L.160-2009, SECTION 4, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) As used in this section, "license" includes all occupational and professional licenses, registrations, permits, and certificates issued under the Indiana Code, and "licensee" includes all occupational and professional licensees, registrants, permittees, and certificate holders regulated under the Indiana Code.

(b) This section applies to the following entities that regulate occupations or professions under the Indiana Code:

(1) Indiana board of accountancy.
(2) Indiana grain buyers and warehouse licensing agency.
(3) Indiana auctioneer commission.
(4) Board of registration for architects and landscape architects.
(5) State board of barber examiners.
(6) State board of cosmetology examiners.
(7) Medical licensing board of Indiana.
(8) Secretary of state.
(9) State board of dentistry.
(10) State board of funeral and cemetery service.
(11) Worker's compensation board of Indiana.
(12) Indiana state board of health facility administrators.
(13) Committee of hearing aid dealer examiners.
(14) Indiana state board of nursing.
(15) Indiana optometry board.
(16) Indiana board of pharmacy.
(17) Indiana plumbing commission.
(18) Board of podiatric medicine.
(19) Private investigator and security guard licensing board.
(20) State board of registration for professional engineers.
(21) Board of environmental health specialists.

(22) State psychology board.
(23) Indiana real estate commission.
(24) Speech-language pathology and audiology board.
(25) Department of natural resources.
(26) State ~~*boxing*~~ *athletic* commission.
(27) Board of chiropractic examiners.
(28) Mining board.
(29) Indiana board of veterinary medical examiners.
(30) State department of health.
(31) Indiana physical therapy committee.
(32) Respiratory care committee.
(33) Occupational therapy committee.
(34) ~~*Social worker, marriage and family therapist, and mental health counselor*~~ *Behavioral health and human services licensing* board.
(35) Real estate appraiser licensure and certification board.
(36) State board of registration for land surveyors.
(37) Physician assistant committee.
(38) Indiana dietitians certification board.
(39) Indiana hypnotist committee.
(40) Attorney general (only for the regulation of athlete agents).
(41) Manufactured home installer licensing board.
(42) Home inspectors licensing board.
(43) State board of massage therapy.
(44) Any other occupational or professional agency created after June 30, 1981.

(c) Notwithstanding any other law, the entities included in subsection (b) shall send a notice of the upcoming expiration of a license to each licensee at least sixty (60) days prior to the expiration of the license. The notice must inform the licensee of the need to renew and the requirement of payment of the renewal fee. If this notice of expiration is not sent by the entity, the licensee is not subject to a sanction for failure to renew if, once notice is received from the entity, the license is renewed within forty-five (45) days of the receipt of the notice.

SECTION 101. IC 25-1-4-0.3, AS AMENDED BY P.L.122-2009, SECTION 2, AND AS AMENDED BY P.L.160-2009, SECTION 5, IS CORRECTED AND AMENDED TO READ AS FOLLOWS

[EFFECTIVE UPON PASSAGE]: Sec. 0.3. As used in this chapter, "board" means any of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).

(2) Board of registration for architects and landscape architects (IC 25-4-1-2).

(3) Indiana athletic trainers board (IC 25-5.1-2-1).

(4) Indiana auctioneer commission (IC 25-6.1-2-1).

(5) State board of barber examiners (IC 25-7-5-1).

~~*(6) State boxing commission (IC 25-9-1).*~~

~~*(7)*~~ *(6)* Board of chiropractic examiners (IC 25-10-1).

~~*(8)*~~ *(7)* State board of cosmetology examiners (IC 25-8-3-1).

~~*(9)*~~ *(8)* State board of dentistry (IC 25-14-1).

~~*(10)*~~ *(9)* Indiana dietitians certification board (IC 25-14.5-2-1).

~~*(11)*~~ *(10)* State board of registration for professional engineers (IC 25-31-1-3).

~~*(12)*~~ *(11)* Board of environmental health specialists (IC 25-32-1).

~~*(13)*~~ *(12)* State board of funeral and cemetery service (IC 25-15-9).

~~*(14)*~~ *(13)* Indiana state board of health facility administrators (IC 25-19-1).

~~*(15)*~~ *(14)* Committee of hearing aid dealer examiners (IC 25-20-1-1.5).

~~*(16)*~~ *(15)* Home inspectors licensing board (IC 25-20.2-3-1).

~~*(17)*~~ *(16)* Indiana hypnotist committee (IC 25-20.5-1-7).

~~*(18)*~~ *(17)* State board of registration for land surveyors (IC 25-21.5-2-1).

~~*(19)*~~ *(18)* Manufactured home installer licensing board (IC 25-23.7).

~~*(20)*~~ *(19)* Medical licensing board of Indiana (IC 25-22.5-2).

~~*(21)*~~ *(20)* Indiana state board of nursing (IC 25-23-1).

~~*(22)*~~ *(21)* Occupational therapy committee (IC 25-23.5).

~~*(23)*~~ *(22)* Indiana optometry board (IC 25-24).

~~*(24)*~~ *(23)* Indiana board of pharmacy (IC 25-26).

~~*(25)*~~ *(24)* Indiana physical therapy committee (IC 25-27-1).

~~*(26)*~~ *(25)* Physician assistant committee (IC 25-27.5).

~~*(27)*~~ *(26)* Indiana plumbing commission (IC 25-28.5-1-3).

~~*(28)*~~ *(27)* Board of podiatric medicine (IC 25-29-2-1).

~~*(29)*~~ *(28)* Private investigator and security guard licensing board

(IC 25-30-1-5.2).

~~(30)~~ *(29)* State psychology board (IC 25-33).

~~(31)~~ *(30)* Indiana real estate commission (IC 25-34.1-2).

~~(32)~~ *(31)* Real estate appraiser licensure and certification board (IC 25-34.1-8).

~~(33)~~ *(32)* Respiratory care committee (IC 25-34.5).

~~(34)~~ *(33)* ~~*Social worker, marriage and family therapist, and mental health counselor*~~ *Behavioral health and human services licensing* board (IC 25-23.6).

~~(35)~~ *(34)* Speech-language pathology and audiology board (IC 25-35.6-2).

~~(36)~~ *(35)* Indiana board of veterinary medical examiners (IC 25-38.1-2).

SECTION 102. IC 25-1-7-1, AS AMENDED BY P.L.1-2009, SECTION 138, AS AMENDED BY P.L.122-2009, SECTION 5, AND AS AMENDED BY P.L.160-2009, SECTION 7, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter:

"Board" means the appropriate agency listed in the definition of regulated occupation in this section.

"Director" refers to the director of the division of consumer protection.

"Division" refers to the division of consumer protection, office of the attorney general.

"Licensee" means a person who is:

(1) licensed, certified, or registered by a board listed in this section; and

(2) the subject of a complaint filed with the division.

"Person" means an individual, a partnership, a limited liability company, or a corporation.

"Regulated occupation" means an occupation in which a person is licensed, certified, or registered by one (1) of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).

(2) Board of registration for architects and landscape architects (IC 25-4-1-2).

(3) Indiana auctioneer commission (IC 25-6.1-2-1).

(4) State board of barber examiners (IC 25-7-5-1).

(5) State ~~*boxing*~~ *athletic* commission (IC 25-9-1).

(6) Board of chiropractic examiners (IC 25-10-1).
(7) State board of cosmetology examiners (IC 25-8-3-1).
(8) State board of dentistry (IC 25-14-1).
(9) State board of funeral and cemetery service (IC 25-15-9).
(10) State board of registration for professional engineers (IC 25-31-1-3).
(11) Indiana state board of health facility administrators (IC 25-19-1).
(12) Medical licensing board of Indiana (IC 25-22.5-2).
(13) Indiana state board of nursing (IC 25-23-1).
(14) Indiana optometry board (IC 25-24).
(15) Indiana board of pharmacy (IC 25-26).
(16) Indiana plumbing commission (IC 25-28.5-1-3).
(17) Board of podiatric medicine (IC 25-29-2-1).
(18) Board of environmental health specialists (IC 25-32-1).
(19) State psychology board (IC 25-33).
(20) Speech-language pathology and audiology board (IC 25-35.6-2).
(21) Indiana real estate commission (IC 25-34.1-2).
(22) Indiana board of veterinary medical examiners (IC 25-38.1).
(23) Department of natural resources for purposes of licensing water well drillers under IC 25-39-3.
(24) Respiratory care committee (IC 25-34.5).
(25) Private investigator and security guard licensing board (IC 25-30-1-5.2).
(26) Occupational therapy committee (IC 25-23.5).
(27) ~~*Social worker, marriage and family therapist, and mental health counselor*~~ *Behavioral health and human services licensing* board (IC 25-23.6).
(28) Real estate appraiser licensure and certification board (IC 25-34.1-8).
(29) State board of registration for land surveyors (IC 25-21.5-2-1).
(30) Physician assistant committee (IC 25-27.5).
(31) Indiana athletic trainers board (IC 25-5.1-2-1).
(32) Indiana dietitians certification board (IC 25-14.5-2-1).
(33) Indiana hypnotist committee (IC 25-20.5-1-7).
(34) Indiana physical therapy committee (IC 25-27).

(35) Manufactured home installer licensing board (IC 25-23.7).

(36) Home inspectors licensing board (IC 25-20.2-3-1).

(37) State department of health, for out-of-state mobile health care entities.

(38) State board of massage therapy (IC 25-21.8-2-1).

(39) Any other occupational or professional agency created after June 30, 1981.

SECTION 103. IC 25-1-8-1, AS AMENDED BY P.L.122-2009, SECTION 6, AND AS AMENDED BY P.L.160-2009, SECTION 8, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter, "board" means any of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).

(2) Board of registration for architects and landscape architects (IC 25-4-1-2).

(3) Indiana auctioneer commission (IC 25-6.1-2-1).

(4) State board of barber examiners (IC 25-7-5-1).

(5) State ~~*boxing*~~ *athletic* commission (IC 25-9-1).

(6) Board of chiropractic examiners (IC 25-10-1).

(7) State board of cosmetology examiners (IC 25-8-3-1).

(8) State board of dentistry (IC 25-14-1).

(9) State board of funeral and cemetery service (IC 25-15).

(10) State board of registration for professional engineers (IC 25-31-1-3).

(11) Indiana state board of health facility administrators (IC 25-19-1).

(12) Medical licensing board of Indiana (IC 25-22.5-2).

(13) Mining board (IC 22-10-1.5-2).

(14) Indiana state board of nursing (IC 25-23-1).

(15) Indiana optometry board (IC 25-24).

(16) Indiana board of pharmacy (IC 25-26).

(17) Indiana plumbing commission (IC 25-28.5-1-3).

(18) Board of environmental health specialists (IC 25-32-1).

(19) State psychology board (IC 25-33).

(20) Speech-language pathology and audiology board (IC 25-35.6-2).

(21) Indiana real estate commission (IC 25-34.1-2-1).

(22) Indiana board of veterinary medical examiners

(IC 25-38.1-2-1).

(23) Department of insurance (IC 27-1).

(24) State police department (IC 10-11-2-4), for purposes of certifying polygraph examiners under IC 25-30-2.

(25) Department of natural resources for purposes of licensing water well drillers under IC 25-39-3.

(26) Private investigator and security guard licensing board (IC 25-30-1-5.2).

(27) Occupational therapy committee (IC 25-23.5-2-1).

(28) ~~*Social worker, marriage and family therapist, and mental health counselor*~~ *Behavioral health and human services licensing* board (IC 25-23.6-2-1).

(29) Real estate appraiser licensure and certification board (IC 25-34.1-8).

(30) State board of registration for land surveyors (IC 25-21.5-2-1).

(31) Physician assistant committee (IC 25-27.5).

(32) Indiana athletic trainers board (IC 25-5.1-2-1).

(33) Board of podiatric medicine (IC 25-29-2-1).

(34) Indiana dietitians certification board (IC 25-14.5-2-1).

(35) Indiana physical therapy committee (IC 25-27).

(36) Manufactured home installer licensing board (IC 25-23.7).

(37) Home inspectors licensing board (IC 25-20.2-3-1).

(38) State board of massage therapy (IC 25-21.8-2-1).

(39) Any other occupational or professional agency created after June 30, 1981.

SECTION 104. IC 25-1-8-6, AS AMENDED BY P.L.122-2009, SECTION 7, AND AS AMENDED BY P.L.160-2009, SECTION 9, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) As used in this section, "board" means any of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).

(2) Board of registration for architects and landscape architects (IC 25-4-1-2).

(3) Indiana athletic trainers board (IC 25-5.1-2-1).

(4) Indiana auctioneer commission (IC 25-6.1-2-1).

(5) State board of barber examiners (IC 25-7-5-1).

~~*(6) State boxing commission (IC 25-9-1).*~~

~~(7)~~ *(6)* Board of chiropractic examiners (IC 25-10-1).
~~(8)~~ *(7)* State board of cosmetology examiners (IC 25-8-3-1).
~~(9)~~ *(8)* State board of dentistry (IC 25-14-1).
~~(10)~~ *(9)* Indiana dietitians certification board (IC 25-14.5-2-1).
~~(11)~~ *(10)* State board of registration for professional engineers (IC 25-31-1-3).
~~(12)~~ *(11)* Board of environmental health specialists (IC 25-32-1).
~~(13)~~ *(12)* State board of funeral and cemetery service (IC 25-15-9).
~~(14)~~ *(13)* Indiana state board of health facility administrators (IC 25-19-1).
~~(15)~~ *(14)* Committee of hearing aid dealer examiners (IC 25-20-1-1.5).
~~(16)~~ *(15)* Home inspectors licensing board (IC 25-20.2-3-1).
~~(17)~~ *(16)* Indiana hypnotist committee (IC 25-20.5-1-7).
~~(18)~~ *(17)* State board of registration for land surveyors (IC 25-21.5-2-1).
~~(19)~~ *(18)* Manufactured home installer licensing board (IC 25-23.7).
~~(20)~~ *(19)* Medical licensing board of Indiana (IC 25-22.5-2).
~~(21)~~ *(20)* Indiana state board of nursing (IC 25-23-1).
~~(22)~~ *(21)* Occupational therapy committee (IC 25-23.5).
~~(23)~~ *(22)* Indiana optometry board (IC 25-24).
~~(24)~~ *(23)* Indiana board of pharmacy (IC 25-26).
~~(25)~~ *(24)* Indiana physical therapy committee (IC 25-27).
~~(26)~~ *(25)* Physician assistant committee (IC 25-27.5).
~~(27)~~ *(26)* Indiana plumbing commission (IC 25-28.5-1-3).
~~(28)~~ *(27)* Board of podiatric medicine (IC 25-29-2-1).
~~(29)~~ *(28)* Private investigator and security guard licensing board (IC 25-30-1-5.2).
~~(30)~~ *(29)* State psychology board (IC 25-33).
~~(31)~~ *(30)* Indiana real estate commission (IC 25-34.1-2).
~~(32)~~ *(31)* Real estate appraiser licensure and certification board (IC 25-34.1-8).
~~(33)~~ *(32)* Respiratory care committee (IC 25-34.5).
~~(34)~~ *(33)* ~~*Social worker, marriage and family therapist, and mental health counselor*~~ *Behavioral health and human services licensing* board (IC 25-23.6).

~~(35)~~ *(34)* Speech-language pathology and audiology board (IC 25-35.6-2).

~~(36)~~ *(35)* Indiana board of veterinary medical examiners (IC 25-38.1).

~~(37)~~ *(36)* State board of massage therapy (IC 25-21.8-2-1).

(b) This section does not apply to a license, certificate, or registration that has been revoked or suspended.

(c) Notwithstanding any other law regarding the reinstatement of a delinquent or lapsed license, certificate, or registration and except as provided in section 8 of this chapter, the holder of a license, certificate, or registration that was issued by the board that is three (3) years or less delinquent must be reinstated upon meeting the following requirements:

(1) Submission of the holder's completed renewal application.

(2) Payment of the current renewal fee established by the board under section 2 of this chapter.

(3) Payment of a reinstatement fee established by the Indiana professional licensing agency.

(4) If a law requires the holder to complete continuing education as a condition of renewal, the holder:

(A) shall provide the board with a sworn statement, signed by the holder, that the holder has fulfilled the continuing education requirements required by the board; or

(B) shall, if the holder has not complied with the continuing education requirements, meet any requirements imposed under IC 25-1-4-5 and IC 25-1-4-6.

(d) Notwithstanding any other law regarding the reinstatement of a delinquent or lapsed license, certificate, or registration and except as provided in section 8 of this chapter, unless a statute specifically does not allow a license, certificate, or registration to be reinstated if it has lapsed for more than three (3) years, the holder of a license, certificate, or registration that was issued by the board that is more than three (3) years delinquent must be reinstated upon meeting the following requirements:

(1) Submission of the holder's completed renewal application.

(2) Payment of the current renewal fee established by the board under section 2 of this chapter.

(3) Payment of a reinstatement fee equal to the current initial

application fee.

(4) If a law requires the holder to complete continuing education as a condition of renewal, the holder:

(A) shall provide the board with a sworn statement, signed by the holder, that the holder has fulfilled the continuing education requirements required by the board; or

(B) shall, if the holder has not complied with the continuing education requirements, meet any requirements imposed under IC 25-1-4-5 and IC 25-1-4-6.

(5) Complete such remediation and additional training as deemed appropriate by the board given the lapse of time involved.

(6) Any other requirement that is provided for in statute or rule that is not related to fees.

SECTION 105. IC 25-9-1-4.5, AS AMENDED BY P.L.160-2009, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.5. (a) In accordance with IC 35-45-18-1(b), the commission may adopt rules under IC 4-22-2 to regulate the conduct of the following:

(1) Mixed martial arts.

(2) Martial arts, including the following:

(A) Jujutsu.

(B) Karate.

(C) Kickboxing.

(D) Kung fu.

(E) Tae kwon do.

(F) Judo.

(G) Sambo.

(H) Pankration.

(I) Shootwrestling.

(3) Professional wrestling.

(4) Boxing.

(5) Sparring.

(b) The ~~athletic~~ commission may adopt emergency rules under IC 4-22-2-37.1 if the ~~athletic~~ commission determines that:

(1) the need for a rule is so immediate and substantial that the ordinary rulemaking procedures under IC 4-22-2 are inadequate to address the need; and

(2) an emergency rule is likely to address the need.

SECTION 106. IC 25-14-5-6, AS ADDED BY P.L.177-2009, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. To be eligible for a grant, a dentist or dental hygienist must meet all the following conditions:

(1) Hold a license to practice as a dentist under this article or as a dental hygienist under IC 25-13-1.

(2) Has entered into an agreement with the committee to:

(A) either:

(i) commit to working five (5) years in ~~a~~ **an** underserved area or as a minority dentist or dental hygienist in Indiana for a yearly grant of thirty-five thousand dollars ($35,000); or

(ii) commit to working two (2) years in ~~a~~ **an** underserved area or as a minority dentist or dental hygienist in Indiana for a yearly grant of thirty thousand dollars ($30,000) with the option by the dentist or dental hygienist to serve up to three (3) additional years for a yearly grant of thirty-five thousand dollars ($35,000);

(B) provide an average of at least forty (40) hours of dentistry per week in underserved areas or as a minority dentist or dental hygienist in Indiana;

(C) maintain a patient base that includes at least thirty percent (30%) as Medicaid patients; and

(D) provide a sliding fee scale, as approved by the committee, for low income patients.

(3) Has entered into an agreement with the committee that if the dentist or dental hygienist does not comply with the requirements in subdivision (2) that the dentist or dental hygienist will pay back to the committee seven thousand five hundred dollars ($7,500), plus interest, for each month that the dentist or dental hygienist did not serve or had left to serve under the terms of the agreement.

SECTION 107. IC 25-17.3-4-2, AS ADDED BY P.L.177-2009, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The board may issue a temporary license to an applicant who:

(1) meets all the requirements for licensure under section 1 of this chapter except the examination for certification requirement set

forth in section 1(4) of this chapter; and

(2) has an active candidate status for the certification.

(b) An individual who is ~~issuced~~ **issued** a temporary license under this section:

(1) must apply for and take the next available examination for certification; and

(2) may practice under the temporary license only if directly supervised by a licensed genetic counselor or a physician licensed under IC 25-22.5 under a genetic supervision contract.

(c) An individual who holds a temporary license issued under this section and fails the examination for certification described in section 1(4) of this chapter for the first time may reapply for a second temporary license. The board may not issue a temporary license to an individual who has failed the examination for certification more than one (1) time.

(d) A temporary license issued under this section expires upon the earliest of the following:

(1) The date on which the individual meets the requirements of this chapter and is issued a license.

(2) The date that is thirty (30) days after the individual fails the examination for certification described in section 1(4) of this chapter.

(3) The date printed on the temporary license.

(e) An individual who is issued a temporary license under this section shall inform the board of the results of the individual's examination for certification described in section 1(4) of this chapter.

SECTION 108. IC 26-1-9.1-509 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 509. (a) A person may file an initial financing statement, amendment that adds collateral covered by a financing statement, or amendment that adds a debtor to a financing statement only if:

(1) the debtor authorizes the filing in an authenticated record or under subsection (b) or (c); or

(2) the person holds an agricultural lien that has become effective at the time of filing and the financing statement covers only collateral in which the person holds an agricultural lien.

(b) By authenticating or becoming bound as debtor by a security agreement, a debtor or new debtor authorizes the filing of an initial

financing statement, and an amendment, covering:

(1) the collateral described in the security agreement; and

(2) property that becomes collateral under IC 26-1-9.1-315(a)(2), whether or not the security agreement expressly covers proceeds.

(c) By acquiring collateral in which a security interest or agricultural lien continues under IC 26-1-9.1-315(a)(1), a debtor authorizes the filing of an initial financing statement, and an amendment, covering the collateral and property that becomes collateral under ~~IC 26-9.1-315(a)(2).~~ **IC 26-1-9.1-315(a)(2).**

(d) A person may file an amendment other than an amendment that adds collateral covered by a financing statement or an amendment that adds a debtor to a financing statement only if:

(1) the secured party of record authorizes the filing; or

(2) the amendment is a termination statement for a financing statement as to which the secured party of record has failed to file or send a termination statement as required by IC 26-1-9.1-513(a) or IC 26-1-9.1-513(c), the debtor authorizes the filing, and the termination statement indicates that the debtor authorized it to be filed.

(e) If there is more than one (1) secured party of record for a financing statement, each secured party of record may authorize the filing of an amendment under subsection (d).

SECTION 109. IC 27-1-12.7-10, AS AMENDED BY P.L.173-2007, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. Notwithstanding any other provision of law:

(1) the commissioner has the sole authority to regulate the issuance and sale of funding agreements;

(2) a funding agreement is not considered a covered policy under ~~IC 27-8-8-1(a) or~~ IC 27-8-8-2.3(d);

(3) a claim for payments under a funding agreement must be treated as a loss claim described in Class 2 of IC 27-9-3-40; and

(4) assets supporting a funding agreement in a segregated asset account under section 8 of this chapter are subject to IC 27-9-3-40.5 and Class 1(c) of IC 27-1-5-1.

SECTION 110. IC 27-1-13-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) As used in this section, "planned unit development" ~~means a planned unit~~

~~development provided for in an ordinance adopted under IC 36-7-4-713.~~ **has the meaning set forth in IC 36-7-1-14.5.**

(b) As used in this section, "property and casualty insurance" means one (1) or more of the types of insurance described in IC 27-1-5-1, Class 2 and Class 3.

(c) An insurance company may issue a blanket policy of property and casualty insurance to an association or a nonprofit corporation composed of the owners of the property within a planned unit development for the purpose of insuring:

(1) the association or nonprofit corporation;

(2) the owners of the property within the planned unit development;

(3) the executive body of the association or nonprofit corporation;

(4) the managing agent of the association or nonprofit corporation, if any;

(5) all persons who act as agents or employees of:

(A) the association or nonprofit corporation;

(B) the owners of the property;

(C) the executive body; or

(D) the managing agent;

with respect to the planned unit development; and

(6) all other persons entitled to occupy any unit or other portion of the planned unit development, including property owners;

against losses under this subsection, including loss or damage to property within the planned unit development and loss of use or occupancy.

(d) An association or a nonprofit corporation composed of the owners of all of the property within a planned unit development is authorized to purchase an insurance policy described in subsection (c).

SECTION 111. IC 27-8-11-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. To the extent of any conflict between this chapter and IC 27-4-1-4, ~~IC 27-8-5-10,~~ IC 27-8-5-15, IC 27-8-6-1, or any other statutory provision, this chapter prevails over the conflicting provision. Agreements may be entered into under section 3(a)(1) of this chapter notwithstanding any contradictory policy provision prescribed under IC 27-8-5-3(a)(9).

SECTION 112. IC 27-8-22-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this

chapter, "health care provider" has the meaning set forth in ~~IC 34-18-2-15.~~ **IC 34-18-2-14.**

SECTION 113. IC 27-14-7-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. An MIHC may convert to a stock company under IC 27-1-8-13 **(repealed)** as though the MIHC were an MIC.

SECTION 114. IC 29-2-16.1-13, AS ADDED BY P.L.147-2007, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) As used in this section:

(1) "Administrator" means a hospital administrator or a hospital administrator's designee.

(2) "Gift" means a gift of all or any part of the human body made under this chapter.

(3) "Representative" means a person who is:

~~(1)~~ **(A)** authorized under section 8 of this chapter to make a gift on behalf of a decedent; and

~~(2)~~ **(B)** available at the time of the decedent's death when members of a prior class under section 8 of this chapter are unavailable.

(b) An administrator of each hospital or the administrator's designee may ask each patient who is at least eighteen (18) years of age if the patient is an organ or a tissue donor or if the patient desires to become an organ or a tissue donor.

(c) The governing board of each hospital shall adopt procedures to determine under what circumstances an administrator or an administrator's designee may ask a patient if the patient is an organ or a tissue donor or if the patient desires to become an organ or a tissue donor.

(d) The administrator shall inform the representative of the procedures available under this chapter for making a gift whenever:

(1) an individual dies in a hospital;

(2) the hospital has not been notified that a gift has been authorized under section 4 of this chapter; and

(3) a procurement organization determines that the individual's body may be suitable of yielding a gift.

(e) If:

(1) an individual makes an anatomical gift on the individual's driver's license or identification card under IC 9-24-17; and

(2) the individual dies in a hospital;

the person in possession of the individual's driver's license or identification card shall immediately produce the driver's license or identification card for examination upon request, as provided in section 10(l) of this chapter.

(f) A gift made in response to information provided under this section must be signed by the donor or made by the donor's telegraphic, recorded telephonic, or other recorded message.

(g) When a representative is informed under this section about the procedures available for making a gift, the fact that the representative was so informed must be noted in the decedent's medical record.

(h) A person who fails to discharge the duties imposed by this section is not subject to civil liability but may be subject to criminal liability or administrative sanctions.

SECTION 115. IC 31-9-2-50, AS AMENDED BY P.L.133-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 50. "Guardian ad litem", for purposes of IC 31-15-6, ~~IC 31-16-3,~~ IC 31-19-16, IC 31-19-16.5, IC 31-28-5, and the juvenile law, means an attorney, a volunteer, or an employee of a county program designated under IC 33-24-6-4 who is appointed by a court to:

(1) represent and protect the best interests of a child; and

(2) provide the child with services requested by the court, including:

(A) researching;

(B) examining;

(C) advocating;

(D) facilitating; and

(E) monitoring;

the child's situation.

A guardian ad litem who is not an attorney must complete the same court approved training program that is required for a court appointed special advocate under section 28 of this chapter.

SECTION 116. IC 31-9-2-52, AS AMENDED BY P.L.170-2009, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 52. "Health care provider", for purposes of IC 31-32-6-4, IC 31-32-11-1, **and** IC 31-33, ~~IC 31-34-7-4, and IC 31-39-8-4,~~ means any of the following:

(1) A licensed physician, intern, or resident.

(2) An osteopath.

(3) A chiropractor.

(4) A dentist.

(5) A podiatrist.

(6) A registered nurse or other licensed nurse.

(7) A mental health professional.

(8) A paramedic or an emergency medical technician.

(9) A social worker, an x-ray technician, or a laboratory technician employed by a hospital.

(10) A pharmacist.

(11) A person working under the direction of any of the practitioners listed in subdivisions (1) through (10).

SECTION 117. IC 31-16-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. Proceedings under this chapter and ~~IC 31-16-3~~ **IC 31-16-3.5** through IC 31-16-12 must comply with the Indiana Rules of Civil Procedure.

SECTION 118. IC 31-16-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. A responsive pleading or a counter petition may be filed under this chapter or ~~IC 31-16-3~~ **IC 31-16-3.5** through IC 31-16-12.

SECTION 119. IC 31-16-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The court shall enter a decree in an action under section 2 of this chapter when the court finds:

(1) that there is a duty to support by the person alleged to have the duty;

(2) that the duty to support has not been fulfilled; and

(3) that an order should be entered under IC 31-16-6-1.

(b) The decree may include orders as provided for in ~~IC 31-16-3~~ **IC 31-16-3.5** through IC 31-16-12.

SECTION 120. IC 31-19-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except as provided in subsection (b), a petition for adoption must be filed in triplicate.

(b) If a petition for adoption ~~(1) requests a subsidy; and (2)~~ is sponsored by a licensed child placing agency, the petition for adoption must be filed in quadruplicate.

(c) The original copy of a petition for adoption must be verified by the oath or affirmation of each petitioner for adoption.

SECTION 121. IC 31-19-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The registry's purpose is to determine the name and address of a father:

(1) whose name and address have not been disclosed by the mother of the child, on or before the date the mother executes a consent to the child's adoption, to:

(A) an attorney; or

(B) an agency;

that is arranging the adoption of the child; and

(2) who may have conceived a child for whom a petition for adoption has been or may be filed;

~~to provide~~ **so that** notice of the adoption **may be provided** to the putative father.

SECTION 122. IC 31-19-5-15, AS AMENDED BY P.L.58-2009, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) An attorney or agency that arranges an adoption or may arrange an adoption may at any time request that the state department of health search the registry to determine whether a putative father:

(1) is registered in relation to a mother whose child is or may be the subject of an adoption; or

(2) has filed a petition to establish paternity. ~~under this chapter;~~

(b) Whenever a petition for adoption is filed, the attorney or agency that arranges the adoption shall:

(1) request that the state department of health search the registry under this section at least one (1) day after the expiration of the period specified by section 12 of this chapter; and

(2) file an affidavit prepared by the state department of health under section 16 of this chapter in response to a request under subdivision (1) with the court presiding over the adoption under this article.

SECTION 123. IC 31-19-5-16, AS AMENDED BY P.L.58-2009, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) Not later than five (5) days after receiving a request under section 15 of this chapter, the state department of health shall submit an affidavit to the attorney or agency

verifying whether a putative father:

(1) is registered within the period specified by section 12 of this chapter in relation to a mother whose child is the subject of the adoption that the attorney or agency is arranging; or

(2) has filed a petition to establish paternity. ~~under this chapter.~~

(b) Whenever the state department of health finds that one (1) or more putative fathers are registered, the state department shall:

(1) submit a copy of each registration form with the state department's affidavit; and

(2) include in the affidavit the date that the attorney or agency submits the request for a search that relates to the affidavit.

(c) Whenever the state department of health finds that one (1) or more putative fathers have filed a petition to establish paternity, ~~under this chapter,~~ the state department of health shall:

(1) submit a copy of each notice prepared by the clerk of the court under IC 31-14-9-0.5 with the state department of health's affidavit; and

(2) include in the affidavit the date the attorney or agency submitted the request for the search that relates to the affidavit.

(d) A court may not grant an adoption unless the state department's affidavit under this section is filed with the court as provided under IC 31-19-11-1(a)(4).

SECTION 124. IC 31-19-17-3, AS AMENDED BY P.L.58-2009, SECTION 26, AND AS AMENDED BY P.L.131-2009, SECTION 23, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The person, licensed child placing agency, or county office ~~*of family and children*~~ shall:

(1) exclude information that would identify the birth parents *unless the adoptive parent under subdivision (2)(A) or an adoptee under subdivision (2)(B) who requests the information knows the identity of the birth parents;* and

(2) release all available social, medical, psychological, and educational records concerning the child to:

(A) the adoptive parent; and

(B) upon request, an adoptee who:

(i) is at least twenty-one (21) years of age; and

(ii) provides proof of identification.

SECTION 125. IC 31-19-17-5, AS AMENDED BY P.L.58-2009,

SECTION 27, AND AS AMENDED BY P.L.131-2009, SECTION 25, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) This section applies to an adoption that is granted before July 1, 1993.

(b) Upon the request of an adoptee who:

(1) is at least twenty-one (21) years of age; and

(2) provides proof of identification;

a person, a licensed child placing agency, or a county office ~~*of family and children*~~ shall provide to the adoptee available information of social, medical, psychological, and educational records and reports concerning the adoptee. The person, licensed child placing agency, or county office ~~*of family and children*~~ shall exclude from the records information that would identify the birth parents *unless an adoptee already knows the identity of the birth parents.*

SECTION 126. IC 31-35-1-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.5. The putative father's consent to the termination of the parent-child relationship is irrevocably implied without further court action if the father:

(1) fails to file a paternity action under IC 31-14 or in a court located in another state that is competent to obtain jurisdiction over the paternity action, not more than thirty (30) days after receiving actual notice under IC 31-19-3 of the mother's intent to proceed with an adoptive placement of the child, regardless of whether:

(A) the child is born before or after the expiration of the thirty (30) day period; or

(B) a petition for adoption or for the termination of the parent-child relationship is filed; or

(2) files a paternity action:

(A) under IC 31-14; or

(B) in a court located in another state that is competent to obtain jurisdiction over the paternity action;

during the thirty (30) day period prescribed by subdivision (1) and fails to establish paternity in the paternity proceeding within a reasonable period determined under IC 31-14-21-9 through ~~IC 31-14-21-11~~ **IC 31-14-21-9.2** or the laws applicable to a court of another state when the court obtains jurisdiction over the paternity action.

SECTION 127. IC 31-37-17-1, AS AMENDED BY P.L.114-2009, SECTION 2, AND AS AMENDED BY P.L.131-2009, SECTION 68, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Upon finding that a child is a delinquent child, the juvenile court shall order a probation officer to prepare a predispositional report that contains:

(1) a statement of the needs of the child for care, treatment, rehabilitation, or placement;

(2) a recommendation for the care, treatment, rehabilitation, or placement of the child;

(3) if the recommendation includes

~~*(A)*~~ an out-of-home placement other than a secure detention facility, ~~*or*~~

~~*(B) services payable by the department under IC 31-40-1-2;*~~

information that the department requires to determine whether the child is eligible for assistance under Title IV-E of the federal Social Security Act (42 U.S.C. 670 et seq.); ~~*and*~~

(4) a statement of the department's concurrence with or its alternative proposal to the probation officer's predispositional report, as provided in section 1.4 of this chapter; *and*

(5) a statement of whether the child receives Medicaid.

(b) Any of the following may prepare an alternative report for consideration by the court:

(1) The child.

(2) The child's:

(A) parent;

(B) guardian;

(C) guardian ad litem;

(D) court appointed special advocate; or

(E) custodian.

SECTION 128. IC 32-25.5-3-2, AS ADDED BY P.L.167-2009, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) In addition to any other meeting held by a board, a board shall hold a special meeting of the members of a homeowners association if at least ten percent (10%) of the members of the homeowners association submit to the board at least one (1) written demand for the special meeting that:

(1) describes the purpose for which the meeting is to be held; and

(2) is signed by the members requesting the special meeting.

(b) If a board does not send out a notice of the date, time, and ~~the~~ place for a special meeting not more than thirty (30) days after the date the board receives a valid written demand for the special meeting under subsection (a), a member of the homeowners association who signed the written demand may:

(1) set the date, time, and place for the special meeting; and

(2) send out the notice for the special meeting to the other members.

SECTION 129. IC 32-28-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) This section applies to a:

(1) subcontractor;

(2) lessor leasing construction and other equipment and tools, regardless of whether an operator is also provided by the lessor;

(3) journeyman; or

(4) laborer;

employed or leasing any equipment or tools used by the lessee in erecting, altering, repairing, or removing any house, mill, manufactory or other building, or bridge, reservoir, system of waterworks, or other structure or earth moving, or in furnishing any material or machinery for these activities.

(b) Except as provided in **subsection (f) and** section 12 of this chapter, in order to acquire ~~and hold a lien,~~ **rights under this section,** a person described in subsection (a) must give to the property owner, or if the property owner is absent, to the property owner's agent, written notice particularly setting forth the amount of the person's claim and services rendered for which:

(1) the person's employer or lessee is indebted to the person; and

(2) the person holds the property owner responsible.

(c) Subject to subsections (d) and (e), the property owner is liable for the person's claim.

(d) The property owner is liable to a person described in subsection (a) for not more than the amount that is due and may later become due from the owner to the employer or lessee.

(e) A person described in subsection (a) may recover the amount of the person's claim if, after the amounts of other claims that have priority are subtracted from the amount due from the property owner

to the employer or lessee, the remainder of the amount due from the property owner to the employer or lessee is sufficient to pay the amount of the person's claim.

(f) This ~~section~~ **subsection** applies to a person described in subsection (a) who gives written notice, to the property owner or, if the property owner is absent, to the owner's agent, before labor is performed or materials or machinery is furnished. The notice must particularly set forth the amount of:

(1) labor the person has contracted to perform; or

(2) materials or machinery the person has contracted to furnish;

for the employer or lessee in erecting, altering, repairing, or removing any of the buildings or other structures described in subsection (a). A person described in ~~subsection (a)~~ **this subsection** has the same rights and remedies against the property owner for the amount of the labor performed by the person or materials or machinery furnished by the person after the notice is given, as are provided in this chapter for persons who serve notice after performing the labor or furnishing the materials or machinery.

(g) If an action is brought against a property owner under this section, all subcontractors, equipment lessors leasing equipment, journeymen, and laborers who have:

(1) performed labor or furnished materials or machinery; and

(2) given notice under this section;

may become parties to the action. If, upon final judgment against the property owner the amount recovered and collected is not sufficient to pay the claimants in full, the amount recovered and collected shall be divided among the claimants pro rata.

SECTION 130. IC 32-33-20-5, AS ADDED BY P.L.73-2009, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) This section does not apply if an end user retains title to and possession of a special tool.

(b) Unless otherwise agreed in writing, if a customer does not claim possession of a special tool from an end user within three (3) years after the date the special tool is last used by the end user, at the option of the end user, all rights, title, and interest in the special tool may be transferred by operation of law to the end user for the purpose of destroying the special tool.

(c) After the three (3) year period described in subsection (b)

expires, if an end user chooses to have all rights, title, and interest in a special tool transferred to the end user, the end user shall send written notice by registered mail, return receipt requested: ~~to:~~

(1) **to** an address designated in writing by the customer; or

(2) if the customer has not designated an address in writing, to the customer's last known address;

that indicates the end user intends to terminate the customer's rights, title, and interest in the special tool by having all rights, title, and interest in the special tool transferred to the end user under this section.

(d) If a customer does not:

(1) claim possession of the special tool within one hundred twenty (120) days after the date the end user receives the return receipt of the notice sent under subsection (c); or

(2) make other arrangements with the end user for storage of the special tool within one hundred twenty (120) days after the date the end user receives the return receipt of the notice sent under subsection (c);

all rights, title, and interest of the customer in the special tool are transferred by operation of law to the end user for the purpose of destroying the special tool.

(e) This section may not be construed to:

(1) affect a right of a customer under a:

(A) federal patent or copyright law; or

(B) state or federal law concerning unfair competition; or

(2) grant a customer rights, title, or interest in a special tool.

SECTION 131. IC 33-23-15-3, AS ADDED BY P.L.110-2009, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) A person who receives an adverse decision under section 2 of this chapter may seek review **of** the decision by filing, not later than thirty (30) days after receiving the adverse decision, an action for review:

(1) in the court of conviction, if the adverse decision was made by the department of correction; or

(2) in a circuit or superior court in a county adjacent to the county in which the court rendered the adverse decision, if the adverse decision was made by a court.

(b) The court hearing an action for review filed under this section shall conduct the review hearing de novo. The hearing shall be

conducted in accordance with section 2 of this chapter.

(c) The determination of a court under this section is a final appealable order.

SECTION 132. IC 33-24-6-3, AS AMENDED BY P.L.110-2009, SECTION 12, AND AS AMENDED BY P.L.130-2009, SECTION 19, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The division of state court administration shall do the following:

(1) Examine the administrative and business methods and systems employed in the offices of the clerks of court and other offices related to and serving the courts and make recommendations for necessary improvement.

(2) Collect and compile statistical data and other information on the judicial work of the courts in Indiana. All justices of the supreme court, judges of the court of appeals, judges of all trial courts, and any city or town courts, whether having general or special jurisdiction, court clerks, court reporters, and other officers and employees of the courts shall, upon notice by the executive director and in compliance with procedures prescribed by the executive director, furnish the executive director the information as is requested concerning the nature and volume of judicial business. The information must include the following:

(A) The volume, condition, and type of business conducted by the courts.

(B) The methods of procedure in the courts.

(C) The work accomplished by the courts.

(D) The receipt and expenditure of public money by and for the operation of the courts.

(E) The methods of disposition or termination of cases.

(3) Prepare and publish reports, not less than one (1) or more than two (2) times per year, on the nature and volume of judicial work performed by the courts as determined by the information required in subdivision (2).

(4) Serve the judicial nominating commission and the judicial qualifications commission in the performance by the commissions of their statutory and constitutional functions.

(5) Administer the civil legal aid fund as required by IC 33-24-12.

(6) Administer the judicial technology and automation project

fund established by section 12 of this chapter.

(7) Develop a standard protocol for the exchange of information, by not later than December 31, 2009:

(A) between the protective order registry, established by IC 5-2-9-5.5, and county court case management systems;

(B) at the option of the county prosecuting attorney, for:

~~*(1)*~~ **(i)** *a prosecuting attorney's case management system;*

~~*(2)*~~ **(ii)** *a county court case management system; and*

~~*(3)*~~ **(iii)** *a county court case management system developed and operated by the division of state court administration;*

to interface with the electronic traffic tickets, as defined by IC 9-30-3-2.5; and

(C) between county court case management systems and the case management system developed and operated by the division of state court administration.

~~*(7)*~~ **(8)** *Establish and administer an electronic system for receiving information that relates to certain individuals who may be prohibited from possessing a firearm and transmitting this information to the Federal Bureau of Investigation for inclusion in the NICS.*

(b) All forms to be used in gathering data must be approved by the supreme court and shall be distributed to all judges and clerks before the start of each period for which reports are required.

(c) The division may adopt rules to implement this section.

SECTION 133. IC 33-33-44-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The court has one (1) judge who shall hold sessions in:

(1) the LaGrange County courthouse in the ~~city~~ **town** of LaGrange; or

(2) other places in the county as the LaGrange County executive may provide.

SECTION 134. IC 33-36-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) An ordinance violation admitted under this article does not constitute a judgment for the purposes of IC 33-37. An ordinance violation costs fee may not be collected from the defendant under IC 33-37-4.

(b) An ordinance violation processed under this chapter may not be considered for the purposes of ~~IC 33-37-7-5 or~~ IC 33-37-7-6 when

determining the percentage of ordinance violations prosecuted in certain courts.

SECTION 135. IC 34-26-5-9, AS AMENDED BY P.L.116-2009, SECTION 13, AND AS AMENDED BY P.L.130-2009, SECTION 24, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) If it appears from a petition for an order for protection or from a petition to modify an order for protection that domestic or family violence has occurred or that a modification of an order for protection is required, a court may:

(1) without notice or hearing, immediately issue an order for protection ex parte or modify an order for protection ex parte; or

(2) upon notice and after a hearing, whether or not a respondent appears, issue or modify an order for protection.

(b) A court may grant the following relief without notice and hearing in an ex parte order for protection or in an ex parte order for protection modification:

(1) Enjoin a respondent from threatening to commit or committing acts of domestic or family violence against a petitioner and each designated family or household member.

(2) Prohibit a respondent from harassing, annoying, telephoning, contacting, or directly or indirectly communicating with a petitioner.

(3) Remove and exclude a respondent from the residence of a petitioner, regardless of ownership of the residence.

(4) Order a respondent to stay away from the residence, school, or place of employment of a petitioner or a specified place frequented by a petitioner and each designated family or household member.

(5) Order possession and use of the residence, an automobile, and other essential personal effects, regardless of the ownership of the residence, automobile, and essential personal effects. If possession is ordered under this subdivision, the court may direct a law enforcement officer to accompany a petitioner to the residence of the parties to:

(A) ensure that a petitioner is safely restored to possession of the residence, automobile, and other essential personal effects; or

(B) supervise a petitioner's or respondent's removal of personal

belongings.

(6) Order other relief necessary to provide for the safety and welfare of a petitioner and each designated family or household member.

(c) A court may grant the following relief after notice and a hearing, whether or not a respondent appears, in an order for protection or in a modification of an order for protection:

(1) Grant the relief under subsection (b).

(2) Specify arrangements for parenting time of a minor child by a respondent and:

(A) require supervision by a third party; or

(B) deny parenting time;

if necessary to protect the safety of a petitioner or child.

(3) Order a respondent to:

(A) pay attorney's fees;

(B) pay rent or make payment on a mortgage on a petitioner's residence;

(C) if the respondent is found to have a duty of support, pay for the support of a petitioner and each minor child;

(D) reimburse a petitioner or other person for expenses related to the domestic or family violence, including:

(i) medical expenses;

(ii) counseling;

(iii) shelter; and

(iv) repair or replacement of damaged property; ~~or~~

(E) pay the costs and expenses incurred in connection with the use of a GPS tracking device under subsection (i); or

~~(E)~~ *(F)* pay the costs and fees incurred by a petitioner in bringing the action.

(4) Prohibit a respondent from using or possessing a firearm, ammunition, or a deadly weapon specified by the court, and direct the respondent to surrender to a specified law enforcement agency the firearm, ammunition, or deadly weapon for the duration of the order for protection unless another date is ordered by the court.

An order issued under subdivision (4) does not apply to a person who is exempt under 18 U.S.C. 925.

(d) The court shall:

(1) cause the order for protection to be delivered to the county

sheriff for service;

(2) make reasonable efforts to ensure that the order for protection is understood by a petitioner and a respondent if present;

(3) electronically notify each law enforcement agency:

(A) required to receive notification under IC 5-2-9-6; or

(B) designated by the petitioner;

(4) transmit a copy of the order to the clerk for processing under IC 5-2-9;

(5) indicate in the order if the order and the parties meet the criteria under 18 U.S.C. 922(g)(8); and

(6) require the clerk *of court* to enter or provide a copy of the order to the Indiana protective order registry established by IC 5-2-9-5.5.

(e) An order for protection issued ex parte or upon notice and a hearing, or a modification of an order for protection issued ex parte or upon notice and a hearing, is effective for two (2) years after the date of issuance unless another date is ordered by the court. The sheriff of each county shall provide expedited service for an order for protection.

(f) A finding that domestic or family violence has occurred sufficient to justify the issuance of an order under this section means that a respondent represents a credible threat to the safety of a petitioner or a member of a petitioner's household. Upon a showing of domestic or family violence by a preponderance of the evidence, the court shall grant relief necessary to bring about a cessation of the violence or the threat of violence. The relief may include an order directing a respondent to surrender to a law enforcement officer or agency all firearms, ammunition, and deadly weapons:

(1) in the control, ownership, or possession of a respondent; or

(2) in the control or possession of another person on behalf of a respondent;

for the duration of the order for protection unless another date is ordered by the court.

(g) An order for custody, parenting time, or possession or control of property issued under this chapter is superseded by an order issued from a court exercising dissolution, legal separation, paternity, or guardianship jurisdiction over the parties.

(h) The fact that an order for protection is issued under this chapter does not raise an inference or presumption in a subsequent case or

hearings between the parties.

(i) Upon a finding of a violation of an order for protection, the court may:

(1) require a respondent to wear a GPS tracking device; and

(2) prohibit the respondent from approaching or entering certain locations where the petitioner may be found.

If the court requires a respondent to wear a GPS tracking device under subdivision (1), the court shall, if available, require the respondent to wear a GPS tracking device with victim notification capabilities.

(j) The court may permit a victim, a petitioner, another person, an organization, or an agency to pay the costs and expenses incurred in connection with the use of a GPS tracking device under subsection (i).

SECTION 136. IC 34-26-5-18, AS AMENDED BY P.L.116-2009, SECTION 15, AND AS AMENDED BY P.L.130-2009, SECTION 26, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. The following orders are required to be entered into the Indiana data and communication system (IDACS) by a county sheriff or local law enforcement agency:

(1) A no contact order issued under IC 31-32-13 in a juvenile case.

(2) A no contact order issued under IC 31-34-20 in a child in need of services (CHINS) case.

(3) A no contact order issued under IC 31-34-25 in a CHINS case.

(4) A no contact order issued under IC 31-37-19 in a delinquency case.

(5) A no contact order issued under IC 31-37-25 in a delinquency case.

(6) A no contact order issued under IC 33-39-1-8 in a criminal case.

(7) An order for protection issued under this chapter.

(8) A workplace violence restraining order issued under IC 34-26-6.

(9) A no contact order issued under IC 35-33-8-3.2 in a criminal case.

(10) A no contact order issued under IC 35-38-2-2.3 in a criminal case.

(11) A child protective order issued under IC 31-34-2.3.

(12) A foreign protective order registered under ~~IC 34-26-5-17.~~

section 17 of this chapter.

SECTION 137. IC 34-28-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. Whenever a person who is not a resident of Indiana:

(1) is arrested or stopped for a misdemeanor violation or infraction under:

(A) IC 9-31-3;

(B) IC 14-15-2 through IC 14-15-7;

(C) IC 14-16-1; **or**

~~(D) IC 14-16-2; or~~

~~(E)~~ **(D)** IC 14-22; and

(2) is not immediately taken to court;

the person may, at the discretion of the officer, be released upon the deposit of a security. The security shall be the amount of the fine or judgment and costs for the violation in the form of cash, money order, or a traveler's check made payable to the clerk of the court in which the person will appear.

SECTION 138. IC 34-30-2-96.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 96.6. IC 24-5-23.5-8(e) (Concerning the voluntary disclosure of suspected violations of the statute prohibiting improperly influencing a real estate appraisal through bribery, coercion, extortion, intimidation, collusion, or other means).**

SECTION 139. IC 34-44-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. In a personal injury or wrongful death action, the court shall allow the admission into evidence of:

(1) proof of collateral source payments other than:

(A) payments of life insurance or other death benefits;

(B) insurance benefits ~~for which~~ **that** the plaintiff or members of the plaintiff's family have paid for directly; or

(C) payments made by:

(i) the state or the United States; or

(ii) any agency, instrumentality, or subdivision of the state or the United States;

that have been made before trial to a plaintiff as compensation for the loss or injury for which the action is brought;

(2) proof of the amount of money that the plaintiff is required to repay, including worker's compensation benefits, as a result of the collateral benefits received; and

(3) proof of the cost to the plaintiff or to members of the plaintiff's family of collateral benefits received by the plaintiff or the plaintiff's family.

SECTION 140. IC 34-52-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Subject to any other statute governing reimbursement of fees and other expenses, this chapter applies to the reimbursement of the fees and other expenses incurred in preparing for or prosecuting:

(1) a proceeding under IC 4-21.5-5 to judicially review a final order made by a state agency;

(2) an appeal from a final determination made by the worker's compensation board;

(3) an appeal of a final determination made by the department of state revenue; or

(4) an appeal of a final determination made by the department of workforce development or the department of workforce development unemployment insurance review board.

(b) However, this chapter does not apply to an order or other determination:

(1) under:

(A) IC 16-27-1;

(B) IC 16-28;

~~(C) IC 16-29-1;~~

~~(D)~~ **(C)** IC 16-30;

~~(E)~~ **(D)** IC 12-28-4; or

~~(F)~~ **(E)** IC 12-28-5;

(2) by an agency described by IC 25-1-8-1; or

(3) by the board of podiatric medicine.

SECTION 141. IC 35-38-1-17, AS AMENDED BY P.L.2-2005, SECTION 123, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) Within three hundred sixty-five (365) days after:

(1) a convicted person begins serving the **person's** sentence; ~~imposed on the person;~~

(2) a hearing is held:

(A) at which the convicted person is present; and

(B) of which the prosecuting attorney has been notified; and

(3) the court obtains a report from the department of correction concerning the convicted person's conduct while imprisoned;

the court may reduce or suspend the sentence. The court must incorporate its reasons in the record.

(b) If more than three hundred sixty-five (365) days have elapsed since the convicted person began serving the sentence and after a hearing at which the convicted person is present, the court may reduce or suspend the sentence, subject to the approval of the prosecuting attorney. However, if in a sentencing hearing for a convicted person conducted after June 30, 2001, the court could have placed the convicted person in a community corrections program as an alternative to commitment to the department of correction, the court may modify the convicted person's sentence under this section without the approval of the prosecuting attorney to place the convicted person in a community corrections program under IC 35-38-2.6.

(c) The court must give notice of the order to reduce or suspend the sentence under this section to the victim (as defined in IC 35-35-3-1) of the crime for which the convicted person is serving the sentence.

(d) The court may suspend a sentence for a felony under this section only if suspension is permitted under IC 35-50-2-2.

(e) The court may deny a request to suspend or reduce a sentence under this section without making written findings and conclusions.

(f) Notwithstanding subsections (a) and (b), the court is not required to conduct a hearing before reducing or suspending a sentence if:

(1) the prosecuting attorney has filed with the court an agreement of the reduction or suspension of the sentence; and

(2) the convicted person has filed with the court a waiver of the right to be present when the order to reduce or suspend the sentence is considered.

SECTION 142. IC 35-38-2-2.4, AS AMENDED BY P.L.173-2006, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.4. As a condition of probation, the court may require a sex offender (as defined in ~~IC 11-8-8-5)~~ **IC 11-8-8-4.5)** to:

(1) participate in a treatment program for sex offenders approved by the court; and

(2) avoid contact with any person who is less than sixteen (16) years of age unless the probationer:

(A) receives the court's approval; or

(B) successfully completes the treatment program referred to in subdivision (1).

SECTION 143. IC 35-41-1-3.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.4. "Apartment complex" means real property consisting of at least five (5) units that are regularly used to rent or otherwise furnish residential accommodations for periods of at least thirty (30) days.**

SECTION 144. IC 35-41-1-10.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 10.3. "The effects of battery" refers to a psychological condition of an individual who has suffered repeated physical or sexual abuse inflicted by another individual who is the:**

(1) victim of an alleged crime for which the abused individual is charged in a pending prosecution; and

(2) abused individual's:

(A) spouse or former spouse;

(B) parent;

(C) guardian or former guardian;

(D) custodian or former custodian; or

(E) cohabitant or former cohabitant.

SECTION 145. IC 36-1-12-1, AS AMENDED BY P.L.71-2009, SECTION 4, AND AS AMENDED BY P.L.99-2009, SECTION 3, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Except as provided in this section, this chapter applies to all public work performed or contracted for by:

(1) political subdivisions; and

(2) their agencies;

regardless of whether it is performed on property owned or leased by the political subdivision or agency.

(b) This chapter does not apply to an officer or agent who, on behalf of a municipal utility, maintains, extends, and installs services of the utility if the necessary work is done by the employees of the utility.

(c) This chapter does not apply to hospitals organized or operated under IC 16-22-1 through IC 16-22-5 or IC 16-23-1, unless the public work is financed in whole or in part with cumulative building fund revenue.

(d) This chapter does not apply to tax exempt Indiana nonprofit corporations leasing and operating a city market owned by a political subdivision.

(e) As an alternative to this chapter, the governing body of a political subdivision or its agencies may do the following:

(1) Enter into a design-build contract as permitted under IC 5-30.

(2) Participate in a utility efficiency program or ~~*may*~~ enter into a guaranteed savings contract as permitted under IC 36-1-12.5.

(f) This chapter does not apply to a person that has entered into an operating agreement with a political subdivision or an agency of a political subdivision under IC 5-23.

SECTION 146. IC 36-1-12.5-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. As used in this chapter, "industry engineering standards" includes the following:

(1) Lifecycle costing.

(2) The R. S. Means estimating method developed by the R. S. Means Company.

(3) Historical data.

(4) Manufacturer's data.

(5) American ~~Standard~~ **Society of** Heating, Refrigeration, **and** Air Conditioning Engineers (ASHRAE) standards.

SECTION 147. IC 36-2-10-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) Before the sixteenth day of each month, the treasurer shall prepare a report showing, as of the close of business on the last day of the preceding month, the following items:

(1) The total amount of taxes collected and not included in the last semiannual settlement of taxes, and the amount of taxes omitted from any preceding semiannual settlements, except for taxes advanced to the state or a municipal corporation in the county and for which an advance settlement has been made.

(2) The total amount of ~~taxes collected under IC 6-5-10, IC 6-5-11, and IC 6-5-12 and~~ distributions under IC 6-5.5 that are not included in the last semiannual settlement of taxes, and the

amount of those taxes omitted from any preceding semiannual settlements.

(3) The totals of money received from all other sources and not receipted into the ledger fund accounts of the county at the end of the month.

(4) The total of the balances in all ledger fund accounts.

(5) The total amount of cash in each depository at the close of business on the last day of the month.

(6) The total of county warrants issued against each depository that are outstanding and unpaid at the end of the month.

(7) The record balance of money in each depository at the end of the month.

(8) The cash in the office at the close of the last day of the month.

(9) Other items for which the treasurer is entitled to credit.

The treasurer shall prepare the report in quadruplicate and verify each copy. The treasurer shall retain one (1) copy as a public record and file three (3) copies with the county auditor. The state board of accounts shall prescribe forms for the report in the detail it considers necessary under this section and IC 5-13-6-1.

(b) The treasurer shall make the monthly report required by IC 36-2-6-14.

SECTION 148. IC 36-6-4-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) When twenty-five (25) or more resident freeholders of a township file a petition with the circuit court of the county, alleging that the township executive is incapable of performing his duties due to mental or physical incapacity, the clerk of the court shall issue a summons to be served on the executive. The summons is returnable not less than ten (10) days from its date of issue.

(b) Immediately following the return date set out on the summons, the circuit court shall hold a hearing on the matter alleged in the petition. After hearing the evidence and being fully advised, the court shall enter its findings and judgment.

(c) If the court finds the executive incapable of performing the duties of office, the clerk of the court shall certify a copy of the judgment to the county executive, which shall, within five (5) days, appoint a resident of the township as acting executive of the township during the incapacity of the executive.

(d) The acting executive shall execute and file a bond in an amount fixed by the county auditor. After taking the oath of office, the acting executive has all the powers and duties of the executive.

(e) The acting executive is entitled to the salary and benefits provided by this article for the executive. ~~An incapacitated executive is entitled to the minimum salary fixed by IC 36-6-8-2, for which no appropriation is necessary.~~

(f) When an incapacitated executive files a petition with the circuit court of the county alleging that ~~he~~ **the executive** is restored to mental or physical ability to perform the duties of office, the court shall immediately hold a hearing on the matters alleged. After hearing the evidence and being fully advised, the court shall enter its findings and judgment.

(g) If the court finds the executive capable of resuming duties, the clerk of the court shall certify a copy of the judgment to the county executive, which shall, within five (5) days, revoke the appointment of the acting executive.

(h) For purposes of this section, the board of county commissioners is considered the executive of a county having a consolidated city.

SECTION 149. IC 36-7-9-5, AS AMENDED BY P.L.88-2009, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The enforcement authority may issue an order requiring action relative to any unsafe premises, including:

(1) vacating of an unsafe building;

(2) sealing an unsafe building against intrusion by unauthorized persons, in accordance with a uniform standard established by ordinance;

(3) extermination of vermin in and about the unsafe premises;

(4) removal of trash, debris, fire hazardous material, or a public health hazard in and about the unsafe premises;

(5) repair or rehabilitation of an unsafe building to bring it into compliance with standards for building condition or maintenance required for human habitation, occupancy, or use by a statute, a rule adopted under IC 4-22-2, or an ordinance;

(6) demolition and removal of part of an unsafe building;

(7) demolition and removal of an unsafe building if:

(A) the general condition of the building warrants removal; or

(B) the building continues to require reinspection and

additional abatement action after an initial abatement action was taken pursuant to notice and an order; and

(8) requiring, for an unsafe building that will be sealed for a period of more than ninety (90) days:

(A) sealing against intrusion by unauthorized persons and the effects of weather;

(B) exterior improvements to make the building compatible in appearance with other buildings in the area; and

(C) continuing maintenance and upkeep of the building and premises;

in accordance with standards established by ordinance.

Notice of the order must be given under section 25 of this chapter. The ordered action must be reasonably related to the condition of the unsafe premises and the nature and use of nearby properties. The order supersedes any permit relating to building or land use, whether that permit is obtained before or after the order is issued.

(b) The order must contain:

(1) the name of the person to whom the order is issued;

(2) the legal description or address of the unsafe premises that are the subject of the order;

(3) the action that the order requires;

(4) the period of time in which the action is required to be accomplished, measured from the time when the notice of the order is given;

(5) if a hearing is required, a statement indicating the exact time and place of the hearing, and stating that person to whom the order was issued is entitled to appear at the hearing with or without legal counsel, present evidence, cross-examine opposing witnesses, and present arguments;

(6) if a hearing is not required, a statement that an order under subsection (a)(2), (a)(3), (a)(4), or (a)(5) becomes final ten (10) days after notice is given, unless a hearing is requested in writing by a person holding a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises, and the request is delivered to the enforcement authority before the end of the ten (10) day period;

(7) a statement briefly indicating what action can be taken by the enforcement authority if the order is not complied with;

(8) a statement indicating the obligation created by section 27 of this chapter relating to notification of subsequent interest holders and the enforcement authority; and

(9) the name, address, and telephone number of the enforcement authority.

(c) The order must allow a sufficient time, of at least ten (10) days, but not more than sixty (60) days, from the time when notice of the order is given, to accomplish the required action. If the order allows more than thirty (30) days to accomplish the action, the order may require that a substantial beginning be made in accomplishing the action within thirty (30) days.

(d) The order expires two (2) years from the day the notice of the order is given, unless one (1) or more of the following events occurs within that two (2) year period:

(1) A complaint requesting judicial review is filed under ~~section 9~~ **section 8** of this chapter.

(2) A contract for action required by the order is let at public bid under section 11 of this chapter.

(3) A civil action is filed under section 17 of this chapter.

SECTION 150. IC 36-7-22-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. ~~(a) The board must comply with IC 36-1-9 when purchasing materials or equipment.~~

~~(b)~~ The board must comply with IC 36-1-12 when contracting for public works.

SECTION 151. IC 36-8-10-15, AS AMENDED BY P.L.99-2007, SECTION 221, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) The department may establish and operate a disability benefit program for the payment of disability expense reimbursement and pensions to ~~beneficiaries of an~~ employee **beneficiaries** with a disability. The department may provide these benefits by the creation of a reserve account, by obtaining disability insurance coverage, or both. However, the department may not establish or modify a disability benefit program after June 30, 1989, without the approval of the county fiscal body which shall not reduce or diminish any disability benefits set forth in any disability program that was in effect on January 1, 1989.

(b) Benefits payable as a result of line of duty activities, including a disability presumed incurred in the line of duty under IC 5-10-13,

must be in reasonable amounts. Monthly benefits payable as a result of other activities may not exceed the amount of pension to which that employee beneficiary employed until normal retirement age would have been entitled.

SECTION 152. IC 36-8-10.5-7, AS AMENDED BY P.L.93-2009, SECTION 3, AND AS AMENDED BY P.L.110-2009, SECTION 17, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The education board shall adopt rules under IC 4-22-2 establishing minimum basic training requirements for full-time firefighters and volunteer firefighters, subject to subsection (b) *and section 7.5 of this chapter.* The requirements must include training in the following areas:

(1) Orientation.
(2) Personal safety.
(3) Forcible entry.
(4) Ventilation.
(5) Apparatus.
(6) Ladders.
(7) Self-contained breathing apparatus.
(8) Hose loads.
(9) Streams.
(10) Basic recognition of special hazards.

(b) A person who fulfills the certification requirements for:

(1) Firefighter I, as described in 655 IAC 1-2.1-4; or
(2) Firefighter II, as described in 655 IAC 1-2.1-5;

is considered to comply with the requirements established under subsection (a).

(c) In addition to the requirements of subsections (a) and (d), the minimum basic training requirements for full-time firefighters and volunteer firefighters must include successful completion of a basic or inservice course of education and training on sudden infant death syndrome that is certified by the *Indiana* emergency medical services commission (created under IC 16-31-2-1) in conjunction with the state health commissioner.

(d) In addition to the requirements of subsections (a) and (c), the minimum basic training requirements for full-time and volunteer firefighters must include successful completion of an instruction course on vehicle emergency response driving safety. The education board

shall adopt rules under IC 4-22-2 to operate this course.

(e) In addition to the requirements of subsections (a), (c), and (d), the minimum basic training requirements for full-time and volunteer firefighters must include successful completion of a basic or inservice course of education and training in interacting with individuals with autism that is certified by the Indiana emergency medical services commission (created under IC 16-31-2-1).

SECTION 153. IC 36-8-12-10.9, AS AMENDED BY P.L.63-2009, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10.9. (a) The employer may require an employee who will be absent from employment as set forth in:

(1) section 10.5(c)(1); or

(2) section 10.7(b)(1);

of this chapter to notify the employer before the scheduled start time for the absence from employment to be excused by the employer.

(b) The employer is not required to pay salary or wages to an employee who has been absent from employment as set forth in section 10.5(c) or 10.7(b) of this chapter for the time away from the employee's duty station. The employee may seek remuneration for the absence from employment by the use of:

(1) vacation leave;

(2) personal time;

(3) compensatory time off; or

(4) in the case of an absence from employment as set forth in section 10.5(c)(3) or 10.7(b)(3) of this chapter, sick leave.

(c) An employer shall administer an absence from employment as set forth in section 10.5(c)(3) or 10.7(b)(3) **of this chapter** in a manner consistent with the federal Family and Medical Leave Act of 1993 (29 U.S.C. 2601 et seq.), as amended and in effect on January 1, 2009.

SECTION 154. IC 36-8-12-13, AS AMENDED BY P.L.182-2009, SECTION 435, AND AS AMENDED BY P.L.127-2009, SECTION 12, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) A volunteer fire department may impose a charge on the owner of property, the owner of a vehicle, or a responsible party (as defined in ~~*IC 13-11-2-191(d))*~~ *IC 13-11-2-191(e))* that is involved in a hazardous material or fuel spill or chemical or hazardous material related fire (as defined in IC 13-11-2-96(b)):

(1) that is responded to by the volunteer fire department; and

(2) that members of that volunteer fire department assisted in extinguishing, containing, or cleaning up.

(b) The volunteer fire department shall bill the owner or responsible party of the vehicle for the total dollar value of the assistance that was provided, with that value determined by a method that the state fire marshal shall establish under IC 36-8-12-16. A copy of the fire incident report to the state fire marshal must accompany the bill. This billing must take place within thirty (30) days after the assistance was provided. The owner or responsible party shall remit payment directly to the governmental unit providing the service. Any money that is collected under this section may be:

(1) deposited in the township firefighting fund established in IC 36-8-13-4;

(2) used to pay principal and interest on a loan made by the department of homeland security established by IC 10-19-2-1 or a division of the department for the purchase of new or used firefighting and other emergency equipment or apparatus; or

(3) used for the purchase of equipment, buildings, and property for firefighting, fire protection, and other emergency services.

(c) Any administrative fees charged by a fire department's agent must be paid only from fees that are collected and allowed by Indiana law and the fire marshal's schedule of fees.

(d) An agent who processes fees on behalf of a fire department shall send all bills, notices, and other related materials to both the fire department and the person being billed for services.

(e) All fees allowed by Indiana law and the fire marshal's fee schedule must be itemized separately from any other charges.

~~(c)~~ *(f)* The volunteer fire department may maintain a civil action to recover an unpaid charge that is imposed under subsection (a).

SECTION 155. IC 36-12-7-8, AS ADDED BY P.L.214-2005, SECTION 76, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) As used in this section:

(1) "county fiscal body" means the fiscal body of a county in which a private donation library is located;

(2) "library board" means a library board established under IC 20-14 **(before its repeal) or this article** in a county in which a private donation library is located; and

(3) "private donation library" means a public library:

(A) established by private donation;

(B) located in a city having a population of more than one hundred twenty thousand (120,000) but less than one hundred fifty thousand (150,000);

(C) that contains at least twenty-five thousand (25,000) volumes;

(D) that has real property valued at at least one hundred thousand dollars ($100,000); and

(E) that is open and free to the residents of the city.

(b) The library board shall:

(1) levy a tax under IC 6-1.1 in an amount not less than sixty-seven hundredths of one cent ($0.0067) and not more than one and sixty-seven hundredths cents ($0.0167) on each one hundred dollars ($100) of the assessed valuation of all the real and personal property in the county;

(2) keep the tax levied under subdivision (1) separate from all other funds of the library board; and

(3) use the tax levied under subdivision (1):

(A) if the membership of the trustees of the private donation library includes at least one (1) member or appointee of the library board and at least one (1) appointee of the county fiscal body, for distributions of the full amounts of the tax received to the trustees of the private donation library at the time the tax is received by the library board; or

(B) if the membership of the trustees of the private donation library does not include at least one (1) member or appointee of the library board and at least one (1) appointee of the county fiscal body, at the discretion of the library board for:

(i) library board purposes; or

(ii) quarterly distributions to the trustees of the private donation library.

(c) If requested by the trustees of the private donation library, the library board shall designate a member of the library board or appoint an individual to serve as a trustee of the private donation library. If requested by the trustees of the private donation library, the county fiscal body shall appoint an individual to serve as a trustee of the private donation library.

(d) The trustees of the private donation library shall annually submit a budget to the library board.

(e) The trustees of the private donation library shall expend amounts received under subsection (b)(3)(A) or (b)(3)(B)(ii) for the support, operation, and maintenance of the private donation library. The trustees shall:

(1) keep the money separate from all other funds;

(2) record:

(A) the amount of money received;

(B) to whom and when the money is paid out; and

(C) for what purpose the money is used;

in a book kept by the trustees; and

(3) make an annual report of the matters referred to in subdivision (2) to the library board.

(f) For purposes of the property tax levy limits under IC 6-1.1-18.5, the tax levied by the library board under subsection (b)(1) is not included in the calculation of the maximum permissible property tax levy for the public library.

SECTION 156. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: IC 1-1-3.2; IC 4-13.6-6-2.7; IC 5-1-16-37; IC 6-1.1-37-10.5; IC 8-1-17-18.1; IC 9-13-2-27.5; IC 9-13-2-80; IC 9-27-4; IC 9-29-12-1; IC 9-29-12-2; IC 12-7-2-56.5; IC 12-7-2-118.5; IC 14-23-3-3; IC 15-13-9; IC 16-21-6-4; IC 20-19-3-9; IC 20-43-3-3; IC 20-46-5-6; IC 20-46-6-8; IC 31-9-2-122; IC 34-30-2-45.2; IC 35-41-1-3.1; IC 35-41-1-3.3.

SECTION 157. P.L.131-2009, SECTION 77, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: SECTION 77. (a) The department of child services, in cooperation with the department of education, shall develop and coordinate the education advocates for children in foster care plan. The plan must:

(1) specify the best approach to coordinate the transfer of a child in foster care between schools and between school districts, including the transfer of a child's school records and any individual education plans;

(2) address specific educational issues encountered by children in foster care;

(3) specify with whom the department may partner to assist with the educational needs of a child in foster care;

(4) specify how school corporation liaisons, under IC 20-50-1, and the programs for tutoring and mentoring for homeless children and foster care children, under ~~IC 20-5-2,~~ **IC 20-50-2,** could assist the department with foster care children; and

(5) recommend legislation to fulfill the plan.

(b) The department shall submit a report to the governor and the legislative council before July 1, 2010. The report must include details of the plan described in subsection (a). The report submitted to the legislative council must be in an electronic format under IC 5-14-6.

(c) This SECTION expires December 31, 2010.

SECTION 158. P.L.127-2009, SECTION 14, IS REPEALED [EFFECTIVE UPON PASSAGE].

SECTION 159. **An emergency is declared for this act.**

P.L.2-2010
[S.31. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-19-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) Except as provided in subsection (b), a motorcycle operated on the streets or highways by a resident of Indiana must meet the following requirements:

(1) Be equipped with handlebars that rise not ~~more than fifteen (15) inches above the level of~~ **higher than the shoulders of the driver when the driver is seated in** the driver's seat or saddle. ~~when occupied.~~

(2) Be equipped with brakes in good working order on both front and rear wheels.

(3) Be equipped with footrests or pegs for both operator and passenger.

(4) Be equipped with lamps and reflectors meeting the standards of the United States Department of Transportation.

(b) A motorcycle manufactured before January 1, 1956, is not required to be equipped with lamps and other illuminating devices under subsection (a) if the motorcycle is not operated at the times when lighted head lamps and other illuminating devices are required under IC 9-21-7-2.

P.L.3-2010
[S.36. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning courts and court officers.

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

SECTION 1. IC 33-27-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) Except as provided in subsection (b), a person may not be certified under this section if:

(1) the person:

(A) has not served as a judge**,** ~~or~~ justice**, or magistrate**; or

(B) is still serving as a judge**,** ~~or~~ justice**, or magistrate**;

of a court of record in Indiana;

(2) the person is not available for the minimum period of commitment for service as a senior judge specified by the supreme court under IC 33-24-3-7; or

(3) the combination of:

(A) the compensation for senior judges set under IC 33-23-3-5; and

(B) any retirement benefits that the person is receiving or is entitled to receive;

exceeds the minimum compensation to which judges of the circuit

court are entitled under IC 33-38-5.

(b) A person who elects to forgo retirement benefits during the period of commitment as a senior judge may be certified as a senior judge under section 2 of this chapter upon verification by the judicial nominating commission of the availability to the person of the election.

P.L.4-2010
[S.46. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning health.

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

SECTION 1. IC 16-36-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) Except as provided in subsections (b) ~~and (c),~~ **through (d),** unless incapable of consenting under section 4 of this chapter, an individual may consent to the individual's own health care if the individual is:

(1) an adult; or

(2) a minor and:

(A) is emancipated;

(B) is:

(i) at least fourteen (14) years of age;

(ii) not dependent on a parent for support;

(iii) living apart from the minor's parents or from an individual in loco parentis; and

(iv) managing the minor's own affairs;

(C) is or has been married;

(D) is in the military service of the United States; or

(E) is authorized to consent to the health care by any other statute.

(b) A person at least seventeen (17) years of age is eligible to donate blood in a voluntary and noncompensatory blood program without

obtaining parental permission.

(c) A person who is sixteen (16) years of age is eligible to donate blood in a voluntary and noncompensatory blood program if the person has obtained written permission from the person's parent.

~~(c)~~ **(d)** An individual who has, suspects that the individual has, or has been exposed to a venereal disease is competent to give consent for medical or hospital care or treatment of the individual.

P.L.5-2010
[S.64. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning property.

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

SECTION 1. IC 32-21-13 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

Chapter 13. Display of Political Signs on Property Subject to Restrictive Covenants or Homeowners Association Rules

Sec. 1. The definitions in IC 3-5-2 apply to this chapter.

Sec. 2. As used in this chapter, "rules" refers to any of the following:

(1) A restrictive covenant.

(2) A homeowners association rule.

Sec. 3. As used in this chapter, "sign" refers only to a sign advocating:

(1) the election or defeat of one (1) or more candidates for:

(A) nomination; or

(B) election;

to a public office;

(2) support for or opposition to:

(A) a political party; or

(B) a political party's candidates; or

(3) the approval or disapproval of a public question.

Sec. 4. Except as provided in section 5 of this chapter, a homeowners association may not adopt or enforce a rule that prohibits a member of the homeowners association from displaying a sign on the member's property during the period:

(1) beginning thirty (30) days before; and

(2) ending five (5) days after;

the date of the election to which the sign relates.

Sec. 5. A homeowners association may adopt and enforce rules relating to a sign described in section 3 of this chapter if the rules do any of the following:

(1) Restrict the size of a sign if the rule permits a homeowner to display a sign that is at least as large as signs commonly displayed during election campaigns.

(2) Restrict the number of signs that may be displayed if the rule permits a homeowner to display a reasonable number of signs.

(3) Restrict the locations where a sign may be displayed. However, a restriction under this subdivision may not prohibit the display of a sign:

(A) in a window on the homeowner's property; or

(B) on the ground that is part of the homeowner's property.

Sec. 6. A homeowners association may remove a sign that violates the rules permitted by this chapter.

P.L.6-2010
[S.65. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning probate.

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

SECTION 1. IC 6-4.1-4-0.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 0.5. (a) No inheritance tax return is required under this chapter unless the total fair market value of the property interests transferred by the decedent to a transferee under a taxable transfer or transfers exceeds the exemption provided to the transferee under IC 6-4.1-3-10 through IC 6-4.1-3-12. For purposes of this section, the fair market value of a property interest is its fair market value as of the appraisal date prescribed by IC 6-4.1-5-1.5.

(b) ~~The department of state revenue shall prescribe the~~ **An** affidavit ~~form that may be used to state that no inheritance tax is due after applying the exemptions under IC 6-4.1-3. The~~ **may be used to state that no inheritance tax is due after applying the exemptions under IC 6-4.1-3. The affidavit must contain the following information:**

(1) The decedent's name and date of death.

(2) The name of each known transferee and the transferee's relationship to the decedent.

(3) The total value of property transferred to each known transferee as a result of the decedent's death.

(4) A statement that the total value of property transferred to each known transferee as a result of the decedent's death is less than the amount of the exemption provided to the transferee under IC 6-4.1-3.

(c) An affidavit **described in subsection (b)** may be:

(1) recorded in the office of the county recorder if the affidavit concerns real property and includes the legal description of the real property in the decedent's estate; or

(2) submitted as required by IC 6-4.1-8-4 if the affidavit concerns personal property.

If consent by the department of state revenue or the appropriate county assessor is required under IC 6-4.1-8-4 for the transfer of personal property, the affidavit must be submitted with a request for a consent to transfer under IC 6-4.1-8-4.

~~(c)~~ **(d)** If consent by the department of state revenue or the appropriate county assessor is required under IC 6-4.1-8-4 before personal property may be transferred and the department of state revenue or the appropriate county assessor consents to a transfer of personal property under IC 6-4.1-8-4 after considering an affidavit described in subsection (b), the full value of the personal property may be transferred.

~~(d)~~ **(e)** The department of state revenue or the appropriate county assessor may rely upon an affidavit ~~prescribed by the department of state revenue under~~ **described in** subsection (b) to determine that a transfer will not jeopardize the collection of inheritance tax for purposes of IC 6-4.1-8-4(e).

~~(e)~~ **(f)** It is presumed that no inheritance tax is due and that no inheritance tax return is required if an affidavit described in subsection (b) was:

(1) properly executed; and

(2) recorded in the decedent's county of residence or submitted under IC 6-4.1-8-4.

~~(f)~~ **(g)** Except as provided in subsection ~~(h),~~ **(i),** a lien attached under IC 6-4.1-8-1 to the real property owned by a decedent terminates when an affidavit described in subsection (b) is:

(1) properly executed; and

(2) recorded in the county in which the real property is located.

~~(g)~~ **(h)** Except as provided in subsection ~~(h),~~ **(i),** a lien attached under IC 6-4.1-8-1 to personal property that is owned by the decedent terminates when:

(1) an affidavit described in subsection (b) is properly executed;

(2) the affidavit described in subsection (b) is submitted to the department of state revenue or the appropriate county assessor in conformity with IC 6-4.1-8-4; and

(3) the department of state revenue or the appropriate county assessor consents to the transfer.

However, subdivision (3) does not apply if consent of the department of state revenue or the appropriate county assessor is not required under IC 6-4.1-8-4 before the property may be transferred.

~~(h)~~ **(i)** A lien terminated under subsection ~~(f)~~ **(g)** or ~~(g)~~ **(h)** is reattached to the property under IC 6-4.1-8-1 if the department of state revenue obtains an order that an inheritance tax is owed.

SECTION 2. IC 6-4.1-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) Except as otherwise provided in section 0.5 of this chapter or in IC 6-4.1-5-8, the personal representative of a resident decedent's estate or the trustee or transferee of property transferred by the decedent shall file an inheritance tax return with the appropriate probate court within nine (9) months after the date of the decedent's death. The person filing the return shall file it under oath on the forms prescribed by the department of state revenue. The return shall:

(1) contain a statement of all property interests transferred by the decedent under taxable transfers **known to the person filing the return;**

(2) indicate the fair market value, as of the appraisal date prescribed by IC 6-4.1-5-1.5, of each property interest included in the statement;

(3) contain an itemized list of all inheritance tax deductions claimed with respect to property interests included in the statement;

(4) contain a list which indicates the name and address of each transferee of the property interests included in the statement and which indicates the total value of the property interests transferred to each transferee; and

(5) contain the name and address of the attorney for the personal representative or for the person filing the return.

(b) If the decedent died testate, the person filing the return shall attach a copy of the decedent's will to the return.

SECTION 3. IC 6-4.1-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. (a) Except as otherwise provided in section 0.5 of this chapter, the personal representative of a nonresident decedent's estate or the trustee or transferee of property transferred by the decedent shall file an inheritance tax return with the department of state revenue within nine

(9) months after the date of the decedent's death. The person filing the return shall file it under oath on the forms prescribed by the department of state revenue. The return shall:

(1) contain a statement of all property interests transferred by the decedent under taxable transfers **known to the person filing the return;**

(2) indicate the fair market value, as of the appraisal date prescribed by IC 6-4.1-5-1.5, of each property interest included in the statement;

(3) contain an itemized list of all inheritance tax deductions claimed with respect to property interests included in the statement;

(4) contain a list which indicates the name and address of each transferee of the property interests included in the statement and which indicates the total value of the property interests transferred to each transferee; and

(5) contain the name and address of the attorney for the personal representative or for the person filing the return.

(b) If the decedent died testate, the person filing the return shall attach a copy of the decedent's will to the return.

SECTION 4. IC 9-17-3-9, AS AMENDED BY P.L.143-2009, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9. (a) An individual whose certificate of title for a vehicle indicates that the individual is the sole owner of the vehicle may create an interest in the vehicle that is transferrable on the death of the individual by obtaining a certificate of title conveying the interest in the vehicle to one (1) or more named individuals as transfer on death beneficiaries.

(b) Subject to subsection (e), an interest in a vehicle transferred under this section vests upon the death of the transferor.

(c) A certificate of title that is:

(1) worded in substance as "A.B. transfers on death to C.D."; and

(2) signed by the transferor;

is a good and sufficient conveyance on the death of the transferor to the transferee.

(d) A certificate of title obtained under this section is not required to be:

(1) supported by consideration; or

(2) delivered to the named transfer on death beneficiary;

to be effective.

(e) Upon the death of an individual conveying an interest in a vehicle in a certificate of title obtained under this section, the interest in the vehicle is transferred to each beneficiary who **is described by either of the following:**

(1) The beneficiary:

~~(1)~~ **(A)** is named in the certificate; and

~~(2)~~ **(B)** survives the transferor.

(2) The beneficiary:

(A) survives the transferor; and

(B) is entitled to an interest in the vehicle under IC 32-17-14-22 following the death of a beneficiary who:

(i) is named in the certificate; and

(ii) did not survive the transferor.

(f) A transfer of an interest in a vehicle under this section is subject to IC 6-4.1.

(g) A certificate of title designating a transfer on death beneficiary is not testamentary.

(h) In general, IC 32-17-14 applies to a certificate of title designating a transfer on death beneficiary. However, a particular provision of IC 32-17-14 does not apply if it is inconsistent with the requirements of this section or IC 9-17-2-2(b).

SECTION 5. IC 9-31-2-30, AS AMENDED BY P.L.143-2009, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 30. (a) An individual whose certificate of title for a watercraft indicates that the individual is the sole owner of the watercraft may create an interest in the watercraft that is transferrable on the death of the individual by obtaining a certificate of title conveying the interest in the watercraft to one (1) or more named individuals as transfer on death beneficiaries.

(b) Subject to subsection (e), an interest in a watercraft transferred under this section vests upon the death of the transferor.

(c) A certificate of title that is:

(1) worded in substance as "A.B. transfers on death to C.D."; and

(2) signed by the transferor;

is a good and sufficient conveyance on the death of the transferor to the transferee.

(d) A certificate of title obtained under this section is not required to be:

(1) supported by consideration; or

(2) delivered to the named transfer on death beneficiary;

to be effective.

(e) Upon the death of an individual conveying an interest in a watercraft in a certificate of title obtained under this section, the interest in the watercraft is transferred to each beneficiary who **is described by either of the following:**

(1) The beneficiary:

~~(1)~~ **(A)** is named in the certificate; and

~~(2)~~ **(B)** survives the transferor.

(2) The beneficiary:

(A) survives the transferor; and

(B) is entitled to an interest in the watercraft under IC 32-17-14-22 following the death of a beneficiary who:

(i) is named in the certificate; and

(ii) did not survive the transferor.

(f) A transfer of an interest in a watercraft under this section is subject to IC 6-4.1.

(g) A certificate of title designating a transfer on death beneficiary is not testamentary.

(h) In general, IC 32-17-14 applies to a certificate of title designating a transfer on death beneficiary. However, a particular provision of IC 32-17-14 does not apply if it is inconsistent with the requirements of this section or IC 9-31-2-16.

SECTION 6. IC 29-1-6-1, AS AMENDED BY P.L.238-2005, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE DECEMBER 1, 2009 (RETROACTIVE)]: Sec. 1. In the absence of a contrary intent appearing in the will, wills shall be construed as to real and personal estate in accordance with the rules in this section.

(a) Any estate, right, or interest in land or other things acquired by the testator after the making of the testator's will shall pass as if title was vested in the testator at the time of making of the will.

(b) All devises of real estate shall pass the whole estate of the testator in the premises devised, although there are no words of inheritance or of perpetuity, whether or not at the time of the execution of the will the decedent was the owner of that particular interest in the

real estate devised. Such devise shall also pass any interest which the testator may have at the time of the testator's death as vendor under a contract for the sale of such real estate.

(c) A devise of real or personal estate, whether directly or in trust, to the testator's or another designated person's "heirs", "next of kin", "relatives", or "family", or to "the persons thereunto entitled under the intestate laws" or to persons described by words of similar import, shall mean those persons (including the spouse) who would take under the intestate laws if the testator or other designated person were to die intestate at the time when such class is to be ascertained, domiciled in this state, and owning the estate so devised. With respect to a devise which does not take effect at the testator's death, the time when such class is to be ascertained shall be the time when the devise is to take effect in enjoyment.

(d) In construing a will making a devise to a person or persons described by relationship to the testator or to another, any person adopted prior to the person's twenty-first birthday before the death of the testator shall be considered the child of the adopting parent or parents and not the child of the natural or previous adopting parents. However, if a natural parent or previous adopting parent marries the adopting parent before the testator's death, the adopted person shall also be considered the child of such natural or previous adopting parent. Any person adopted after the person's twenty-first birthday by the testator shall be considered the child of the testator, but no other person shall be entitled to establish relationship to the testator through such child.

(e) In construing a will making a devise to a person described by relationship to the testator or to another, a person born out of wedlock shall be considered the child of the child's mother, and also of the child's father, if, but only if, the child's right to inherit from the child's father is, or has been, established in the manner provided in IC 29-1-2-7.

(f) A will shall not operate as the exercise of a power of appointment which the testator may have with respect to any real or personal estate, unless by its terms the will specifically indicates that the testator intended to exercise the power.

(g) If a devise of real or personal property, not included in the residuary clause of the will, is void, is revoked, or lapses, it shall

become a part of the residue, and shall pass to the residuary devisee. Whenever any estate, real or personal, shall be devised to any descendant of the testator, and such devisee shall die during the lifetime of the testator, whether before or after the execution of the will, leaving a descendant who shall survive such testator, such devise shall not lapse, but the property so devised shall vest in the surviving descendant of the devisee as if such devisee had survived the testator and died intestate. The word "descendant", as used in this section, includes children adopted during minority by the testator and by the testator's descendants and includes descendants of such adopted children. "Descendant" also includes children of the mother who are born out of wedlock, and children of the father who are born out of wedlock, if, but only if, such child's right to inherit from such father is, or has been, established in the manner provided in IC 29-1-2-7. This rule applies where the parent is a descendant of the testator as well as where the parent is the testator. Descendants of such children shall also be included.

(h) Except as provided in subsection (m), if a testator in the testator's will refers to a writing of any kind, such writing, whether subsequently amended or revoked, as it existed at the time of execution of the will, shall be given the same effect as if set forth at length in the will, if such writing is clearly identified in the will and is in existence both at the time of the execution of the will and at the testator's death.

(i) If a testator devises real or personal property upon such terms that the testator's intentions with respect to such devise can be determined at the testator's death only by reference to a fact or an event independent of the will, such devise shall be valid and effective if the testator's intention can be clearly ascertained by taking into consideration such fact or event even though occurring after the execution of the will.

(j) If a testator devises or bequeaths property to be added to a trust or trust fund which is clearly identified in the testator's will and which trust is in existence at the time of the death of the testator, such devise or bequest shall be valid and effective. Unless the will provides otherwise, the property so devised or bequeathed shall be subject to the terms and provisions of the instrument or instruments creating or governing the trust or trust fund, including any amendments or modifications in writing made at any time before or after the execution

of the will and before or after the death of the testator.

(k) If a testator devises securities in a will and the testator then owned securities that meet the description in the will, the devise includes additional securities owned by the testator at death to the extent the additional securities were acquired by the testator after the will was executed as a result of the testator's ownership of the described securities and are securities of any of the following types:

(1) Securities of the same organization acquired because of an action initiated by the organization or any successor, related, or acquiring organization, excluding any security acquired by exercise of purchase options.

(2) Securities of another organization acquired as a result of a merger, consolidation, reorganization, or other distribution by the organization or any successor, related, or acquiring organization.

(3) Securities of the same organization acquired as a result of a plan of reinvestment.

Distributions in cash before death with respect to a described security are not part of the devise.

(l) For purposes of this subsection, "incapacitated principal" means a principal who is an incapacitated person. An adjudication of incapacity before death is not necessary. The acts of an agent within the authority of a durable power of attorney are presumed to be for an incapacitated principal. If:

(1) specifically devised property is sold or mortgaged by; or

(2) a condemnation award, insurance proceeds, or recovery for injury to specifically devised property are paid to;

a guardian or an agent acting within the authority of a durable power of attorney for an incapacitated principal, the specific devisee has the right to a general pecuniary devise equal to the net sale price, the amount of the unpaid loan, the condemnation award, the insurance proceeds, or the recovery.

(m) A written statement or list that:

(1) complies with this subsection; and

(2) is referred to in a will;

may be used to dispose of items of tangible personal property, other than property used in a trade or business, not otherwise specifically disposed of by the will. To be admissible under this subsection as evidence of the intended disposition, the writing must be signed by the

testator and must describe the items and the beneficiaries with reasonable certainty. The writing may be prepared before or after the execution of the will. The writing may be altered by the testator after the writing is prepared. The writing may have no significance apart from the writing's effect on the dispositions made by the will. If more than one (1) otherwise effective writing exists, then, to the extent of a conflict among the writings, the provisions of the most recent writing revoke the inconsistent provisions of each earlier writing.

(n) A will of a decedent who dies after December 31, 2009, and before January 1, 2011, that contains a formula referring to:

(1) the unified credit;

(2) the estate tax exemption;

(3) the applicable credit amount;

(4) the applicable exclusion amount;

(5) the generation-skipping transfer tax exemption;

(6) the GST exemption;

(7) the marital deduction;

(8) the maximum marital deduction;

(9) the unlimited marital deduction;

(10) the inclusion ratio;

(11) the applicable fraction;

(12) any section of the Internal Revenue Code:

(A) relating to the:

(i) federal estate tax; or

(ii) generation-skipping transfer tax; and

(B) that measures a share of:

(i) an estate; or

(ii) a trust;

based on the amount that can pass free of federal estate taxes or the amount that can pass free of federal generation-skipping transfer tax law; or

(13) a provision of federal estate tax or generation-skipping transfer tax law that is similar to subdivisions (1) through (12);

refers to the federal estate tax and generation-skipping transfer tax laws as they applied with respect to estates of decedents on December 31, 2009.

(o) Subsection (n) does not apply to a will:

(1) that is executed or amended after December 31, 2009; or

(2) that manifests an intent that a contrary rule apply if the decedent dies on a date on which there is no then applicable federal estate or generation-skipping transfer tax.

(p) If the federal estate or generation-skipping transfer tax becomes effective before January 1, 2011, the reference to January 1, 2011, in subsection (n) shall refer instead to the first date on which the tax becomes legally effective.

(q) Within three (3) months following the latest to occur of the:

(1) decedent's death;

(2) fiduciary's appointment; or

(3) enactment of this subsection;

the personal representative under a will to which subsection (n) applies shall give written notice regarding the affected beneficiary of the right to commence a proceeding under subsection (r) and to the present income beneficiary of any trust created under the will, of the existence of this statute, and the beneficiary's right to commence a proceeding under subsection (r).

(r) The personal representative of an affected beneficiary under a will described in subsection (n) may initiate a proceeding to determine whether the decedent intended that a formula described in subsection (n) be construed with respect to the law as it existed after December 31, 2009. A proceeding under this subsection must be commenced within nine (9) months after the death of the testator or grantor.

SECTION 7. IC 29-1-7-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 4.5. Except as provided in section 4 of this chapter, each petition or other document that a personal representative files in the court with:**

(1) a written consent to the petition or other document; or

(2) a written waiver of notice of proceedings in the estate;

must contain a statement that the personal representative has delivered a copy of the petition or other document to each person whose written consent or waiver of notice of proceedings is presented to the court in support of the petition or other document.

SECTION 8. IC 29-1-10-6.5, AS ADDED BY P.L.143-2009, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6.5. (a) This section does not apply to the removal of a personal representative under section 6 of this chapter.

(b) An ~~heir~~ **interested person** may petition the court for the removal of a corporate fiduciary appointed by the court as personal representative if there has been a change in the control of the corporate fiduciary and either of the following applies:

(1) The change in the control of the corporate fiduciary occurred after the date of the execution of the decedent's will but before the decedent's death.

(2) The change in the control of the corporate fiduciary occurred after the corporate fiduciary was appointed and during the administration of the decedent's estate.

(c) A petition described in subsection (b) must be filed:

(1) not later than thirty (30) days after an ~~heir, a devisee, or a legatee~~ **interested person** receives notice under IC 29-1-7-7(c) or IC 29-1-7.5-1.5, in the case of a change of control described in subsection (b)(1); or

(2) not later than a reasonable time after the change of control, in the case of a change of control described in subsection (b)(2).

(d) The court may remove the corporate fiduciary if the court determines, after a hearing, that the removal is in the best interests of all ~~the beneficiaries of the will.~~ **interested persons.** The court may replace the corporate fiduciary with another corporate fiduciary or an individual.

(e) For purposes of this section, a change in control of a corporate fiduciary occurs whenever a person or group of persons acting in concert acquires the beneficial ownership of a total of at least twenty-five percent (25%) of the outstanding voting stock of:

(1) a corporate fiduciary; or

(2) a corporation controlling a corporate fiduciary.

(f) The removal of a corporate fiduciary after letters are duly issued does not invalidate official acts performed before the removal.

(g) If a corporate fiduciary is replaced under this section, the corporate fiduciary is entitled to receive reasonable compensation for services rendered before the removal.

SECTION 9. IC 29-3-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) Upon petition by any person and after **a** hearing **under IC 29-3-5,** the court may issue, without the appointment of a guardian, any protective order for the benefit of a person who has been adjudicated an incapacitated person or is a minor.

~~under IC 29-3-5.~~

(b) Notice of the filing of a petition under this chapter for the issuance of a protective order and the hearing on the petition shall be given under IC 29-3-6.

(c) Incapacitated persons and minors have the same rights at the hearing on a petition filed under this chapter for the issuance of a protective order as they would have at a hearing for the appointment of a guardian.

(d) The court may issue a protective order concerning an incapacitated person if the court finds that:

(1) the incapacitated person:

(A) owns property or has income requiring management or protection that cannot otherwise be provided;

(B) has or may have financial or business affairs that may be jeopardized or impaired; or

(C) has property that needs to be managed to provide for the support or protection of the incapacitated person;

(2) the incapacitated person is unable to manage the incapacitated person's property and financial or business affairs effectively; and

(3) the protection sought is necessary.

The court shall make the orders that it considers proper and appropriate to protect the person, business affairs, and property of the incapacitated person.

(e) The court may issue a protective order concerning a minor if the court finds that:

(1) the minor:

(A) owns property or has income requiring management or protection that cannot otherwise be provided;

(B) has or may have financial or business affairs that may be jeopardized or impaired; or

(C) has property that needs to be managed to provide for the support or protection of the minor; and

(2) the protection sought is necessary.

The court shall make the orders it considers proper and appropriate to protect the person, business affairs, and property of the minor.

(f) If the court finds grounds for a protective order under subsection (d) or (e), it may, without appointing a guardian, declare the person to be a protected person and authorize or ratify any transaction necessary

or desirable to meet the needs of the protected person. Protective arrangements include the following:

(1) The payment, delivery, deposit, or retention of property.

(2) The sale, mortgage, lease, or other transfer of property.

(3) The entry into an annuity contract, a contract for life care, a deposit contract, or a contract for training and educating a person.

(4) The addition to or establishment of a suitable trust.

SECTION 10. IC 29-3-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) Any person may file a petition for the appointment of a person to serve as guardian for an incapacitated person or minor under this chapter or to have a protective order issued under IC 29-3-4. The petition must state the following:

(1) The name, age, residence, and post office address of the alleged incapacitated person or minor for whom the guardian is sought to be appointed **or the protective order issued.**

(2) The nature of the incapacity.

(3) The approximate value and description of the property of the incapacitated person or minor, including any compensation, pension, insurance, or allowance to which the incapacitated person or minor may be entitled.

(4) If a limited guardianship is sought, the particular limitations requested.

(5) Whether a **protective order has been issued or a** guardian has been appointed or is acting for the incapacitated person or minor in any state.

(6) The residence and post office address of the proposed guardian **or person to carry out the protective order** and the ~~proposed guardian's~~ relationship to the alleged incapacitated person **of:**

(A) the proposed guardian; or

(B) the person proposed to carry out the protective order.

(7) The names and addresses, as far as known or as can reasonably be ascertained, of the persons most closely related by blood or marriage to the person for whom the guardian is sought to be appointed **or the protective order is issued.**

(8) The name and address of the person or institution having the care and custody of the person for whom the guardian is sought

to be appointed **or the protective order is issued.**

(9) The names and addresses of any other incapacitated persons or minors for whom the proposed guardian **or person to carry out the protective order** is acting if the proposed guardian **or person** is an individual.

(10) The reasons the appointment of a guardian **or issuance of a protective order** is sought and the interest of the petitioner in the appointment **or issuance.**

(11) The name and business address of the attorney who is to represent the guardian **or person to carry out the protective order.**

(b) Notice of a petition under this section for the appointment of a guardian **or the issuance of a protective order** and the hearing on the petition shall be given under IC 29-3-6.

(c) After the filing of a petition, the court shall set a date for hearing on the issues raised by the petition. Unless an alleged incapacitated person is already represented by counsel, the court may appoint an attorney to represent the incapacitated person.

(d) A person alleged to be an incapacitated person must be present at the hearing on the issues raised by the petition and any response to the petition unless the court determines by evidence that:

(1) it is impossible or impractical for the alleged incapacitated person to be present due to the alleged incapacitated person's disappearance, absence from the state, or similar circumstance;

(2) it is not in the alleged incapacitated person's best interest to be present because of a threat to the health or safety of the alleged incapacitated person as determined by the court;

(3) the incapacitated person has knowingly and voluntarily consented to the appointment of a guardian or the issuance of a protective order and at the time of such consent the incapacitated person was not incapacitated as a result of a mental condition that would prevent that person from knowingly and voluntarily consenting; or

(4) the incapacitated person has knowingly and voluntarily waived notice of the hearing and at the time of such waiver the incapacitated person was not incapacitated as a result of a mental condition that would prevent that person from making a knowing and voluntary waiver of notice.

(e) A person alleged to be an incapacitated person may present evidence and cross-examine witnesses at the hearing. The issues raised by the petition and any response to the petition shall be determined by a jury if a jury is requested no later than seventy-two (72) hours prior to the original date and time set for the hearing on the petition. However, in no event may a request for a jury trial be made after thirty (30) days have passed following the service of notice of a petition.

(f) Any person may apply for permission to participate in the proceeding, and the court may grant the request with or without hearing upon determining that the best interest of the alleged incapacitated person or minor will be served by permitting the applicant's participation. The court may attach appropriate conditions to the permission to participate.

SECTION 11. IC 29-3-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. A copy of the petition shall be attached to the notice, and the notice must be in substantially the following form:

NOTICE

TO: (name and address of person receiving notice)

On (date of hearing) at (time of hearing) in (place of hearing) at (city), Indiana, the (name and address of court) will hold a hearing to determine whether a guardian should be appointed **or a protective order should be issued** for (name of alleged incapacitated person or minor). A copy of the petition requesting appointment of a guardian **or for the issuance of a protective order** is attached to this notice.

At the hearing the court will determine whether (name of alleged incapacitated person or minor) is an incapacitated person or minor under Indiana law. This proceeding may substantially affect the rights of (name of alleged incapacitated person or minor).

If the court finds that (name of alleged incapacitated person or minor) is an incapacitated person or minor, the court at the hearing shall also consider whether (name of proposed guardian, if any) should be appointed as guardian of (name of alleged incapacitated person or minor). The court may, in its discretion, appoint some other qualified person as guardian. The court may also, in its discretion, limit the powers and duties of the guardian to allow (name of alleged incapacitated person or minor) to retain control over certain property and activities. The court may also determine whether a protective order

should be entered on behalf of (name of alleged incapacitated person or minor).

(Name of alleged incapacitated person) may attend the hearing and be represented by an attorney. The petition may be heard and determined in the absence of (name of alleged incapacitated person) if the court determines that the presence of (name of alleged incapacitated person) is not required. If (name of alleged incapacitated person) attends the hearing, opposes the petition, and is not represented by an attorney, the court may appoint an attorney to represent (name of alleged incapacitated person). The court may, where required, appoint a guardian ad litem to represent (name of alleged incapacitated person or minor) at the hearing.

The court may, on its own motion or on request of any interested person, postpone the hearing to another date and time.

_____

(signature of clerk of the court)

SECTION 12. IC 29-3-9-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 4.5. (a) After notice to interested persons and upon authorization of the court, a guardian may, if the protected person has been found by the court to lack testamentary capacity, do any of the following:**

(1) Make gifts.

(2) Exercise any power with respect to transfer on death or payable on death transfers that is described in IC 30-5-5-7.5.

(3) Convey, release, or disclaim contingent and expectant interests in property, including marital property rights and any right of survivorship incident to joint tenancy or tenancy by the entireties.

(4) Exercise or release a power of appointment.

(5) Create a revocable or irrevocable trust of all or part of the property of the estate, including a trust that extends beyond the duration of the guardianship.

(6) Revoke or amend a trust that is revocable by the protected person.

(7) Exercise rights to elect options and change beneficiaries under insurance policies, retirement plans, and annuities.

(8) Surrender an insurance policy or annuity for its cash

value.

(9) Exercise any right to an elective share in the estate of the protected person's deceased spouse.

(10) Renounce or disclaim any interest by testate or intestate succession or by transfer inter vivos.

(b) Before approving a guardian's exercise of a power listed in subsection (a), the court shall consider primarily the decision that the protected person would have made, to the extent that the decision of the protected person can be ascertained. If the protected person has a will, the protected person's distribution of assets under the will is prima facie evidence of the protected person's intent. The court shall also consider:

(1) the financial needs of the protected person and the needs of individuals who are dependent on the protected person for support;

(2) the interests of creditors;

(3) the possible reduction of income taxes, estate taxes, inheritance taxes, or other federal, state, or local tax liabilities;

(4) the eligibility of the protected person for governmental assistance;

(5) the protected person's previous pattern of giving or level of support;

(6) the protected person's existing estate plan, if any;

(7) the protected person's life expectancy and the probability that the guardianship will terminate before the protected person's death; and

(8) any other factor the court considers relevant.

(c) A guardian may examine and receive, at the expense of the guardian, copies of the following documents of the protected person:

(1) A will.

(2) A trust.

(3) A power of attorney.

(4) A health care appointment.

(5) Any other estate planning document.

SECTION 13. IC 30-4-2.1-13 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE DECEMBER 1, 2009 (RETROACTIVE)]: **Sec. 13. (a)**

A trust of a decedent who dies after December 31, 2009, and before January 1, 2011, that contains a formula referring to:

(1) the unified credit;

(2) the estate tax exemption;

(3) the applicable credit amount;

(4) the applicable exclusion amount;

(5) the generation-skipping transfer tax exemption;

(6) the GST exemption;

(7) the marital deduction;

(8) the maximum marital deduction;

(9) the unlimited marital deduction;

(10) the inclusion ratio;

(11) the applicable fraction;

(12) any section of the Internal Revenue Code:

(A) relating to the:

(i) federal estate tax; or

(ii) generation-skipping transfer tax; and

(B) that measures a share of trust;

based on the amount that can pass free of federal estate taxes or the amount that can pass free of federal generation-skipping transfer tax law; or

(13) a provision of federal estate tax or generation-skipping transfer tax law that is similar to subdivisions (1) through (12);

refers to the federal estate tax and generation-skipping transfer tax laws as they applied with respect to estates of decedents on December 31, 2009.

(b) Subsection (a) does not apply to a trust:

(1) that is executed or amended after December 31, 2009; or

(2) that manifests an intent that a contrary rule apply if the decedent dies on a date on which there is no then applicable federal estate or generation-skipping transfer tax.

(c) If the federal estate or generation-skipping transfer tax becomes effective before January 1, 2011, the reference to January 1, 2011, in subsection (a) shall refer instead to the first date on which the tax becomes legally effective.

(d) Within three (3) months following the latest to occur of the:

(1) decedent's death;

(2) trustee's appointment; or

(3) enactment of this subsection;

the trustee of a trust to which subsection (a) applies shall give written notice regarding the beneficiary's right to commence a proceeding under subsection (e) to any beneficiary having a right to trust income or principal under subsection (a), of the existence of this statute, and of the beneficiary's right to commence a proceeding under subsection (e).

(e) The trustee of any beneficiary under the trust having a present right to income or principal of the trust may initiate a proceeding to determine whether the decedent intended that a formula described in subsection (a) be construed with respect to the law as it existed after December 31, 2009. A proceeding under this subsection must be commenced within nine (9) months after the death of the settlor.

SECTION 14. IC 30-4-2.1-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 14. (a) The following rules apply only to discretionary interests:**

(1) A discretionary interest is a mere expectancy that is neither a property interest nor an enforceable right.

(2) A creditor may not:

(A) require a trustee to exercise the trustee's discretion to make a distribution; or

(B) cause a court to foreclose a discretionary interest.

(3) A court may review a trustee's distribution discretion only if the trustee acts dishonestly or with an improper motive.

(b) Words such as sole, absolute, uncontrolled, or unfettered discretion dispense with the trustee acting reasonably.

(c) Absent express language to the contrary, if the distribution language in a discretionary interest permits unequal distributions between beneficiaries or distributions to the exclusion of other beneficiaries, a trustee may, in the trustee's discretion, distribute all of the accumulated, accrued, or undistributed income and principal to one (1) beneficiary to the exclusion of the other beneficiaries.

(d) Regardless of whether a beneficiary has any outstanding creditors, a trustee of a discretionary interest may directly pay any expense on behalf of the beneficiary and may exhaust the income and principal of the trust for the benefit of the beneficiary. A

trustee is not liable to a creditor for paying the expenses of a beneficiary who holds a discretionary interest.

SECTION 15. IC 30-4-2.1-15 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 15. If a party challenges a settlor or a beneficiary's influence over a trust, none of the following factors, alone or in combination, may be considered dominion and control over a trust:**

(1) A beneficiary serving as a trustee or co-trustee.

(2) The settlor or beneficiary holds an unrestricted power to remove or replace a trustee.

(3) The settlor or a beneficiary:

(A) is a trust administrator, a general partner of a partnership, a manager of a limited liability company, or an officer of a corporation; or

(B) has any other managerial function in any other entity; that is owned in whole or in part by the trust.

(4) A person related by blood or adoption to a settlor or beneficiary is appointed as trustee.

(5) An agent, accountant, attorney, financial adviser, or friend of the settlor or a beneficiary is appointed as trustee.

(6) A business associate of the settlor or a beneficiary is appointed as trustee.

(7) A beneficiary holds any power of appointment over part or all of the trust property.

(8) The settlor holds a power to substitute property of equivalent value.

(9) The trustee may loan trust property to the settlor for less than a full and adequate rate of interest or without adequate security.

(10) The trust contains broad purposes or highly discretionary distribution language.

(11) The trust has only one (1) beneficiary eligible for current distributions.

SECTION 16. IC 30-4-2.1-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 16. Absent clear and convincing evidence otherwise, a settlor of an irrevocable trust may not be considered the alter ego of a trustee. The following factors, alone**

or in combination, are not sufficient evidence to conclude that the settlor controls a trustee or is the alter ego of the trustee:

(1) Any combination of the factors listed in section 15 of this chapter.

(2) Isolated occurrences of the settlor signing checks, making disbursements, or executing other documents related to the trust as a trustee when the settlor is, in fact, not a trustee.

(3) Requesting a trustee to make distributions on behalf of a beneficiary.

(4) Requesting a trustee to hold, purchase, or sell any trust property.

SECTION 17. IC 30-4-2.1-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 17. (a) A creditor may not reach, exercise, or otherwise acquire an interest of a beneficiary or any other person who holds an unconditional or conditional removal or replacement power over a trustee. A power described in this subsection is personal to a beneficiary or other person and may not be exercised by the person's creditors. A court may not direct a person to exercise the power.**

(b) A creditor may not:

(1) reach an interest of a beneficiary who is also a trustee or co-trustee; or

(2) otherwise compel a distribution to a beneficiary who is also a trustee or co-trustee.

(c) A court may not foreclose against an interest held by a beneficiary described in subsection (b).

SECTION 18. IC 30-4-3-35 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 35. (a) As used in this section, "joint matrimonial trust" means a single inter vivos trust established under this section by settlors who are related as husband and wife.**

(b) As used in this section, "matrimonial property" means real property that:

(1) is subject to a written election to treat the property as matrimonial property under this section; and

(2) is owned by a matrimonial trust.

(c) As used in this section, "matrimonial trust" means a trust established under this section to own matrimonial property.

(d) As used in this section, "separate matrimonial trust" means a separate trust that is also a matrimonial trust.

(e) As used in this section, "separate trust" means a trust established by one (1) individual.

(f) A matrimonial trust may be established:

(1) jointly by a husband and wife; or

(2) in two (2) or more separate trusts.

(g) A husband and wife may elect to treat real property as matrimonial property with a written statement of the election:

(1) in an instrument or instruments conveying the real property to a matrimonial trust or trusts; or

(2) in a separate writing that must be recorded in the county where the real property is situated and indexed in the records of the county recorder's office to the instrument or instruments that convey the real property to a matrimonial trust or trusts.

(h) A guardian of a husband and wife may make an election under this section:

(1) without the approval of the court if the guardian has unlimited powers under IC 29-3-8-4; and

(2) with the approval of the court in all other cases.

(i) An attorney in fact of a husband and wife may make an election under this section under the powers conferred upon the attorney in fact by IC 30-5-5-2 if the power of attorney is recorded in the county where the real property is situated and indexed in the records of the county recorder's office to the instrument or instruments that convey the real property to a matrimonial trust or trusts.

(j) An interest in matrimonial property is not severable during the marriage of the husband and wife unless:

(1) both the husband and wife join in the severance in writing; or

(2) a third party owns and forecloses a mortgage or other lien against the interests of both the husband and wife in the matrimonial property.

(k) Notwithstanding any other provision of this section, the legal rights of a lienholder that exist at the time of an election to treat the real property subject to the lien as matrimonial property may not be subject to a severance described in subsection (j) without the

lienholder's written consent.

(l) A matrimonial trust established by an individual continues to be a matrimonial trust after the death of the settlor if the deceased settlor's separate trust provides to the surviving spouse:

(1) a life estate;

(2) an interest that qualifies for a deduction from the gross estate of the decedent under Section 2056 of the Internal Revenue Code regardless of whether an election is made to qualify the interest for the deduction; or

(3) in some respect the current right to occupy or receive rent, royalties, or other kinds of income with respect to the matrimonial property.

(m) A separate matrimonial trust ceases to be a matrimonial trust upon the termination of payments to the surviving spouse as a result of the surviving spouse's death or the surviving spouse's disclaimer of all interests in the separate matrimonial trust.

(n) A joint matrimonial trust ceases to be a matrimonial trust upon the death of one (1) of the settlors.

(o) A matrimonial trust ceases to be a matrimonial trust upon the dissolution of the marriage of the settlors.

(p) A husband and wife may revoke a matrimonial trust by together executing a writing expressing the revocation.

SECTION 19. IC 30-4-3-36 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 36. (a) Unless a trust expressly provides otherwise, a trustee who has absolute power under the terms of a trust (referred to in this section as the "first trust") to invade the principal of the trust to make distributions to or for the benefit of one (1) or more persons may instead exercise the power by appointing all or part of the principal of the first trust in favor of a trustee of another trust (referred to in this section as the "second trust") for the benefit of one (1) or more persons under the same trust instrument or under a different trust instrument as long as:**

(1) the beneficiaries of the second trust are the same as the beneficiaries of the first trust;

(2) the second trust does not reduce any income, annuity, or unitrust interest in the assets of the first trust; and

(3) if any contributions to the first trust qualified for a marital or charitable deduction for purposes of the federal income,

gift, or estate taxes, the second trust does not contain any provision that, if included in the first trust, would have prevented the first trust from qualifying for a deduction or reduced the amount of a deduction.

(b) For purposes of this section, an absolute power to invade principal includes a power to invade principal that is not limited to specific or ascertainable purposes, such as health, education, maintenance, and support regardless of whether the term "absolute" is used.

(c) The exercise of a power to invade principal under subsection (a) must be by an instrument that is:

(1) in writing;

(2) signed and acknowledged by the trustee; and

(3) filed with the records of the first trust.

(d) The exercise of a power to invade principal under subsection (a) is considered the exercise of a power of appointment, other than a power to appoint to the trustee, the trustee's creditors, the trustee's estate, or the creditors of the trustee's estate. The exercise of the power does not extend the time at which the permissible period of the rule against perpetuities begins and the law that determines the permissible period of the rule against perpetuities of the first trust.

(e) The trustee shall notify in writing all qualified beneficiaries of the first trust at least sixty (60) days before the effective date of the trustee's exercise of the power to invade principal under subsection (a) of the manner in which the trustee intends to exercise the power. A copy of the proposed instrument exercising the power satisfies the trustee's notice obligation under this subsection. If all qualified beneficiaries waive the notice period by signed written instrument delivered to the trustee, the trustee's power to invade principal may be exercised immediately. The trustee's notice under this subsection does not limit the right of any beneficiary to object to the exercise of the trustee's power to invade principal, except as otherwise provided by this article.

(f) The exercise of the power to invade principal under subsection (a) is not prohibited by a spendthrift clause or by a provision in the trust instrument that prohibits amending or revoking the trust.

(g) This section is not intended to create or imply a duty to

exercise a power to invade principal. No inference of impropriety may be made as a result of a trustee not exercising the power to invade principal conferred under subsection (a).

(h) This section may not be construed to abridge the right of any trustee who has a power of invasion to appoint property in further trust that arises under the terms of the first trust, under any other provision of this article or any other statute, or under common law.

SECTION 20. IC 30-4-3-37 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 37. (a) If a beneficiary of a trust cannot be found after a reasonable search, the trustee may file a petition setting out the facts of the unsuccessful search. The court may order the trustee to sell the shares of the trust to which the beneficiary is entitled and to pay the proceeds to the clerk of the court. The clerk shall hold the proceeds for the use and benefit of the person or persons thereafter determined by law to be entitled to the proceeds.**

(b) If a trustee pays any money to the clerk of the court under this section, the trustee shall file a receipt with the court. Filing the receipt is sufficient to discharge the trustee in the same manner and to the same extent as though the trustee had paid or distributed the appropriate share of the trust to the unlocated beneficiary.

(c) This section does not apply to stocks, dividends, capital credits, patronage, refunds, utility deposits, membership fees, account balances, or book equities for which the owner cannot be found that are the result of distributable savings of a rural electric membership corporation formed under IC 8-1-13, a rural telephone cooperative corporation formed under IC 8-1-17, or an agricultural cooperative association formed under IC 15-12-1.

SECTION 21. IC 30-5-4-4, AS AMENDED BY P.L.143-2009, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) Except as stated otherwise in the power of attorney, an attorney in fact fails to serve or ceases to serve when:

(1) the attorney in fact dies;

(2) the attorney in fact resigns;

(3) the attorney in fact is adjudged incapacitated by a court;

(4) the attorney in fact cannot be located upon reasonable inquiry;

(5) the attorney in fact, if at one time the principal's spouse,

legally is no longer the principal's spouse; or

(6) a physician familiar with the condition of the current attorney in fact certifies in writing to the immediate successor attorney in fact that the current attorney in fact is unable to transact a significant part of the business required under the power of attorney.

(b) Except as stated otherwise in the power of attorney, if the replaced attorney in fact reappears or is subsequently able to transact business, the successor attorney in fact shall remain as the attorney in fact.

(c) Except as otherwise stated in the power of attorney, an attorney in fact designated as a successor has the powers granted under the power of attorney to the original attorney in fact.

(d) Unless a power of attorney provides a different method for an attorney in fact's resignation, an attorney in fact may resign by giving notice to the principal and, if the principal is incapacitated:

(1) to:

(A) the principal's guardian, if a guardian has been appointed for the principal; and

(B) a co-attorney in fact or successor attorney in fact; or

(2) if there is no person described in subdivision (1), to:

(A) the principal's ~~care giver,~~ **caregiver;**

(B) another person reasonably believed by the attorney in fact to have sufficient interest in the principal's welfare; or

(C) a governmental agency having authority to protect the welfare of the principal.

SECTION 22. IC 32-17-13-1, AS AMENDED BY P.L.143-2009, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) As used in this chapter, "nonprobate transfer" means a valid transfer, effective at death, by a transferor:

(1) whose last domicile was in Indiana; and

(2) who immediately before death had the power, acting alone, to prevent transfer of the property by revocation or withdrawal and:

(A) use the property for the benefit of the transferor; or

(B) apply the property to discharge claims against the transferor's probate estate.

The term does not include transfer of a survivorship interest in a tenancy by the entireties real estate, transfer of a life insurance policy

or annuity, or payment of the death proceeds of a life insurance policy or annuity.

~~(b) With respect to a security described in IC 32-17-9 "nonprobate transfer" means a transfer on death resulting from a registration in beneficiary form by an owner whose last domicile was in Indiana.~~

~~(c)~~ **(b)** With respect to a nonprobate transfer involving a multiple party account, a nonprobate transfer occurs if the last domicile of the depositor whose interest is transferred under IC 32-17-11 was in Indiana.

~~(d)~~ **(c)** With respect to a motor vehicle or a watercraft, a nonprobate transfer occurs if the transferee obtains a certificate of title in Indiana for:

(1) the motor vehicle under IC 9-17-2-2(b); or

(2) the watercraft as required by IC 9-31-2-16(a)(1)(C).

~~(e)~~ **(d)** A transfer on death transfer completed under IC 32-17-14 is a nonprobate transfer.

SECTION 23. IC 32-17-13-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. (a) A proceeding under this chapter may not be commenced unless the personal representative of the decedent's estate has received a written demand for the proceeding from the surviving spouse or a surviving child, to the extent that statutory allowances are affected, or a creditor.

(b) If the personal representative declines or fails to commence a proceeding **within sixty (60) days** after **receiving the** demand, a person making **the** demand may commence the proceeding in the name of the decedent's estate at the expense of the person making the demand and not of the estate.

(c) A personal representative who declines in good faith to commence a requested proceeding incurs no personal liability for declining.

SECTION 24. IC 32-17-13-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8. A proceeding under this chapter must be commenced not later than nine (9) months after the person's death, but a proceeding on behalf of a creditor whose claim was ~~allowed after proceedings challenging disallowance of the claim~~ **timely filed** may be commenced within:

(1) sixty (60) days after final allowance of the claim; **or**

(2) ninety (90) days after demand is made under section 7 of

this chapter if the personal representative declines or fails to commence a proceeding after receiving the demand.

SECTION 25. IC 32-17-14-2, AS ADDED BY P.L.143-2009, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009 (RETROACTIVE)]: Sec. 2. (a) Except as provided elsewhere in this chapter, this chapter applies to a transfer on death security, transfer on death securities account, and pay on death account created before July 1, 2009, unless the application of this chapter would:

(1) adversely affect a right given to an owner or beneficiary;

(2) give a right to any owner or beneficiary that the owner or beneficiary was not intended to have when the transfer on death security, transfer on death securities account, or pay on death account was created;

(3) impose a duty or liability on any person that was not intended to be imposed when the transfer on death security, transfer on death securities account, or pay on death account was created; or

(4) relieve any person from any duty or liability imposed:

(A) by the terms of the transfer on death security, transfer on death securities account, or pay on death account; or

(B) under prior law.

(b) Subject to section 32 of this chapter, this chapter applies to a transfer on death transfer if at the time the owner designated the beneficiary:

(1) the owner was a resident of Indiana;

(2) the property subject to the beneficiary designation was situated in Indiana;

(3) the obligation to pay or deliver arose in Indiana;

(4) the transferring entity was a resident of Indiana or had a place of business in Indiana; or

(5) the transferring entity's obligation to make the transfer was accepted in Indiana.

(c) ~~Except for section 24 of this chapter,~~ This chapter does not apply to property, money, or benefits paid or transferred at death under a life or accidental death insurance policy, annuity, contract, plan, or other product sold or issued by a life insurance company unless the provisions of this chapter are incorporated into the policy or beneficiary designation in whole or in part by express reference.

(d) ~~Except for section 24 of this chapter,~~ This chapter does not apply to a transfer on death transfer if the beneficiary designation or an applicable law expressly provides that this chapter does not apply to the transfer.

(e) Subject to IC 9-17-3-9(h) and IC 9-31-2-30(h), this chapter applies to a beneficiary designation for the transfer on death of a motor vehicle or a watercraft.

(f) The provisions of:

(1) section 22 of this chapter; and

(2) section 26(b)(9) of this chapter;

relating to distributions to lineal descendants per stirpes apply to a transfer on death or payable on death transfer created before July 1, 2009.

SECTION 26. IC 32-17-14-3, AS ADDED BY P.L.143-2009, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. The following definitions apply throughout this chapter:

(1) "Beneficiary" means a person designated or entitled to receive property because of another person's death under a transfer on death transfer.

(2) "Beneficiary designation" means a written instrument other than a will or trust that designates the beneficiary of a transfer on death transfer.

(3) "Governing instrument" refers to a written instrument agreed to by an owner that establishes the terms and conditions of an ownership in beneficiary form.

~~(3)~~ **(4)** "Joint owners" refers to persons who hold property as joint tenants with a right of survivorship. However, the term does not include a husband and wife who hold property as tenants by the entirety.

~~(4)~~ **(5)** "LDPS" means an abbreviation of lineal descendants per stirpes, which may be used in a beneficiary designation to designate a substitute beneficiary as provided in section 22 of this chapter.

~~(5)~~ **(6)** "Owner" refers to a person or persons who have a right to designate the beneficiary of a transfer on death transfer.

~~(6)~~ **(7)** "Ownership in beneficiary form" means holding property under a registration in beneficiary form or other written

instrument that:

(A) names the owner of the property;

(B) directs ownership of the property to be transferred upon the death of the owner to the designated beneficiary; and

(C) designates the beneficiary.

~~(7)~~ **(8)** "Person" means an individual, a sole proprietorship, a partnership, an association, a fiduciary, a trustee, a corporation, a limited liability company, or any other business entity.

~~(8)~~ **(9)** "Proof of death" means a death certificate or a record or report that is prima facie proof or evidence of an individual's death.

~~(9)~~ **(10)** "Property" means any present or future interest in real property, intangible personal property (as defined in IC 6-4.1-1-5), or tangible personal property (as defined in IC 6-4.1-1-13). The term includes:

(A) a right to direct or receive payment of a debt;

(B) a right to direct or receive payment of money or other benefits due under a contract, account agreement, deposit agreement, employment contract, compensation plan, pension plan, individual retirement plan, employee benefit plan, or trust or by operation of law;

(C) a right to receive performance remaining due under a contract;

(D) a right to receive payment under a promissory note or a debt maintained in a written account record;

(E) rights under a certificated or uncertificated security;

(F) rights under an instrument evidencing ownership of property issued by a governmental agency; and

(G) rights under a document of title (as defined in IC 26-1-1-201).

~~(10)~~ **(11)** "Registration in beneficiary form" means titling of an account record, certificate, or other written instrument that:

(A) provides evidence of ownership of property in the name of the owner;

(B) directs ownership of the property to be transferred upon the death of the owner to the designated beneficiary; and

(C) designates the beneficiary.

~~(11)~~ **(12)** "Security" means a share, participation, or other interest

in property, in a business, or in an obligation of an enterprise or other issuer. The term includes a certificated security, an uncertificated security, and a security account.

~~(12)~~ **(13)** "Transfer on death deed" means a deed that conveys an interest in real property to a grantee by beneficiary designation.

~~(13)~~ **(14)** "Transfer on death transfer" refers to a transfer of property that takes effect upon the death of the owner under a beneficiary designation made under this chapter.

~~(14)~~ **(15)** "Transferring entity" means a person who:

(A) owes a debt or is obligated to pay money or benefits;

(B) renders contract performance;

(C) delivers or conveys property; or

(D) changes the record of ownership of property on the books, records, and accounts of an enterprise or on a certificate or document of title that evidences property rights.

The term includes a governmental agency, business entity, or transfer agent that issues certificates of ownership or title to property and a person acting as a custodial agent for an owner's property. However, the term does not include a governmental office charged with endorsing, entering, or recording the transfer of real property in the public records.

SECTION 27. IC 32-17-14-7, AS ADDED BY P.L.143-2009, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. (a) If any of the following are required **by the transferring entity,** an agreement between the owner and the transferring entity is necessary to carry out a transfer on death transfer, which may be made in accordance with the rules, terms, and conditions set forth in the agreement:

(1) The submission to the transferring entity of a beneficiary designation under a governing instrument.

(2) Registration by a transferring entity of a transfer on death direction on any certificate or record evidencing ownership of property.

(3) Consent of a contract obligor for a transfer of performance due under the contract.

(4) Consent of a financial institution for a transfer of an obligation of the financial institution.

(5) Consent of a transferring entity for a transfer of an interest in

the transferring entity.

(b) When subsection (a) applies, a transferring entity is not required to accept an owner's request to assist the owner in carrying out a transfer on death transfer.

(c) If a beneficiary designation, revocation, or change is subject to acceptance by a transferring entity, the transferring entity's acceptance of the beneficiary designation, revocation, or change relates back to and is effective as of the time the request was received by the transferring entity.

SECTION 28. IC 32-17-14-9, AS ADDED BY P.L.143-2009, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9. (a) Except as provided in subsection (c), a beneficiary designation that satisfies the requirements of subsection (b):

(1) authorizes a transfer of property under this chapter;

(2) is effective on the death of the owner of the property; and

(3) transfers the right to receive the property to the designated beneficiary who survives the death of the owner.

(b) A beneficiary designation is effective under subsection (a) if the beneficiary designation is:

(1) executed; and

(2) delivered;

~~in proper form~~ to the transferring entity before the death of the owner.

(c) A transferring entity shall make a transfer described in subsection (a)(3) unless there is clear and convincing evidence of the owner's different intention at the time the beneficiary designation was created.

SECTION 29. IC 32-17-14-10, AS ADDED BY P.L.143-2009, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10. (a) A written assignment of a contract right that:

(1) assigns the right to receive any performance remaining due under the contract to an assignee designated by the owner; and

(2) expressly states that the assignment does not take effect until the death of the owner;

transfers the right to receive performance due under the contract to the designated assignee beneficiary if the assignment satisfies the requirements of subsection (b).

(b) A written assignment described in subsection (a) is effective upon the death of the owner if the assignment is:

(1) executed; and

(2) delivered;

~~in proper form~~ to the contract obligor before the death of the owner.

(c) A beneficiary assignment described in this section is not required to be supported by consideration or delivered to the assignee beneficiary.

(d) This section does not preclude other methods of assignment that are permitted by law and have the effect of postponing the enjoyment of the contract right until after the death of the owner.

SECTION 30. IC 32-17-14-11, AS ADDED BY P.L.143-2009, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 11. (a) A transfer on death deed transfers the interest provided to the beneficiary if the transfer on death deed is:

(1) executed ~~in proper form,~~ **by the owner or owner's legal representative;** and

(2) recorded with the recorder of deeds in the county in which the real property is situated before the death of the owner.

(b) A transfer on death deed is void if it is not recorded with the recorder of deeds in the county in which the real property is situated before the death of the owner.

(c) A transfer on death deed is not required to be supported by consideration or delivered to the grantee beneficiary.

(d) A transfer on death deed may be used to transfer an interest in real property to either a revocable or an irrevocable trust.

(e) If the owner ~~makes~~ **records** a transfer on death deed, the effect of the ~~conveyance~~ **recording the transfer on death deed** is determined as follows:

(1) If the owner's interest in the real property is as a tenant by the entirety, the conveyance is inoperable and void unless the other spouse joins in the conveyance.

(2) If the owner's interest in the real property is as a joint tenant with rights of survivorship, the conveyance severs the joint tenancy and the cotenancy becomes a tenancy in common.

(3) If the owner's interest in the real property is as a joint tenant with rights of survivorship and the property is subject to a beneficiary designation, a conveyance of any joint owner's interest

has no effect on the original beneficiary designation for the nonsevering joint tenant.

(4) If the owner's interest is as a tenant in common, the owner's interest passes to the beneficiary as a transfer on death transfer.

(5) If the owner's interest is a life estate determined by the owner's life, the conveyance is inoperable and void.

(6) If the owner's interest is any other interest, the interest passes in accordance with this chapter and the terms and conditions of the conveyance establishing the interest. If a conflict exists between the conveyance establishing the interest and this chapter, the terms and conditions of the conveyance establishing the interest prevail.

(f) A beneficiary designation in a transfer on death deed may be worded in substance as "(insert owner's name) conveys and warrants (or quitclaims) to (insert owner's name), TOD to (insert beneficiary's name)". This example is not intended to be exhaustive.

(g) A transfer on death deed using the phrase "pay on death to" or the abbreviation "POD" may not be construed to require the liquidation of the real property being transferred.

(h) This section does not preclude other methods of conveying real property that are permitted by law and have the effect of postponing enjoyment of an interest in real property until after the death of the owner. This section applies only to transfer on death deeds and does not invalidate any deed that is otherwise effective by law to convey title to the interest and estates provided in the deed.

SECTION 31. IC 32-17-14-14, AS ADDED BY P.L.143-2009, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 14. (a) Property may be held or registered in beneficiary form by including in the name in which the property is held or registered a direction to transfer the property on the death of the owner to a beneficiary designated by the owner.

(b) Property is registered in beneficiary form by showing on the account record, security certificate, or instrument evidencing ownership of the property:

(1) the name of the owner and, if applicable, the estate by which two (2) or more joint owners hold the property; and

(2) an instruction substantially similar in form to "transfer on death to (insert name of beneficiary)".

An instruction to "pay on death to (insert name of the beneficiary)" and the use of the abbreviations "TOD" and "POD" are also permitted by this section.

(c) Only a transferring entity or a person authorized by the transferring entity may place a transfer on death direction described by this section on an account record, a security certificate, or an instrument evidencing ownership of property.

(d) A transfer on death direction described by this section is effective on the death of the owner and transfers the owner's interest in the property to the designated beneficiary if:

(1) the property is registered in beneficiary form before the death of the owner; or

(2) the transfer on death direction is delivered ~~in proper form~~ to the transferring entity before the owner's death.

(e) An account record, security certificate, or instrument evidencing ownership of property that contains a transfer on death direction written as part of the name in which the property is held or registered is conclusive evidence, in the absence of fraud, duress, undue influence, lack of capacity, or mistake, that the direction was:

(1) regularly made by the owner;

(2) accepted by the transferring entity; and

(3) not revoked or changed before the owner's death.

SECTION 32. IC 32-17-14-16, AS ADDED BY P.L.143-2009, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 16. (a) A beneficiary designation may be revoked or changed during the lifetime of the owner.

(b) A revocation or change of a beneficiary designation involving property owned as tenants by the entirety must be made with the agreement of both tenants for so long as both tenants are alive. After an individual dies owning as a tenant by the entirety property that is subject to a beneficiary designation, the individual's surviving spouse may revoke or change the beneficiary designation.

(c) A revocation or change of a beneficiary designation involving property owned in a form of ownership (other than as tenants by the entirety) that restricts conveyance of the interest unless another person joins in the conveyance must be made with the agreement of each living owner required to join in a conveyance.

(d) A revocation or change of a beneficiary designation involving

property owned by joint owners with a right of survivorship must be made with the agreement of each living owner.

(e) A subsequent beneficiary designation revokes a prior beneficiary designation unless the subsequent beneficiary designation expressly provides otherwise.

(f) A revocation or change in a beneficiary designation must comply with the terms of any governing instrument, this chapter, and any other applicable law.

(g) A beneficiary designation may not be revoked or changed by a will **or trust** unless the beneficiary designation expressly grants the owner the right to revoke or change the beneficiary designation by a will **or trust.**

(h) A transfer during the owner's lifetime of the owner's interest in the property, with or without consideration, terminates the beneficiary designation with respect to the property transferred.

(i) The effective date of a revocation or change in a beneficiary designation is determined in the same manner as the effective date of a beneficiary designation.

(j) An owner may revoke a beneficiary designation made in a transfer on death deed by executing and recording **before the death of the owner** with the recorder of deeds in the county in which the real property is situated either:

(1) a subsequent deed of conveyance revoking, omitting, or changing the beneficiary designation; or

(2) an affidavit acknowledged or proved under IC 32-21-2-3 that revokes or changes the beneficiary designation.

(k) A physical act, such as a written modification on or the destruction of a transfer on death deed after the transfer on death deed has been recorded, has no effect on the beneficiary designation.

(l) A transfer on death deed may not be revoked or modified by will or trust.

SECTION 33. IC 32-17-14-25, AS ADDED BY P.L.143-2009, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 25. (a) ~~No law intended to protect a spouse or child from disinheritance by the will of a testator applies to a transfer on death transfer.~~ **An election under IC 29-1-3-1 does not apply to a valid transfer on death transfer. In accordance with IC 32-17-13, a transfer on death transfer may be subject to the payment of the**

surviving spouse and family allowances under IC 29-1-4-1.

(b) A beneficiary designation designating the children of the owner or children of any other person as a class and not by name includes all children of the person regardless of whether the child is born or adopted before or after the beneficiary designation is made.

(c) Except as provided in subsection (d), a child of the owner born or adopted after the owner makes a beneficiary designation that names another child of the owner as the beneficiary is entitled to receive a fractional share of the property that would otherwise be transferred to the named beneficiary. The share of the property to which each child of the owner is entitled to receive is expressed as a fraction in which the numerator is one (1) and the denominator is the total number of the owner's children.

(d) A beneficiary designation or a governing instrument may provide that subsection (c) does not apply to an owner's beneficiary designation. In addition, a transferring entity is not obligated to apply subsection (c) to property registered in beneficiary form.

(e) If a beneficiary designation does not name any child of the owner as the designated beneficiary with respect to a particular property interest, a child of the owner born or adopted after the owner makes the beneficiary designation is not entitled to any share of the property interest subject to the designation.

SECTION 34. IC 32-17-14-26, AS ADDED BY P.L.143-2009, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 26. (a) If an agreement between the owner and a transferring entity is required to carry out a transfer on death transfer as described in section 7 of this chapter, a transferring entity may not adopt rules for the making, execution, acceptance, and revocation of a beneficiary designation that are inconsistent with this chapter. A transferring entity may adopt the rules imposed by subsection (b) in whole or in part by incorporation by reference.

(b) Except as otherwise provided in a beneficiary designation, a governing instrument, or any other applicable law, the following rules apply to a beneficiary designation:

(1) A beneficiary designation or a request for registration of property in beneficiary form must be made in writing, signed by the owner, dated, and, in the case of a transfer on death deed, compliant with all requirements for the recording of deeds.

(2) A security that is not registered in the name of the owner may be registered in beneficiary form on instructions given by a broker or person delivering the security.

(3) A beneficiary designation may designate one (1) or more primary beneficiaries and one (1) or more contingent beneficiaries.

(4) On property registered in beneficiary form, a primary beneficiary is the person shown immediately following the transfer on death direction. Words indicating that the person is a primary beneficiary are not required. The name of a contingent beneficiary in the registration must have the words "contingent beneficiary" or words of similar meaning to indicate the contingent nature of the interest being transferred.

(5) Multiple surviving beneficiaries share equally in the property being transferred unless a different percentage or fractional share is stated for each beneficiary. If a percentage or fractional share is designated for multiple beneficiaries, the surviving beneficiaries share in the proportion that their designated shares bear to each other.

(6) A transfer of unequal shares to multiple beneficiaries for property registered in beneficiary form may be expressed in numerical form following the name of the beneficiary in the registration.

(7) A transfer on death transfer of property also transfers any interest, rent, royalties, earnings, dividends, or credits earned or declared on the property but not paid or credited before the owner's death.

(8) If a distribution by a transferring entity under a transfer on death transfer results in fractional shares in a security or other property that is not divisible, the transferring entity may distribute the fractional shares in the name of all beneficiaries as tenants in common or as the beneficiaries may direct, or the transferring entity may sell the property that is not divisible and distribute the proceeds to the beneficiaries in the proportions to which they are entitled.

(9) On the death of the owner, the property, minus all amounts and charges owed by the owner to the transferring entity, belongs to the surviving beneficiaries and, in the case of substitute

beneficiaries permitted under section 22 of this chapter, the lineal descendants of designated beneficiaries who did not survive the owner are entitled to the property as follows:

(A) If there are multiple primary beneficiaries and a primary beneficiary does not survive the owner and does not have a substitute under section 22 of this chapter, the share of the nonsurviving beneficiary is allocated among the surviving beneficiaries in the proportion that their shares bear to each other.

(B) If there are no surviving primary beneficiaries and there are no substitutes for the nonsurviving primary beneficiaries under section 22 of this chapter, the property belongs to the surviving contingent beneficiaries in equal shares or according to the percentages or fractional shares stated in the registration.

(C) If there are multiple contingent beneficiaries and a contingent beneficiary does not survive the owner and does not have a substitute under section 22 of this chapter, the share of the nonsurviving contingent beneficiary is allocated among the surviving contingent beneficiaries in the proportion that their shares bear to each other.

(10) If a trustee designated as a beneficiary:

(A) does not survive the owner;

(B) resigns; or

(C) is unable or unwilling to execute the trust as trustee and no successor trustee is appointed in the twelve (12) months following the owner's death;

the transferring entity may make the distribution as if the trust did not survive the owner.

(11) If a trustee is designated as a beneficiary and no **affidavit of certification of** trust ~~instrument~~ or probated will creating an express trust is presented to the transferring entity **within the twelve (12) months after the owner's death,** the transferring entity may make the distribution as if the trust did not survive the owner.

(12) If the transferring entity is not presented evidence during the twelve (12) months after the owner's death that there are lineal descendants of a nonsurviving beneficiary for whom LDPS

distribution applies who survived the owner, the transferring entity may make the transfer as if the nonsurviving beneficiary's descendants also failed to survive the owner.

(13) If a beneficiary cannot be located at the time the transfer is made to located beneficiaries, the transferring entity shall hold the missing beneficiary's share. If the missing beneficiary's share is not claimed by the beneficiary or by the beneficiary's personal representative or successor during the twelve (12) months after the owner's death, the transferring entity shall transfer the share as if the beneficiary did not survive the owner.

(14) A transferring entity has no obligation to attempt to locate a missing beneficiary, to pay interest on the share held for a missing beneficiary, or to invest the share in any different property.

(15) Cash, interest, rent, royalties, earnings, or dividends payable to a missing beneficiary may be held by the transferring entity at interest or reinvested by the transferring entity in the account or in a dividend reinvestment account associated with a security held for the missing beneficiary.

(16) If a transferring entity is required to make a transfer on death transfer to a minor or an incapacitated adult, the transfer may be made under the Indiana Uniform Transfers to Minors Act, the Indiana Uniform Custodial Trust Act, or a similar law of another state.

(17) A written request for the execution of a transfer on death transfer may be made by any beneficiary, a beneficiary's legal representative or attorney in fact, or the owner's personal representative.

(18) A transfer under a transfer on death deed occurs automatically upon the owner's death subject to the requirements of subdivision (20) and does not require a request for the execution of the transfer.

(19) A written request for the execution of a transfer on death transfer must be accompanied by the following:

(A) A certificate or instrument evidencing ownership of the contract, account, security, or property.

(B) Proof of the deaths of the owner and any nonsurviving beneficiary.

(C) An inheritance tax waiver from states that require it.

(D) In the case of a request by a legal representative, a copy of the instrument creating the legal authority or a certified copy of the court order appointing the legal representative.

(E) Any other proof of the person's entitlement that the transferring entity may require.

(20) On the death of an owner whose transfer on death deed has been recorded, the beneficiary shall file an affidavit in the office of the recorder of the county in which the real property is located. The affidavit must contain the following:

(A) The legal description of the property.

(B) A certified copy of the death certificate certifying the owner's death.

(C) The name and address of each designated beneficiary who survives the owner or is in existence on the date of the owner's death.

(D) The name of each designated beneficiary who has not survived the owner's death or is not in existence on the date of the owner's death.

(E) A cross-reference to the recorded transfer on death deed.

(c) A beneficiary designation is presumed to be valid. A party may rely on the presumption of validity unless the party has actual knowledge that the beneficiary designation was not validly executed. A person who acts in good faith reliance on a transfer on death deed is immune from liability to the same extent as if the person had dealt directly with the named owner and the named owner had been competent and not incapacitated.

SECTION 35. IC 32-17-14-28, AS ADDED BY P.L.143-2009, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 28. (a) The protections provided to a transferring entity or to a purchaser or lender for value by this chapter do not affect the rights of beneficiaries or others involved in disputes that:

(1) are with parties other than a transferring entity or purchaser or lender for value; and

(2) concern the ownership of property transferred under this chapter.

(b) Unless the payment or transfer can no longer be challenged because of adjudication, estoppel, or limitations, a transferee of money or property under a transfer on death transfer that was improperly

distributed or paid is liable for:

(1) the return of the money or property, including income earned on the money or property, to the transferring entity; or

(2) the delivery of the money or property, including income earned on the money or property, to the rightful transferee.

In addition, the transferee is liable for the amount of attorney's fees and costs incurred by the rightful transferee in bringing the action in court.

(c) If a transferee of money or property under a transfer on death transfer that was improperly distributed or paid does not have the property, the transferee is liable for an amount equal to the sum of:

(1) the value of the property as of the date of the disposition; ~~and~~

(2) the income and gain that the transferee received from the property and its proceeds; **and**

(3) the amount of attorney's fees and costs incurred by the rightful transferee in bringing the action in court.

(d) If a transferee of money or property under a transfer on death transfer that was improperly distributed or paid encumbers the property, the transferee:

(1) shall satisfy the debt incurred in an amount sufficient to release any security interest, lien, or other encumbrance on the property; **and**

(2) is liable for the amount of attorney's fees and costs incurred by the rightful transferee in bringing the action in court.

(e) A purchaser for value of property or a lender who acquires a security interest in the property from a beneficiary of a transfer on death transfer:

(1) in good faith; or

(2) without actual knowledge that:

(A) the transfer was improper; or

(B) information in an affidavit provided under section 26(b)(20) of this chapter was not true;

takes the property free of any claims of or liability to the owner's estate, creditors of the owner's estate, persons claiming rights as beneficiaries of the transfer on death transfer, or heirs of the owner's estate. A purchaser or lender for value has no duty to verify sworn information relating to the transfer on death transfer.

(f) The protection provided by subsection (e) applies to information that relates to the beneficiary's ownership interest in the property and the beneficiary's right to sell, encumber, and transfer good title to a purchaser or lender but does not relieve a purchaser or lender from the notice provided by instruments of record with respect to the property.

(g) A transfer on death transfer that is improper under section 22, 23, 24, or 25 of this chapter imposes no liability on the transferring entity if the transfer is made in good faith. The remedy of a rightful transferee must be obtained in an action against the improper transferee.

SECTION 36. IC 32-17.5-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. This article applies to a disclaimer of an interest in or power over property ~~regardless of when the interest or power was~~ created **after June 30, 2003.**

SECTION 37. IC 32-17.5-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. This chapter does not limit the right of a person to waive, release, disclaim, or renounce an interest in or power over property under a ~~law~~ **statute** other than this article.

SECTION 38. IC 32-17.5-4-1, AS AMENDED BY P.L.238-2005, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. Except for a disclaimer under IC 32-17.5-5 or IC 32-17.5-6-1, the following rules apply to a disclaimer of an interest in property:

(1) A disclaimer takes effect:

(A) when the instrument creating the interest becomes irrevocable; or

(B) upon the intestate's death if the interest arose under the law of intestate succession.

(2) A disclaimed interest passes according to any provision in the instrument creating the interest:

(A) that provides for the disposition of the interest should the interest be disclaimed; or

(B) that concerns disclaimed interests in general.

(3) If the instrument creating the disclaimed interest does not contain a provision described in subdivision (2), the following rules apply:

(A) If the disclaimant is an individual, the following rules

apply:

(i) Except as provided in ~~item~~ **items** (ii) **and (iii),** the disclaimed interest passes as if the disclaimant had died immediately before the time of distribution.

(ii) If, by law or under the instrument, the descendants of the disclaimant would share in the disclaimed interest by any method of representation had the disclaimant died before the time of distribution, the disclaimed interest passes only to the descendants of the disclaimant who survive at the time of distribution.

(iii) If the disclaimed interest would have passed to the disclaimant's estate had the disclaimant died before the time of distribution, the disclaimed interest passes by representation to the descendants of the disclaimant who survive at the time of distribution. If no descendant of the disclaimant survives the time of distribution, the disclaimed interest becomes part of the residue under the instrument creating the disclaimed interest.

(B) If the disclaimant is not an individual, the disclaimed interest passes as if the disclaimant did not exist.

(4) If the disclaimed interest arose under the law of intestate succession, the disclaimed interest passes as if the disclaimant had died immediately before the intestate's death.

(5) Upon the disclaimer of a preceding interest:

(A) a future interest held by a person other than the disclaimant takes effect as if the disclaimant had died or ceased to exist immediately before the time of distribution; and

(B) a future interest held by the disclaimant is not accelerated in possession or enjoyment.

SECTION 39. IC 32-17.5-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) **This subsection applies** upon the death of a holder of jointly held property ~~a surviving holder may disclaim, in whole or part, the greater of the following:~~ **only if, during the deceased holder's lifetime, the deceased holder could have unilaterally regained a part of the property attributable to the deceased holder's contribution without consent of any other holder. Another holder may disclaim an amount that may not exceed the**

amount determined in STEP THREE of the following formula:

STEP ONE: Determine the amount of the property attributable to the deceased holder's contributions.

~~(1) A fractional share of the property determined by dividing~~

STEP TWO: Determine the quotient of:

(A) one (1); **divided** by

(B) the number of joint holders alive immediately before the death of the holder to whose death the disclaimer relates.

STEP THREE: Determine the product of:

(1) the STEP ONE amount; multiplied by

(2) the STEP TWO quotient.

~~(2) All of the property except that part of the value of the entire interest attributable to the contribution furnished by the disclaimant.~~

(b) This subsection applies in the case of the death of a holder of jointly held property that is not subject to subsection (a). Another holder may disclaim an amount that may not exceed the amount determined in STEP FOUR of the following formula:

STEP ONE: Determine the value of the total amount of the jointly held property.

STEP TWO: Determine the product of:

(A) the number of joint holders alive immediately before the death of the holder to whose death the disclaimer relates; multiplied by

(B) the number of joint holders alive immediately after the death of the holder to whose death the disclaimer relates.

STEP THREE: Determine the quotient of:

(A) one (1); divided by

(B) the STEP TWO result.

STEP FOUR: Determine the product of:

(A) the value determined in STEP ONE; multiplied by

(B) the quotient determined in STEP THREE.

~~(b)~~ **(c)** A disclaimer under subsection (a) **or (b)** takes effect as of the death of the holder of jointly held property to whose death the disclaimer relates.

~~(c)~~ **(d)** An interest in jointly held property disclaimed by a surviving holder of the property passes as if the disclaimant predeceased the holder to whose death the disclaimer relates.

SECTION 40. IC 29-3-9-4 IS REPEALED [EFFECTIVE JULY 1, 2010].

SECTION 41. **An emergency is declared for this act.**

P.L.7-2010
[S.71. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

SECTION 1. IC 35-42-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) As used in this section, "child care provider" means a person who provides child care in or on behalf of:

(1) a child care center (as defined in IC 12-7-2-28.4); or

(2) a child care home (as defined in IC 12-7-2-28.6);

regardless of whether the child care center or child care home is licensed.

(b) As used in this section, "fetus" means a fetus that has attained viability (as defined in IC 16-18-2-365).

(c) A person who kills another human being while committing or attempting to commit:

(1) a Class C or Class D felony that inherently poses a risk of serious bodily injury;

(2) a Class A misdemeanor that inherently poses a risk of serious bodily injury; or

(3) battery;

commits involuntary manslaughter, a Class C felony. However, if the killing results from the operation of a vehicle, the offense is a Class D felony.

(d) A person who kills a fetus while committing or attempting to

commit:

(1) a Class C or Class D felony that inherently poses a risk of serious bodily injury;

(2) a Class A misdemeanor that inherently poses a risk of serious bodily injury; ~~or~~

(3) battery; **or**

(4) a violation of IC 9-30-5-1 through IC 9-30-5-5 (operating a vehicle while intoxicated);

commits involuntary manslaughter, a Class C felony. However, if the killing results from the operation of a vehicle, the offense is a Class D felony.

(e) If:

(1) a child care provider recklessly supervises a child; and

(2) the child dies as a result of the child care provider's reckless supervision;

the child care provider commits involuntary manslaughter, a Class D felony.

P.L.8-2010

[S.73. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-13-2-146.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 146.5. "Railroad flagman", for purposes of IC 9-21-8-41.7, has the meaning set forth in IC 9-21-8-41.7(a).**

SECTION 2. IC 9-21-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. (a) Whenever traffic is controlled by traffic control signals exhibiting different colored lights or colored

lighted arrows successively, one (1) at a time or in combination, only the colors green, red, or yellow may be used, except for special pedestrian signals under IC 9-21-18.

(b) The lights indicate and apply to drivers of vehicles and pedestrians as follows:

(1) Green indication means the following:

(A) Vehicular traffic facing a circular green signal may proceed straight through or turn right or left, unless a sign at the place prohibits either turn.

(B) Vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent sidewalk at the time the signal is exhibited.

(C) Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by the green arrow or other movement permitted by other indications shown at the same time.

(D) Vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

(E) Unless otherwise directed by a pedestrian control signal, pedestrians facing a green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within a marked or unmarked crosswalk.

(2) Steady yellow indication means the following:

(A) Vehicular traffic facing a steady circular yellow or yellow arrow signal is warned that the related green movement is being terminated and that a red indication will be exhibited immediately thereafter.

(B) A pedestrian facing a steady circular yellow or yellow arrow signal, unless otherwise directed by a pedestrian control signal, is advised that there is insufficient time to cross the roadway before a red indication is shown, and a pedestrian may not start to cross the roadway at that time.

(3) Steady red indication means the following:

(A) Except as provided in clause (B), vehicular traffic facing a steady circular red **or red arrow** signal ~~alone~~ shall stop at a

clearly marked stop line. However, if there is no clearly marked stop line, vehicular traffic shall stop before entering the crosswalk on the near side of the intersection. If there is no crosswalk, vehicular traffic shall stop before entering the intersection and shall remain standing until an indication to proceed is shown.

(B) Except when a sign is in place prohibiting a turn described in this subdivision, vehicular traffic facing a steady red signal, after coming to a complete stop, may cautiously enter the intersection to do the following:

(i) Make a right turn.

(ii) Make a left turn if turning from the left lane of a one-way street into another one-way street with the flow of traffic.

Vehicular traffic making a turn described in this subdivision shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic using the intersection.

(C) Unless otherwise directed by a pedestrian control signal pedestrians facing a steady circular red **or red arrow** signal ~~alone~~ may not enter the roadway.

(4) No indication or conflicting indications means the following:

(A) Vehicular traffic facing an intersection having a signal that displays no indication or conflicting indications, where no other control is present, shall stop before entering the intersection.

(B) After stopping, vehicular traffic may proceed with caution through the intersection and shall yield the right-of-way to traffic within the intersection or approaching so closely as to constitute an immediate hazard.

(5) This section applies to traffic control signals located at a place other than an intersection. A stop required under this subdivision must be made at the signal, except when the signal is supplemented by a sign or pavement marking indicating where the stop must be made.

SECTION 3. IC 9-21-8-39 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 39. Whenever a person who drives a vehicle approaches a railroad grade crossing, the person shall stop within fifty (50) feet but not less than fifteen (15) feet from

the nearest track of the railroad and may not proceed until the person can do so safely under the following circumstances:

(1) When a clearly visible electric or mechanical signal device gives warning of the immediate approach of a train **or other on-track equipment.**

(2) When a crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a train **or other on-track equipment.**

(3) When a railroad train **or other on-track equipment** approaching within one thousand five hundred (1,500) feet of a highway crossing emits an audible signal and because of speed or nearness to the crossing is an immediate hazard.

(4) When an approaching train **or other on-track equipment** is plainly visible and is in hazardous proximity to the crossing.

SECTION 4. IC 9-21-8-40 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 40. (a) A person may not operate or move a caterpillar tractor, steam shovel, derrick, roller, or any equipment or structure weighing more than ten (10) tons and having a normal operating speed of not more than six (6) miles per hour or a vertical body or load clearance of less than nine (9) inches above the level surface of a roadway upon or across tracks at a railroad grade crossing without first complying with this section.

(b) Notice of an intended crossing under this section shall be given to a superintendent of the railroad, and a reasonable time shall be given to the railroad to provide proper protection at the crossing.

(c) Before making a crossing under this section, the person operating or moving a vehicle or equipment described in subsection (a) shall first stop the vehicle or equipment not less than ten (10) feet and not more than fifty (50) feet from the nearest rail or the railway. While stopped, the person shall listen and look in both directions along the track for an approaching train **or other on-track equipment** and for signals indicating the approach of a train **or other on-track equipment.** The person shall not proceed until the crossing can be made safely.

(d) A crossing may not be made when warning is given by automatic signal, crossing gates, a flagman, or otherwise of the immediate approach of a railroad train ~~or car~~ **or other on-track equipment.**

SECTION 5. IC 9-21-8-41.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 41.7. (a) For purposes of this section, "railroad flagman" has the meaning set forth in IC 8-9-2-1(i).**

(b) A person who operates a vehicle shall obey the instructions of a railroad flagman to stop the vehicle before approaching a location in which a train or other on-track equipment is or may be located.

SECTION 6. IC 9-21-12-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) This section does not apply to the following:

(1) A street railway grade crossing within a business or residence district.

(2) Abandoned or unused railroad grade crossings that are:

(A) designated by the Indiana department of transportation under IC 8-6-15-2; and

(B) marked with a "tracks out of service" sign that complies with the requirements of IC 8-6-15-3.

(b) A person who drives:

(1) a motor vehicle carrying passengers for hire;

(2) a school or private bus that is carrying passengers; or

(3) a vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo;

shall, before crossing at grade a track of a railroad, stop the vehicle not more than fifty (50) feet and not less than fifteen (15) feet from the nearest rail of the railroad.

(c) While stopped in accordance with subsection (b), the person shall do the following:

(1) Listen through an open window or door.

(2) Look in both directions along the track for an approaching train **or other on-track equipment** and for signals indicating the approach of a train **or other on-track equipment.**

(3) Not proceed until the person can proceed safely.

After stopping, the person shall cross only in a gear of the vehicle so there will be no necessity for changing gears while traversing the crossing. The person who drives the vehicle may not shift gears while crossing the track or tracks.

(d) If a police officer or traffic control signal directs traffic to

proceed at a railroad crossing, the person who drives a vehicle subject to this section shall proceed in accordance with the instructions of the police officer or traffic control signal.

SECTION 7. IC 9-21-12-17, AS AMENDED BY P.L.145-2009, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 17. (a) Except as provided in subsection (b), before crossing any railroad track at grade, the driver of a school bus or special purpose bus shall stop the bus within fifty (50) feet but not less than fifteen (15) feet from the nearest rail. While the bus is stopped, the driver shall:

(1) listen through an open door;

(2) look in both directions along the track for an approaching train **or other on-track equipment;** and

(3) look for signals indicating the approach of a train **or other on-track equipment.**

The driver may not proceed until it is safe to proceed. When it is safe to proceed, the driver shall select a gear that will allow the driver to cross the tracks without changing gears. The driver may not shift gears while crossing the tracks.

(b) The driver is not required to stop when a police officer is directing the flow of traffic across railroad tracks.

(c) Upon conviction of a violation of this section, a driver shall have the driver's operator's license suspended for a period of not less than sixty (60) days in addition to the penalties provided by section 11 of this chapter.

SECTION 8. IC 9-21-17-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. Whenever special pedestrian control signals exhibiting the words "walk" or "don't walk" are in place, the signals must indicate as follows:

(1) Flashing or steady "walk" means a pedestrian facing the signal may proceed across the roadway in the direction of the signal and a person who drives a vehicle shall yield the right-of-way to the pedestrian.

(2) ~~Flashing or~~ Steady "don't walk" means a pedestrian may not start to cross the roadway in the direction of the signal. A pedestrian who has partially completed crossing on the "walk" signal shall proceed to a sidewalk or safety island while the "don't walk" signal is showing.

(3) Flashing "don't walk" means a pedestrian may not start to cross the roadway in the direction of the signal. A pedestrian who has already started to cross on the "walk" signal shall proceed to a sidewalk or safety island. If a countdown pedestrian signal indication is also shown, a pedestrian may cross if the pedestrian is able to proceed to the sidewalk or safety island by the time the steady "don't walk" signal is shown, and a person who drives a vehicle shall yield the right-of-way to the pedestrian.

SECTION 9. IC 9-24-6-6, AS AMENDED BY P.L.1-2005, SECTION 109, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) The following, if committed while driving a commercial motor vehicle, are serious traffic violations:

(1) Operating a vehicle at least fifteen (15) miles per hour above the posted speed limit in violation of IC 9-21-5, IC 9-21-6, or IC 9-21-5-14.

(2) Operating a vehicle recklessly as provided in IC 9-21-8-50 and IC 9-21-8-52.

(3) Improper or erratic traffic lane changes in violation of IC 9-21-8-2 through IC 9-21-8-13 and IC 9-21-8-17 through IC 9-21-8-18.

(4) Following a vehicle too closely in violation of IC 9-21-8-14 through IC 9-21-8-16.

(5) In connection with a fatal accident, violating any statute, ordinance, or rule concerning motor vehicle traffic control other than parking statutes, ordinances, or rules.

(6) Operating a vehicle while disqualified under this chapter.

(7) For drivers who are not required to always stop at a railroad crossing, failing to do any of the following:

(A) Slow down and determine that the railroad tracks are clear of an approaching train **or other on-track equipment,** in violation of IC 9-21-5-4, IC 9-21-8-39, IC 35-42-2-4, or any similar statute.

(B) Stop before reaching the railroad crossing, if the railroad tracks are not clear of an approaching train **or other on-track equipment,** in violation of IC 9-21-4-16, IC 9-21-8-39, or any similar statute.

(8) For all drivers, whether or not they are required to always stop

at a railroad crossing, to do any of the following:

(A) Stopping in a railroad crossing, in violation of IC 9-21-8-50 or any similar statute.

(B) Failing to obey a traffic control device or failing to obey the directions of a law enforcement officer at a railroad crossing, in violation of IC 9-21-8-1 or any similar statute.

(C) Stopping in a railroad crossing because of insufficient undercarriage clearance, in violation of IC 35-42-2-4, IC 9-21-8-50, or any similar statute.

(b) Subsection (a)(1) and (a)(8) is intended to comply with the provisions of 49 U.S.C. 31311(a)(10) and regulations adopted under that statute.

P.L.9-2010

[S.74. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 8-2.1-24-1, AS AMENDED BY P.L.42-2007, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. **(a)** This chapter applies to the certification of a motor carrier providing intrastate transportation by motor vehicle of property or passengers for compensation.

(b) Section 18 of this chapter applies to the regulation of the following persons:

(1) A motor carrier described in subsection (a).

(2) Except as provided in section 18(j) of this chapter, a private carrier of persons or property, or both.

SECTION 2. IC 8-2.1-24-3, AS AMENDED BY P.L.42-2007, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. Except as provided in section 18 of this

chapter, this chapter does not apply to the following:

(1) Motor vehicles used exclusively for carrying United States mail.

(2) Motor vehicles while being used or operated under the control, direction, and supervision of:

(A) the United States government, the state, or a political subdivision; or

(B) the board of trustees of a state institution.

(3) Motor vehicles while transporting supplies, livestock feed ingredients, fertilizer, or fertilizing materials that are in transit to or from farms.

(4) Motor vehicles:

(A) controlled and operated by a farmer when used in the transportation of the farmer's agricultural commodities and products of those commodities or in the transportation of supplies to the farm;

(B) controlled and operated by a nonprofit agricultural cooperative association (or by a federation of agricultural cooperative associations if the federation does not possess greater powers or purposes than the cooperative associations);

(C) used in carrying property consisting of livestock or agricultural commodities (not including manufactured products) if the motor vehicles are not used in carrying:

(i) other property;

(ii) agricultural commodities; or

(iii) passengers;

for compensation; or

(D) used in carrying livestock feed or feed ingredients, if those products are transported to a site of agricultural productions or to a business enterprise engaged in the sale of agricultural goods to a person engaged in agricultural production.

This chapter shall not be construed to apply to motor vehicles owned, leased, controlled, or operated by a nonprofit cooperative association, either incorporated or unincorporated, that was in existence on July 6, 1961.

(5) Motor vehicles, commonly known as armored cars, used exclusively to transport, under written bilateral contract, coin, currency, bullion, securities, precious metals, jewelry, precious

stones, money, legal tender, stocks and bonds, negotiable and nonnegotiable instruments and securities, postage and revenue stamps, and other valuable documents and rare objects.

(6) Motor vehicles operating exclusively in intrastate commerce that have a gross vehicle weight, gross vehicle weight rating, gross combination weight, or gross combination weight rating equal to or less than twenty-six thousand (26,000) pounds. However, the motor vehicle may not be:

(A) used to provide for-hire transport;

(B) designed or used to transport sixteen (16) or more passengers, including the driver; or

(C) used to transport hazardous material in amounts requiring a placard.

SECTION 3. IC 8-2.1-24-18, AS AMENDED BY P.L.21-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) 49 CFR Parts 40, 375, 380, 382 through 387, 390 through 393, and 395 through 398 are incorporated into Indiana law by reference, and, except as provided in subsections (d), (e), (f), ~~and~~ (g), **and (j),** must be complied with by an interstate and intrastate motor carrier of persons or property throughout Indiana. Intrastate motor carriers subject to compliance reviews under 49 CFR 385 shall be selected according to criteria determined by the superintendent which must include but are not limited to factors such as previous history of violations found in roadside compliance checks and other recorded violations. However, the provisions of 49 CFR 395 that regulate the hours of service of drivers, including requirements for the maintenance of logs, do not apply to a driver of a truck that is registered by the bureau of motor vehicles and used as a farm truck under IC 9-18, or a vehicle operated in intrastate construction or construction related service, or the restoration of public utility services interrupted by an emergency. Except as provided in subsection (i) **and (j):**

(1) intrastate motor carriers not operating under authority issued by the United States Department of Transportation shall comply with the requirements of 49 CFR 390.21(b)(3) by registering with the department of state revenue as an intrastate motor carrier and displaying the certification number issued by the department of

state revenue preceded by the letters "IN"; ~~Except as provided in subsection (i),~~ **and**

(2) all other requirements of 49 CFR 390.21 apply equally to interstate and intrastate motor carriers.

(b) 49 CFR 107 subpart (F) and subpart (G), 171 through 173, 177 through 178, and 180, are incorporated into Indiana law by reference, and every:

(1) private carrier;

(2) common carrier;

(3) contract carrier;

(4) motor carrier of property, intrastate;

(5) hazardous material shipper; and

(6) carrier otherwise exempt under section 3 of this chapter;

must comply with the federal regulations incorporated under this subsection, whether engaged in interstate or intrastate commerce.

(c) Notwithstanding subsection (b), nonspecification bulk and nonbulk packaging, including cargo tank motor vehicles, may be used only if all the following conditions exist:

(1) The maximum capacity of the vehicle is less than three thousand five hundred (3,500) gallons.

(2) The shipment of goods is limited to intrastate commerce.

(3) The vehicle is used only for the purpose of transporting fuel oil, kerosene, diesel fuel, gasoline, gasohol, or any combination of these substances.

~~All additional federal standards for the safe transportation of hazardous materials apply until July 1, 2000. After June 30, 2000, the~~ Maintenance, inspection, and marking requirements of 49 CFR 173.8 and Part 180 are applicable. In accordance with federal hazardous materials regulations, new or additional nonspecification cargo tank motor vehicles may not be placed in service under this subsection. ~~after June 30, 1998.~~

(d) For the purpose of enforcing this section, only:

(1) a state police officer or state police motor carrier inspector who:

(A) has successfully completed a course of instruction approved by the United States Department of Transportation; and

(B) maintains an acceptable competency level as established

by the state police department; or

(2) an employee of a law enforcement agency who:

(A) before January 1, 1991, has successfully completed a course of instruction approved by the United States Department of Transportation; and

(B) maintains an acceptable competency level as established by the state police department;

on the enforcement of 49 CFR, may, upon demand, inspect the books, accounts, papers, records, memoranda, equipment, and premises of any carrier, including a carrier exempt under section 3 of this chapter.

(e) A person hired before September 1, 1985, who operates a motor vehicle intrastate incidentally to the person's normal employment duties and who is not employed as a chauffeur (as defined in IC 9-13-2-21(a)) is exempt from 49 CFR 391 as incorporated by this section.

(f) Notwithstanding any provision of 49 CFR 391 to the contrary, a person at least eighteen (18) years of age and less than twenty-one (21) years of age may be employed as a driver to operate a commercial motor vehicle intrastate. However, a person employed under this subsection is not exempt from any other provision of 49 CFR 391.

(g) Notwithstanding subsection (a) or (b), the following provisions of 49 CFR do not apply to private carriers of property operated only in intrastate commerce or any carriers of property operated only in intrastate commerce while employed in construction or construction related service:

(1) Subpart 391.41(b)(3) as it applies to physical qualifications of a driver who has been diagnosed as an insulin dependent diabetic, if the driver has applied for and been granted an intrastate medical waiver by the bureau of motor vehicles pursuant to this subsection. The same standards and the following procedures shall apply for this waiver whether or not the driver is required to hold a commercial driver's license. An application for the waiver shall be submitted by the driver and completed and signed by a certified endocrinologist or the driver's treating physician attesting that the driver:

(A) is not otherwise physically disqualified under Subpart 391.41 to operate a motor vehicle, whether or not any additional disqualifying condition results from the diabetic

condition, and is not likely to suffer any diminution in driving ability due to the driver's diabetic condition;

(B) is free of severe hypoglycemia or hypoglycemia unawareness and has had less than one (1) documented, symptomatic hypoglycemic reaction per month;

(C) has demonstrated the ability and willingness to properly monitor and manage the driver's diabetic condition;

(D) has agreed to and, to the endocrinologist's or treating physician's knowledge, has carried a source of rapidly absorbable glucose at all times while driving a motor vehicle, has self monitored blood glucose levels one (1) hour before driving and at least once every four (4) hours while driving or on duty before driving using a portable glucose monitoring device equipped with a computerized memory; and

(E) has submitted the blood glucose logs from the monitoring device to the endocrinologist or treating physician at the time of the annual medical examination.

A copy of the blood glucose logs shall be filed along with the annual statement from the endocrinologist or treating physician with the bureau of motor vehicles for review by the driver licensing medical advisory board established under IC 9-14-4. A copy of the annual statement shall also be provided to the driver's employer for retention in the driver's qualification file, and a copy shall be retained and held by the driver while driving for presentation to an authorized federal, state, or local law enforcement official. Notwithstanding the requirements of this subdivision, the endocrinologist, the treating physician, the advisory board of the bureau of motor vehicles, or the bureau of motor vehicles may, where medical indications warrant, establish a short period for the medical examinations required under this subdivision.

(2) Subpart 396.9 as it applies to inspection of vehicles carrying or loaded with a perishable product. However, this exemption does not prohibit a law enforcement officer from stopping these vehicles for an obvious violation that poses an imminent threat of an accident or incident. The exemption is not intended to include refrigerated vehicles loaded with perishables when the refrigeration unit is working.

(3) Subpart 396.11 as it applies to driver vehicle inspection reports.

(4) Subpart 396.13 as it applies to driver inspection.

(h) For purposes of ~~49 CFR 395.1(l),~~ **49 CFR 395.1(k)(2),** "planting and harvesting season" refers to the period between January 1 and December 31 of each year. The intrastate commerce exception set forth in ~~49 CFR 395.1(l),~~ **49 CFR 395.1(k),** as it applies to the transportation of agricultural commodities and farm supplies, is restricted to single vehicles and cargo tank motor vehicles with a capacity of not more than five thousand four hundred (5,400) gallons.

(i) The requirements of 49 CFR 390.21 do not apply to an intrastate **motor** carrier or a guest operator not engaged in interstate commerce and operating a motor vehicle as a farm vehicle in connection with agricultural pursuits usual and normal to the user's farming operation or for personal purposes unless the vehicle is operated either part time or incidentally in the conduct of a commercial enterprise.

(j) **This section does not apply to private carriers that operate using only the type of motor vehicles specified in IC 8-2.1-24-3(6).**

(k) The superintendent of state police may adopt rules under IC 4-22-2 governing the parts and subparts of 49 CFR incorporated by reference under this section.

SECTION 4. IC 9-13-2-2.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 2.2. "Alcohol", for purposes of IC 9-24-6, has the meaning set forth in IC 9-24-6-0.3.**

SECTION 5. IC 9-13-2-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 29. "Commercial driver's license" ~~means a license issued by the state to an individual that authorizes the individual to operate a class of commercial motor vehicles.~~ **has the meaning set forth in 49 CFR 383.5 as in effect July 1, 2010.**

SECTION 6. IC 9-13-2-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 35. **(a) Except as provided in subsection (b),** "controlled substance" has the meaning set forth in IC 35-48-1.

(b) For purposes of IC 9-24-6, "controlled substance" has the meaning set forth in 49 CFR 383.5 as in effect July 1, 2010.

SECTION 7. IC 9-13-2-38 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 38. **(a) Except as provided in subsection (b),** "conviction" includes the following:

(1) A conviction or judgment upon a plea of guilty or nolo contendere.

(2) A determination of guilt by a jury or a court, even if:

(A) no sentence is imposed; or

(B) a sentence is suspended.

(3) A forfeiture of bail, bond, or collateral deposited to secure the defendant's appearance for trial, unless the forfeiture is vacated.

(4) A payment of money as a penalty or as costs in accordance with an agreement between a moving traffic violator and a traffic violations bureau.

(b) "Conviction", for purposes of IC 9-24-6, has the meaning set forth in 49 CFR 383.5 as in effect July 1, 2010.

SECTION 8. IC 9-13-2-105, AS AMENDED BY P.L.191-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 105. (a) "Motor vehicle" means, except as otherwise provided in this section, a vehicle that is self-propelled. The term does not include a farm tractor, an implement of agriculture designed to be operated primarily in a farm field or on farm premises, or an electric personal assistive mobility device.

(b) "Motor vehicle", for purposes of IC 9-21, means:

(1) a vehicle except a motorized bicycle that is self-propelled; or

(2) a vehicle that is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

(c) "Motor vehicle", for purposes of IC 9-19-10.5 and IC 9-25, means a vehicle that is self-propelled upon a highway in Indiana. The term does not include a farm tractor.

(d) "Motor vehicle", for purposes of IC 9-30-10, does not include a motorized bicycle.

(e) "Motor vehicle", for purposes of IC 9-23-2 and IC 9-23-3, includes a semitrailer.

(f) "Motor vehicle", for purposes of IC 9-24-6, has the meaning set forth in 49 CFR 383.5 as in effect July 1, 2010.

SECTION 9. IC 9-13-2-173, AS AMENDED BY P.L.2-2007, SECTION 141, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 173. (a) "State" means, except as otherwise provided by this section and unless by the context some other

state or territory or federal district of the United States is meant or intended, the state of Indiana.

(b) "State", for purposes of IC 9-27-1, means the state of Indiana, the governor of Indiana, an agency of the state of Indiana designated by the governor to receive federal aid, and any officer, board, bureau, commission, division, or department, any public body corporate and politic created by the state of Indiana for public purposes, or any state educational institution.

(c) "State", for purposes of IC 9-25, means any state in the United States, the District of Columbia, or any Province of the Dominion of Canada.

(d) "State", for purposes of section 120.5 of this chapter **and IC 9-24-6,** means any state in the United States or the District of Columbia.

SECTION 10. IC 9-13-2-196, AS AMENDED BY P.L.41-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 196. (a) "Vehicle" means, except as otherwise provided in this section, a device in, upon, or by which a person or property is, or may be, transported or drawn upon a highway.

(b) "Vehicle", for purposes of IC 9-14 through IC 9-18, does not include the following:

(1) A device moved by human power.

(2) A vehicle that runs only on rails or tracks.

(3) A vehicle propelled by electric power obtained from overhead trolley wires but not operated upon rails or tracks.

(4) A firetruck and apparatus owned by a person or municipal division of the state and used for fire protection.

(5) A municipally owned ambulance.

(6) A police patrol wagon.

(7) A vehicle not designed for or employed in general highway transportation of persons or property and occasionally operated or moved over the highway, including the following:

(A) Road construction or maintenance machinery.

(B) A movable device designed, used, or maintained to alert motorists of hazardous conditions on highways.

(C) Construction dust control machinery.

(D) Well boring apparatus.

(E) Ditch digging apparatus.

(F) An implement of agriculture designed to be operated primarily in a farm field or on farm premises.

(G) An invalid chair.

(H) A yard tractor.

(8) An electric personal assistive mobility device.

(c) For purposes of IC 9-20 and IC 9-21, the term does not include devices moved by human power or used exclusively upon stationary rails or tracks.

(d) For purposes of IC 9-22, the term refers to an automobile, a motorcycle, a truck, a trailer, a semitrailer, a tractor, a bus, a school bus, a recreational vehicle, a trailer or semitrailer used in the transportation of watercraft, or a motorized bicycle.

(e) For purposes of IC 9-24-6, the term has the meaning set forth in 49 CFR 383.5 as in effect July 1, 2010.

~~(e)~~ **(f)** For purposes of IC 9-30-5, IC 9-30-6, IC 9-30-8, and IC 9-30-9, the term means a device for transportation by land or air. The term does not include an electric personal assistive mobility device.

SECTION 11. IC 9-24-6-0.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 0.3. As used in this chapter, "alcohol" has the meaning set forth in 49 CFR 383.5 as in effect July 1, 2010.**

SECTION 12. IC 9-24-6-6, AS AMENDED BY SEA 73-2010, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) The following, if committed while driving a commercial motor vehicle **or while holding any class of commercial driver's license,** are serious traffic violations:

(1) Operating a vehicle at least fifteen (15) miles per hour above the posted speed limit in violation of IC 9-21-5, IC 9-21-6, or IC 9-21-5-14.

(2) Operating a vehicle recklessly as provided in IC 9-21-8-50 and IC 9-21-8-52.

(3) Improper or erratic traffic lane changes in violation of IC 9-21-8-2 through IC 9-21-8-13 and IC 9-21-8-17 through IC 9-21-8-18.

(4) Following a vehicle too closely in violation of IC 9-21-8-14 through IC 9-21-8-16.

(5) In connection with a fatal accident, violating any statute,

ordinance, or rule concerning motor vehicle traffic control other than parking statutes, ordinances, or rules.

(6) Operating a vehicle while disqualified under this chapter.

(7) For drivers who are not required to always stop at a railroad crossing, failing to do any of the following:

(A) Slow down and determine that the railroad tracks are clear of an approaching train or other on-track equipment, in violation of IC 9-21-5-4, IC 9-21-8-39, IC 35-42-2-4, or any similar statute.

(B) Stop before reaching the railroad crossing, if the railroad tracks are not clear of an approaching train or other on-track equipment, in violation of IC 9-21-4-16, IC 9-21-8-39, or any similar statute.

(8) For all drivers, whether or not they are required to always stop at a railroad crossing, to do any of the following:

(A) Stopping in a railroad crossing, in violation of IC 9-21-8-50 or any similar statute.

(B) Failing to obey a traffic control device or failing to obey the directions of a law enforcement officer at a railroad crossing, in violation of IC 9-21-8-1 or any similar statute.

(C) Stopping in a railroad crossing because of insufficient undercarriage clearance, in violation of IC 35-42-2-4, IC 9-21-8-50, or any similar statute.

(9) Operating a commercial motor vehicle without having ever obtained a commercial driver's license.

(10) Operating a commercial motor vehicle without a commercial driver's license in the possession of the individual.

(11) Operating a commercial motor vehicle without holding the proper class or endorsement of a commercial driver's license for the operation of the class of the commercial motor vehicle.

(b) Subsection (a)(1) ~~and (a)(8) is~~ **through (a)(11) are** intended to comply with the provisions of 49 U.S.C. 31311(a)(10) and regulations adopted under that statute.

SECTION 13. IC 9-24-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8. The following, if committed while driving a commercial motor vehicle **or while holding any class of commercial driver's license,** are disqualifying offenses:

(1) Operating a vehicle while under the influence of alcohol in violation of IC 9-30-5-1(a), IC 9-30-5-1(b), or section 15 of this chapter.

(2) Operating a vehicle while under the influence of a controlled substance in violation of IC 9-30-5-1(c).

(3) Leaving the scene of an accident involving the driver's commercial motor vehicle in violation of IC 9-26-1.

(4) Conviction of a felony involving the use of a commercial motor vehicle other than a felony described in subdivision (5).

(5) Use of a commercial motor vehicle in the commission of a felony under IC 35-48 involving manufacturing, distributing, or dispensing of a controlled substance.

(6) Violation of IC 9-30-5-2 through IC 9-30-5-8 involving operating a vehicle while intoxicated.

(7) Refusing to undergo testing for the enforcement of IC 9-30-5-1 or section 15 of this chapter.

SECTION 14. IC 9-24-6-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 17. A person who knowingly allows, requires, permits, or authorizes another person ~~who is disqualified under this article from driving~~ **to drive** a commercial motor vehicle ~~to drive~~ **during a period in which:**

(1) the other person is disqualified under this article from driving a commercial motor vehicle; **or**

(2) the driver, the commercial motor vehicle that the other person is driving, or the motor carrier operation is subject to an out-of-service order;

commits a Class C misdemeanor.

SECTION 15. IC 9-24-6-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 19. (a) It is unlawful for a person to violate or fail to comply with an out-of-service order.

(b) If a person operates a vehicle in violation of an out-of-service order, in addition to any other penalty imposed for violation of an out-of-service order under this chapter, the court shall impose a civil penalty ~~of one thousand dollars ($1,000).~~ **in accordance with 49 CFR 383.53 as in effect July 1, 2010.**

(c) If an employer violates an out-of-service order, or knowingly requires or permits a driver to violate or fail to comply with an out-of-service order, in addition to any other penalty imposed for

violation of an out-of-service order under this chapter, the court shall impose a civil penalty on the employer ~~of two thousand five hundred dollars ($2,500).~~ **in accordance with 49 CFR 383.53 as in effect July 1, 2010.**

(d) All civil penalties assessed under this section must be collected and transferred by the clerk of the court to the bureau. The bureau shall deposit the money in the motor vehicle highway account established by IC 8-14-1.

(e) A civil penalty assessed under this section is a judgment subject to proceedings supplemental by the bureau.

SECTION 16. IC 8-2.1-24-2 IS REPEALED [EFFECTIVE UPON PASSAGE].

SECTION 17. **An emergency is declared for this act.**

P.L.10-2010
[S.75. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning alcohol and tobacco.

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

SECTION 1. IC 3-10-8-4.5, AS AMENDED BY P.L.145-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.5. Whenever the election division receives a notice under section 4 of this chapter, the election division shall notify the following offices and agencies that a special election will be conducted within all or part of Indiana:

(1) Each agency serving persons with disabilities and designated as a voter registration site under IC 3-7-16.

(2) Armed forces recruitment offices in accordance with procedures established under IC 3-7-17.

(3) Each agency designated as a voter registration site and subject

to IC 3-7-18.

~~(4) The alcohol and tobacco commission for purposes of enforcing IC 7.1-5-10-1.~~

~~(5)~~ **(4)** The bureau of motor vehicles for voter registration purposes under IC 9-24-2.5.

~~(6)~~ **(5)** The adjutant general for purposes of enforcing IC 10-16-7-17.

~~(7)~~ **(6)** The division of family resources for voter registration purposes under IC 12-14-1.5, IC 12-14-25, and IC 12-15-1.5.

~~(8)~~ **(7)** The state department of health for voter registration purposes under IC 16-35-1.6.

~~(9)~~ **(8)** The Federal Voting Assistance Program of the United States Department of Defense, for notification of absent uniformed services voters and overseas voters.

SECTION 2. IC 3-10-8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) If the special election occurs during the period when registration is open under IC 3-7-13, the registration period continues through the twenty-ninth day before the special election occurs and resumes on the date specified by IC 3-7-13-10(d).

(b) The election board conducting the special election shall provide poll lists for use at the precincts that include the names of voters in the precinct who:

(1) have registered through the twenty-ninth day before the special election is to be conducted; or

(2) are absent uniformed services voters or overseas voters registered under IC 3-7-36.

(c) This subsection applies when a special election is ordered by a court under IC 3-12-8-17 or the state recount commission under IC 3-12-11-18. A candidate may not be placed on the special election ballot unless the candidate was on the ballot or was a declared write-in candidate for the office at the general election preceding the special election.

~~(d) The restrictions on the sale of alcoholic beverages set forth in IC 7.1-5-10-1 apply in each precinct in which the special election is conducted.~~

SECTION 3. IC 7.1-3-1-5.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5.5. (a) This section

applies only in a county having a consolidated city.

(b) As used in this section, "contiguous property owner" refers to a property owner who has real property that is geographically adjacent to or in contact with any point on the border of the property of a person who seeks a permit to sell alcoholic beverages for consumption on the licensed premises.

(c) As used in this section, "neighboring property owner" means:

(1) a contiguous property owner; or

(2) a property owner who has real property that:

(A) is geographically adjacent to or in contact with any point on the border of the property of a contiguous property owner; and

(B) some portion of which is within five hundred (500) feet of the property of a person who seeks a permit to sell alcoholic beverages for consumption on the licensed premises.

(d) As used in this section, "principal owner" means any person or entity holding at least a fifteen percent (15%) interest in the business for which a permit is sought to sell alcoholic beverages.

(e) As used in this section, "property owner" means any person whose name and address appears in the county assessor's real property tax assessment records as a person responsible for the payment of property taxes on a parcel of real property.

(f) Except as provided in section 28(d) of this chapter, subsection (g) applies to a location in the consolidated city only if:

(1) the application is for a liquor dealer's permit for a location within the boundaries of the special fire service district, as determined in conformity with IC 7.1-3-22-8; or

(2) the local alcoholic beverage board requires the applicant to comply with subsection (g).

(g) In addition to the notice required by section 5 of this chapter, the applicant for a new permit, or a transfer of a permit to sell alcoholic beverages of any type or at any location must, at least fifteen (15) days before the date of the local alcoholic beverage board hearing, mail notice of the hearing at the applicant's expense to the following:

(1) Each neighboring property owner.

(2) The department of metropolitan development of the consolidated city.

(3) The following entities that have registered with the

department of metropolitan development of the consolidated city:

(A) The principal, headmaster, or other primary administrator of each public, private, or parochial elementary or secondary school located less than one thousand (1,000) feet from the property line of the applicant's property.

(B) Each church that is located less than one thousand (1,000) feet from the property line of the applicant's property.

(C) Each neighborhood association that represents the area in which the applicant's property is located.

(h) The notice that the applicant mails must provide the following information:

(1) The name and address of the applicant, or if the applicant is a corporation, a club, an association, or an organization, the name and address of the applicant's president, secretary, and principal owners who will be responsible to the public for the sale of alcoholic beverages.

(2) A statement that the applicant has filed an application with the alcohol and tobacco commission for the sale of alcoholic beverages.

(3) The specific address where alcoholic beverages are asked to be sold.

(4) The type of alcoholic beverage permit applied for.

(5) The date, time, and location of the public hearing before the local alcoholic beverage board regarding the application.

(6) That if there is a desire to remonstrate against the application, the recipient of the notice may attend this public hearing.

(i) The applicant shall furnish evidence of the applicant's compliance with this section by filing an affidavit with the local alcoholic beverage board at the public hearing on the application. The affidavit must list the names and addresses of the individuals or other entities to which notice was mailed by the applicant.

(j) In addition to the information required by subsection (i), the applicant shall file with the local alcoholic beverage board at the public hearing the following information:

(1) Verification from ~~the department of metropolitan development~~ **a department** of the consolidated city **designated by ordinance** that the applicant is in compliance with zoning requirements for the premises to be licensed.

(2) Verification from the department of state revenue that the applicant does not have any outstanding income tax, excise tax, or sales tax liabilities.

(3) Verification from the county treasurer that the applicant does not have any outstanding property tax liability.

(k) Subsection (j)(1) does not apply to a permit holder that received and held a permit before September 1, 1987.

(l) Notwithstanding subsection (f)(1), an applicant seeking a transfer of a permit from a permit holder to a new permit holder when the new permit holder does not intend to change the nature of the business operated under the permit may apply to the local board for a waiver of the notice requirement in subsection (g). The local board may consider any information the local board considers relevant in making a determination to approve or deny the waiver request. The local board must approve or deny a waiver request at the first regularly scheduled meeting that occurs at least fifteen (15) days after the local board receives the waiver request from the applicant.

SECTION 4. IC 7.1-3-1-14, AS AMENDED BY P.L.165-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) It is lawful for an appropriate permittee, unless otherwise specifically provided in this title, to sell alcoholic beverages each day Monday through Saturday from 7 a.m., prevailing local time, until 3 a.m., prevailing local time, the following day. Sales shall cease wholly on Sunday at 3 a.m., prevailing local time, and not be resumed until the following Monday at 7 a.m., prevailing local time.

(b) It is lawful for the holder of a retailer's permit to sell the appropriate alcoholic beverages for consumption on the licensed premises only on Sunday from ~~10 a.m.,~~ **7 a.m.,** prevailing local time, until ~~12:30 a.m.,~~ **3 a.m.,** prevailing local time, the following day.

(c) It is lawful for the holder of a permit under this article to sell alcoholic beverages at athletic or sports events held on Sunday upon premises that:

(1) are described in section 25(a) of this chapter;

(2) are a facility used in connection with the operation of a paved track more than two (2) miles in length that is used primarily in the sport of auto racing; or

(3) are being used for a professional or an amateur tournament;

beginning one (1) hour before the scheduled starting time of the event or, if the scheduled starting time of the event is 1 p.m. or later, beginning at noon.

(d) It is lawful for the holder of a valid beer, wine, or liquor wholesaler's permit to sell to the holder of a valid retailer's or dealer's permit at any time.

~~(e) Notwithstanding subsection (b), if December 31 (New Year's Eve) is on a Sunday, it is lawful for the holder of a retailer's permit to sell the appropriate alcoholic beverages on Sunday, December 31, from 10 a.m., prevailing local time, until 3 a.m., prevailing local time, the following day.~~

SECTION 5. IC 7.1-3-1.5-13, AS AMENDED BY P.L.94-2008, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 13. **(a) Subsections (b) through (e) do not apply during the period beginning July 1, 2010, and ending May 1, 2011. This subsection expires May 1, 2011.**

~~(a)~~ **(b)** A retailer permittee or dealer permittee who operates an establishment where alcoholic beverages are served or sold must:

(1) ensure that each alcohol server completes a server program or a trainer program established or approved under section 5.5 or 6 of this chapter not later than one hundred twenty (120) days after the date the alcohol server begins employment at the establishment;

(2) require each alcohol server to attend a refresher course that includes the dissemination of new information concerning the server program subject areas described in section 6 of this chapter or subject areas of a trainer program every three (3) years after the date the alcohol server completes a server program or a trainer program; and

(3) maintain training verification records of each alcohol server.

~~(b)~~ **(c)** A retailer permittee, a dealer permittee, or a management representative of a retailer or dealer permittee must complete a server program or a trainer program established or approved under section 5.5 or 6 of this chapter:

(1) not later than one hundred twenty (120) days after the date:

(A) the dealer permittee is issued a permit described in section 2 of this chapter; or

(B) the retailer permittee is issued a permit described in

section 4 of this chapter; and

(2) every five (5) years after the date the retailer permittee, dealer permittee, or management representative of the retailer or dealer permittee completes a server program or a trainer program.

~~(c)~~ **(d)** The commission shall notify a:

(1) dealer permittee at the time the dealer permittee renews a permit described in section 2 of this chapter; and

(2) retailer permittee at the time the retailer permittee renews a permit described in section 4 of this chapter;

of the requirements under subsections ~~(a) and~~ (b) **and (c).**

~~(d)~~ **(e)** The commission may suspend or revoke a retailer permittee's or dealer permittee's permit or fine a retailer permittee or dealer permittee for noncompliance with this section in accordance with IC 7.1-3-23.

SECTION 6. IC 7.1-3-2-7, AS AMENDED BY P.L.94-2008, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. The holder of a brewer's permit or an out-of-state brewer holding either a primary source of supply permit or an out-of-state brewer's permit may do the following:

(1) Manufacture beer.

(2) Place beer in containers or bottles.

(3) Transport beer.

(4) Sell and deliver beer to a person holding a beer wholesaler's permit issued under IC 7.1-3-3.

(5) If the brewer's brewery manufactures not more than twenty thousand (20,000) barrels of beer in a calendar year, do the following:

(A) Sell and deliver beer to a person holding a retailer or a dealer permit under this title.

(B) Be the proprietor of a restaurant.

(C) Hold a beer retailer's permit, a wine retailer's permit, or a liquor retailer's permit for a restaurant established under clause (B).

(D) Transfer beer directly from the brewery to the restaurant by means of:

(i) bulk containers; or

(ii) a continuous flow system.

(E) Install a window between the brewery and an adjacent

restaurant that allows the public and the permittee to view both premises.

(F) Install a doorway or other opening between the brewery and an adjacent restaurant that provides the public and the permittee with access to both premises.

(G) Sell the brewery's beer by the glass for consumption on the premises. Brewers permitted to sell beer by the glass under this clause must furnish the minimum food requirements prescribed by the commission.

(H) Sell and deliver beer to a consumer at the permit premises of the brewer or at the residence of the consumer. The delivery to a consumer may be made only in a quantity at any one (1) time of not more than one-half (1/2) barrel, but the beer may be contained in bottles or other permissible containers.

(I) Sell the brewery's beer as authorized by this section for carryout on Sunday in a quantity at any one (1) time of not more than five hundred seventy-six (576) ounces. A brewer's beer may be sold under this clause only at the address for which the brewer's permit was issued under this chapter.

(6) If the brewer's brewery manufactures more than twenty thousand (20,000) barrels of beer in a calendar year, own a portion of the corporate stock of another brewery that:

(A) is located in the same county as the brewer's brewery;

(B) manufactures less than twenty thousand (20,000) barrels of beer in a calendar year; and

(C) is the proprietor of a restaurant that operates under subdivision (5).

(7) Provide complimentary samples of beer that are:

(A) produced by the brewer; and

(B) offered to consumers for consumption on the brewer's premises.

(8) Own a portion of the corporate stock of a sports corporation that:

(A) manages a minor league baseball stadium located in the same county as the brewer's brewery; and

(B) holds a beer retailer's permit, a wine retailer's permit, or a liquor retailer's permit for a restaurant located in that stadium.

(9) For beer described in IC 7.1-1-2-3(a)(4):

(A) may allow transportation to and consumption of the beer on the licensed premises; and

(B) may not sell, offer to sell, or allow sale of the beer on the licensed premises.

SECTION 7. IC 7.1-3-20-16, AS AMENDED BY P.L.165-2006, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 16. (a) A permit that is authorized by this section may be issued without regard to the quota provisions of IC 7.1-3-22.

(b) The commission may issue a three-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant facility in the passenger terminal complex of a publicly owned airport. ~~which is served by a scheduled commercial passenger airline certified to enplane and deplane passengers on a scheduled basis by a federal aviation agency.~~ A permit issued under this subsection shall not be transferred to a location off the airport premises.

(c) The commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant within a redevelopment project consisting of a building or group of buildings that:

(1) was formerly used as part of a union railway station;

(2) has been listed in or is within a district that has been listed in the federal National Register of Historic Places maintained pursuant to the National Historic Preservation Act of 1966, as amended; and

(3) has been redeveloped or renovated, with the redevelopment or renovation being funded in part with grants from the federal, state, or local government.

A permit issued under this subsection shall not be transferred to a location outside of the redevelopment project.

(d) The commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant:

(1) on land; or

(2) in a historic river vessel;

within a municipal riverfront development project funded in part with state and city money. A permit issued under this subsection may not be transferred.

(e) The commission may issue a three-way, two-way, or one-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the proprietor, as owner or lessee, or both, of a restaurant within a renovation project consisting of a building that:

(1) was formerly used as part of a passenger and freight railway station; and

(2) was built before 1900.

The permit authorized by this subsection may be issued without regard to the proximity provisions of IC 7.1-3-21-11.

(f) The commission may issue a three-way permit for the sale of alcoholic beverages for on-premises consumption at a cultural center for the visual and performing arts to a town that:

(1) is located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); and

(2) has a population of more than twenty thousand (20,000) but less than twenty-three thousand (23,000).

(g) After June 30, 2005, the commission may issue not more than ten (10) new three-way, two-way, or one-way permits to sell alcoholic beverages for on-premises consumption to applicants, each of whom must be the proprietor, as owner or lessee, or both, of a restaurant located within a district, or not more than five hundred (500) feet from a district, that meets the following requirements:

(1) The district has been listed in the National Register of Historic Places maintained under the National Historic Preservation Act of 1966, as amended.

(2) A county courthouse is located within the district.

(3) A historic opera house listed on the National Register of Historic Places is located within the district.

(4) A historic jail and sheriff's house listed on the National Register of Historic Places is located within the district.

The legislative body of the municipality in which the district is located shall recommend to the commission sites that are eligible to be permit premises. The commission shall consider, but is not required to follow, the municipal legislative body's recommendation in issuing a permit

under this subsection. An applicant is not eligible for a permit if, less than two (2) years before the date of the application, the applicant sold a retailer's permit that was subject to IC 7.1-3-22 and that was for premises located within the district described in this section or within five hundred (500) feet of the district. A permit issued under this subsection shall not be transferred. The cost of an initial permit issued under this subsection is six thousand dollars ($6,000).

(h) The commission may issue a three-way permit for the sale of alcoholic beverages for on-premises consumption to an applicant who will locate as the proprietor, as owner or lessee, or both, of a restaurant within an economic development area under IC 36-7-14 in:

(1) a town with a population of more than twenty thousand (20,000); or

(2) a city with a population of more than twenty-seven thousand (27,000) but less than twenty-seven thousand four hundred (27,400);

located in a county having a population of more than ninety thousand (90,000) but less than one hundred thousand (100,000). The commission may issue not more than five (5) licenses under this section to premises within a municipality described in subdivision (1) and not more than five (5) licenses to premises within a municipality described in subdivision (2). The commission shall conduct an auction of the permits under IC 7.1-3-22-9, except that the auction may be conducted at any time as determined by the commission. Notwithstanding any other law, the minimum bid for an initial license under this subsection is thirty-five thousand dollars ($35,000), and the renewal fee for a license under this subsection is one thousand three hundred fifty dollars ($1,350). Before the district expires, a permit issued under this subsection may not be transferred. After the district expires, a permit issued under this subsection may be renewed, and the ownership of the permit may be transferred, but the permit may not be transferred from the permit premises.

(i) After June 30, 2006, the commission may issue not more than five (5) new three-way, two-way, or one-way permits to sell alcoholic beverages for on-premises consumption to applicants, each of whom must be the proprietor, as owner or lessee, or both, of a restaurant located within a district, or not more than five hundred (500) feet from a district, that meets all of the following requirements:

(1) The district is within an economic development area, an area needing redevelopment, or a redevelopment district as established under IC 36-7-14.

(2) A unit of the National Park Service is partially located within the district.

(3) An international deep water seaport is located within the district.

An applicant is not eligible for a permit under this subsection if, less than two (2) years before the date of the application, the applicant sold a retailers' permit that was subject to IC 7.1-3-22 and that was for premises located within the district described in this subsection or within five hundred (500) feet of the district. A permit issued under this subsection may not be transferred. If the commission issues five (5) new permits under this subsection, and a permit issued under this subsection is later revoked or is not renewed, the commission may issue another new permit, as long as the total number of active permits issued under this subsection does not exceed five (5) at any time. The commission shall conduct an auction of the permits under IC 7.1-3-22-9, except that the auction may be conducted at any time as determined by the commission.

SECTION 8. IC 7.1-3-20-26 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 26. (a) The commission may issue a one-way, two-way, or three-way permit to sell alcoholic beverages for on-premises consumption only to an applicant who is the owner of an indoor theater that:**

(1) is located in a city having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000); and

(2) has been listed in the National Register of Historic Places maintained under the National Historic Preservation Act of 1966, as amended. A permit issued under this subsection may not be transferred.

(b) A permit issued under this section is subject to the quota requirements of IC 7.1-3-22-3.

SECTION 9. IC 7.1-5-7-5.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5.1. (a) A permittee in a criminal prosecution or in a proceeding before the commission or a

local board based upon a charge of unlawfully furnishing an alcoholic beverage to a minor may offer either or both of the following proofs as a defense or defenses to the prosecution or proceeding:

(1) That:

(A) the purchaser:

(i) falsely represented the purchaser's age in a written statement, such as that prescribed by subsection (b), supported by two (2) forms of identification showing the purchaser to be at least twenty-one (21) years of age;

(ii) produced a driver's license bearing the purchaser's photograph; ~~or~~

(iii) produced a photographic identification card, issued under IC 9-24-16-1 or a similar card, issued under the laws of another state or the federal government, showing that the purchaser was of legal age to make the purchase; **or**

(iv) produced a government issued document bearing the purchaser's photograph and showing the purchaser to be at least twenty-one (21) years of age;

(B) the appearance of the purchaser was such that an ordinary prudent person would believe the purchaser to be of legal age to make the purchase; and

(C) the sale was made in good faith based upon the reasonable belief that the purchaser was actually of legal age to make the purchase.

(2) That the permittee or ~~his~~ **the permittee's** agent had taken all reasonable precautions in instructing ~~his~~ **the permittee's** employees, in hiring ~~his~~ **the permittee's** employees, and in supervising them as to sale of alcoholic beverages to minors.

(b) The following written statement is sufficient for the purposes of subsection (a)(1)(A)(i):

REPRESENTATION AND STATEMENT
OF AGE
FOR PURCHASE OF ALCOHOLIC
BEVERAGES

I understand that misrepresentation of age to induce the sale, service, or delivery of alcoholic beverages to me is cause for my arrest and prosecution, which can result in punishment as follows:

(1) Possible payment of a fine of up to $500.

(2) Possible imprisonment for up to 60 days.

(3) Possible loss or deferment of driver's license privileges for up to one year.

(4) Possible requirement to participate in an alcohol education or treatment program.

Knowing the possible penalties for misstatement, I hereby represent and state, for the purpose of inducing _____
(Name of licensee)
to sell, serve, or deliver alcoholic beverages to me, that I was born: _____, _____, _____ and am ____ years of age.
(Month) (Day) (Year)

Date _____

Signed _____
Address _____
_____

Other Identification Presented:
Nonphoto driver's license: (number & state)
_____

Signature of person who witnessed completion of this statement by patron:
_____

Social Security Number
_____

Other _____
_____
_____

SECTION 10. IC 7.1-5-7-11, AS AMENDED BY P.L.2-2007, SECTION 133, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 11. (a) The provisions of sections 9 and 10 of this chapter shall not apply if the public place involved is one (1) of the following:

(1) Civic center.

(2) Convention center.

(3) Sports arena.

(4) Bowling center.

(5) Bona fide club.

(6) Drug store.

(7) Grocery store.

(8) Boat.

(9) Dining car.

(10) Pullman car.

(11) Club car.

(12) Passenger airplane.

(13) Horse racetrack facility holding a recognized meeting permit under IC 4-31-5.

(14) Satellite facility (as defined in IC 4-31-2-20.5).

(15) Catering hall under IC 7.1-3-20-24 that is not open to the public.

(16) That part of a hotel or restaurant which is separate from a room in which is located a bar over which alcoholic beverages are sold or dispensed by the drink.

(17) Entertainment complex.

(18) Indoor golf facility.

(19) A recreational facility such as a golf course, bowling center, or similar facility that has the recreational activity and not the sale of food and beverages as the principal purpose or function of the person's business.

(20) A licensed premises owned or operated by a postsecondary educational institution described in IC 21-17-6-1.

(21) An automobile racetrack.

(22) An indoor theater under IC 7.1-3-20-26.

(b) For the purpose of this subsection, "food" means meals prepared on the licensed premises. It is lawful for a minor to be on licensed premises in a room in which is located a bar over which alcoholic beverages are sold or dispensed by the drink if all the following conditions are met:

(1) The minor is eighteen (18) years of age or older.

(2) The minor is in the company of a parent, guardian, or family member who is twenty-one (21) years of age or older.

(3) The purpose for being on the licensed premises is the consumption of food and not the consumption of alcoholic beverages

. SECTION 11. IC 7.1-5-10-1, AS AMENDED BY P.L.1-2009, SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Except as provided in subsection (c), it is unlawful to sell alcoholic beverages at the following times:

(1) At a time other than that made lawful by the provisions of IC 7.1-3-1-14.

(2) On Christmas Day and until 7:00 o'clock in the morning, prevailing local time, the following day.

~~(3) On primary election day, and general election day, from 3:00 o'clock in the morning, prevailing local time, until the voting polls are closed in the evening on these days.~~

~~(4) During a special election under IC 3-10-8-9 (within the precincts where the special election is being conducted), from 3:00 o'clock in the morning until the voting polls are closed in the evening on these days.~~

(b) During the time when the sale of alcoholic beverages is unlawful, no alcoholic beverages shall be sold, dispensed, given away, or otherwise disposed of on the licensed premises and the licensed premises shall remain closed to the extent that the nature of the business carried on at the premises, as at a hotel or restaurant, permits.

(c) It is lawful for the holder of a valid beer, wine, or liquor wholesaler's permit to sell to the holder of a valid retailer's or dealer's permit at any time.

SECTION 12. IC 7.1-5-10-23 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 23. (a) It is a Class B misdemeanor for a permittee or an employee or agent of a permittee to recklessly, knowingly, or intentionally sell, barter, exchange, provide, or furnish another person an alcoholic beverage for consumption off the licensed premises without first requiring the person to produce:**

(1) a driver's license;

(2) an identification card issued under IC 9-24-16-1 or a similar card issued under the laws of another state or the federal government; or

(3) a government issued document;

bearing the person's photograph and birth date showing that the person is at least twenty-one (21) years of age.

(b) In a criminal or administrative proceeding, it is a defense to a charge under this section that the individual to whom the permittee or employee or agent of the permittee sold, bartered, exchanged, provided, or furnished alcoholic beverages for consumption off the licensed premises was or reasonably appeared to be more than fifty (50) years of age.

SECTION 13. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2010]: P.L.161-2005, SECTION 4; P.L.165-2006, SECTION 42; P.L.94-2008, SECTION 69.

SECTION 14. **An emergency is declared for this act.**

P.L.11-2010
[S.79. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning human services.

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

SECTION 1. IC 12-7-2-200.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 200.4. "Waste", for purposes of IC 12-15-35.5, has the meaning set forth in IC 12-15-35.5-2.6.**

SECTION 2. IC 12-15-35.5-2.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2.6. As used in this chapter, "waste" means inappropriate:**

(1) overprescribing;
(2) underprescribing;
(3) overutilization;
(4) underutilization;
(5) recipient noncompliance with the prescribed regimen; or
(6) clinically unjustified utilization;

of a prescription drug.

SECTION 3. IC 12-15-35.5-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 8. In addition to the limits described in section 7 of this chapter, the office may restrict a mental health drug described in section 3 of this chapter that is prescribed for an individual who is less than eighteen (18) years of**

age if federal financial participation is not available for reimbursement for the prescription under IC 12-15-5-2.

SECTION 4. **An emergency is declared for this act.**

P.L.12-2010

[S.84. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning higher education.

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

SECTION 1. IC 21-28-6 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

Chapter 6. Information for Members of the General Assembly

Sec. 1. As used in this chapter, "research tool" includes:

(1) online research services;

(2) online and hard copy subscriptions to publications; and

(3) any other source of information used for research available to an educational institution.

Sec. 2. A state educational institution must provide access to all research tools available to the educational institution to each member of the general assembly and staff of the legislative services agency, at no cost, upon the request of a member of the general assembly or staff of the legislative services agency.

Sec. 3. A request made by a member of the general assembly or staff of the legislative services agency under section 2 of this chapter must be for the purpose of obtaining information related to carrying out the official duties of the member of the general assembly.

Sec. 4. (a) Notwithstanding section 2 of this chapter, a state educational institution may deny a member of the general assembly or staff of the legislative services agency access to a research tool

if the research tool was purchased through a grant or other source that limits access to use of the research tool in a way that would make granting access to the research tool a violation of the grant or agreement covering the payment for the research tool.

(b) Nothing in this chapter requires a state educational institution to expend additional funds or to violate the terms of a subscription agreement applicable to a journal or other research tool.

SECTION 2. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "research tool" has the meaning set forth in IC 21-28-6-1, as added by this act.**

(b) The legislative council is urged to provide information and annual training to members and staff of the general assembly concerning the availability and use of the more than ten thousand (10,000) research journals and other periodicals that are available at no cost to all citizens of Indiana through the Indiana state library's INSPIRE data bases.

(c) The legislative council is urged to request the legislative services agency to conduct a survey of all members of the general assembly, the partisan staffs of the general assembly, and the employees of the legislative services agency to determine the following:

(1) The extent to which the members and staff make regular use of the INSPIRE data bases.

(2) The specific journals and other research tools that are used to conduct legislative research.

(3) The extent to which journals and research tools that are not available through the INSPIRE data bases would assist in completing legislative responsibilities.

(4) The names of specific journals or other research tools identified under subsection (d) that a member or staff person would use if access were available without charge to the general assembly or staff.

(d) The legislative services agency shall gather information from the Indiana state library, the Indiana supreme court law library, and each state educational institution concerning the names of journals and other electronic research tools available in and used by the state library, supreme court library, and state educational institutions. The legislative services agency shall cause the

information gathered under this subsection to be available as a part of the survey conducted under subsection (c).

(e) The legislative services agency shall report the results of the survey to the legislative council not later than July 1, 2010.

(f) The legislative council is urged to request the legislative services agency, together with the Indiana University School of Law - Indianapolis, to study the feasibility of and interest in establishing a research and policy development division within the legislative services agency. In conducting the study, the legislative services agency shall examine programs established in other states, including the cost of the programs, and use the information obtained to estimate the cost of establishing a research and policy development division in Indiana.

(g) This SECTION expires July 1, 2011.

SECTION 3. **An emergency is declared for this act.**

P.L.13-2010
[S.87. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning public safety.

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

SECTION 1. IC 36-8-3-4.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 4.3. (a) This section also applies to a town or township that has at least one (1) certified employee of a full-time, paid fire or police department, without regard to whether:**

(1) the employee is an appointed police officer or firefighter; or

(2) under section 5 of this chapter, the police or fire department is exempt from sections 3, 4, and 4.1 of this chapter.

(b) As used in this section, "certified employee" means an individual who, as a condition of employment, holds a valid certification issued under IC 16-31-3 by the Indiana emergency medical services commission established by IC 16-31-2-1.

(c) As used in this section, "medical director" means a physician with an unlimited license to practice medicine in Indiana and who performs the duties and responsibilities described in 836 IAC 2-2-1.

(d) If a medical director takes any of the following actions against a certified employee, the medical director shall provide to the certified employee and to the chief of the certified employee's department a written explanation of the reasons for the action taken by the medical director:

(1) The medical director refuses or fails to supervise or otherwise provide medical control and direction to the certified employee.

(2) The medical director refuses or fails to attest to the competency of the certified employee to perform emergency medical services.

(3) The medical director suspends the certified employee from performing emergency medical services.

(e) Before a police or fire department takes any employment related action against a certified employee as the result of a medical director's action described in subsection (d), the certified employee is entitled to a hearing and appeal concerning the medical director's action as provided in section 4 of this chapter.

(f) If the medical director's action that is the subject of an appeal under subsection (e) is based on a health care decision made by the certified employee in performing emergency medical services, the safety board conducting the hearing shall consult with an independent medical expert to determine whether the certified employee followed the applicable emergency medical services protocol in making the health care decision. The independent medical expert:

(1) must be a physician trained in emergency medical services; and

(2) may not be affiliated with the same hospital as the medical director.

SECTION 2. IC 36-8-3-5 IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2010]: Sec. 5. **Except as provided in section 4.3 of this chapter,** sections 3, 4, and 4.1 of this chapter do not apply to a police or fire department having a board or commission established by statute or ordinance to establish or administer policies based on merit for the appointment, promotion, demotion, and dismissal of members of the department, unless the establishing law specifically incorporates one (1) or more of those sections.

SECTION 3. IC 36-8-3.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) This chapter applies to each municipality or township that has a full-time paid police or fire department. A municipality may exercise the power of establishing a merit system for its police or fire department under this chapter or by ordinance adopted under IC 36-1-4-14. A township may exercise the power of establishing a merit system for its fire department under this chapter or by resolution under IC 36-1-4-14. This chapter does not affect merit systems established:

(1) by ordinance under IC 36-1-4-14, except as provided by subsection (e) **and section 19.3 of this chapter;**

(2) by resolution under IC 36-1-4-14, except as provided by subsection (f) **and section 19.3 of this chapter;** or

(3) by a prior statute, except as provided by subsection (b) **and section 19.3 of this chapter.**

(b) If a city had a merit system for its police or fire department under the former IC 18-4-12, IC 19-1-7, IC 19-1-14, IC 19-1-14.2, IC 19-1-14.3, IC 19-1-14.5, IC 19-1-20, IC 19-1-21, IC 19-1-29, IC 19-1-29.5, IC 19-1-31, IC 19-1-31.5, or IC 19-1-37.5, it may retain that system by ordinance of the city legislative body passed before January 1, 1983. The ordinance must initially incorporate all the provisions of the prior statute but may be amended by the legislative body after December 31, 1984. The ordinance retaining the system must be amended, if necessary, to include a provision under which the commission (or governing board of the merit system) has at least one-third (1/3) of its members elected by the active members of the department as prescribed by section 8 of this chapter. Each elected commission member must:

(1) be a person of good moral character; and

(2) except for a member of a fire department having a merit system established under IC 19-1-37.5, not be an active member

of a police or fire department or agency.

(c) After December 31, 1984, the legislative body also may repeal the ordinance described in subsection (b), but the legislative body shall in the repealing ordinance concurrently establish a new merit system under section 3 of this chapter. (This subsection does not require the legislative body to establish a new merit system when it exercises its power to amend the ordinance under subsection (b).) After the new merit system takes effect, all members of the department are entitled to the same ranks and pay grades the members held under the prior system, subject to changes made in accordance with this chapter.

(d) If a city had a merit system for its police or fire department under a prior statute but fails to retain that system under subsection (b), the city legislative body shall, before July 1, 1983, pass an ordinance to establish a new merit system under section 3 of this chapter. If the new merit system is approved as provided by section 4 of this chapter, it takes effect as provided by that section. However, if the new merit system is rejected under section 4 of this chapter, within thirty (30) days the city legislative body shall adopt an ordinance to retain the prior merit system. The prior merit system remains in effect until the new merit system takes effect, after which time all members of the department are entitled to the same ranks and pay grades the members held under the prior system, subject to changes made in accordance with this chapter.

(e) An ordinance adopted under IC 36-1-4-14 to establish a police or fire merit system must include a provision under which the commission, or governing board of the merit system, has at least one-third (1/3) of its members elected by the active members of the department as prescribed by section 8 of this chapter. Each elected commission member must be a person of good moral character who is not an active member of a police or fire department or agency. If an ordinance was adopted under IC 36-1-4-14 before July 1, 1988, the ordinance must be amended to include this requirement.

(f) This chapter does not prevent a township or other unit that has adopted a merit system under section 3 of this chapter from later amending or deleting any provisions of the merit system contained in this chapter. However, the merit system must include a provision under which the commission has at least one-third (1/3) of its members elected by the active members of the department, as set forth in section

8 of this chapter and a provision that incorporates the requirements of section 6(a) of this chapter. This subsection does not require the legislative body to establish a new merit system when it exercises its power to amend under this subsection.

SECTION 4. IC 36-8-3.5-19.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 19.3. (a) This section applies to a department that has at least one (1) certified employee, without regard to whether:**

(1) the employee is an appointed police officer or firefighter; or

(2) the department has a merit system to which this chapter does not otherwise apply as provided under section 1 of this chapter.

(b) As used in this section, "certified employee" means an individual who, as a condition of employment, holds a valid certification issued under IC 16-31-3 by the Indiana emergency medical services commission established by IC 16-31-2-1.

(c) As used in this section, "medical director" means a physician with an unlimited license to practice medicine in Indiana and who performs the duties and responsibilities described in 836 IAC 2-2-1.

(d) If a medical director takes any of the following actions against a certified employee, the medical director shall provide to the certified employee and to the chief of the certified employee's department a written explanation of the reasons for the action taken by the medical director:

(1) The medical director refuses or fails to supervise or otherwise provide medical control and direction to the certified employee.

(2) The medical director refuses or fails to attest to the competency of the certified employee to perform emergency medical services.

(3) The medical director suspends the certified employee from performing emergency medical services.

(e) Before a department takes any employment related action as the result of a medical director's action described in subsection (d) against a certified employee, the certified employee is entitled to a hearing and appeal concerning the medical director's action as

provided in sections 17 and 18 of this chapter.

(f) If the medical director's action that is the subject of an appeal under subsection (e) is based on a health care decision made by the certified employee in performing emergency medical services, the commission conducting the hearing shall consult with an independent medical expert to determine whether the certified employee followed the applicable emergency medical services protocol in making the health care decision. The independent medical expert:

(1) must be a physician trained in emergency medical services; and

(2) may not be affiliated with the same hospital as the medical director.

SECTION 5. IC 36-8-12-19 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 19. (a) As used in this section, "medical director" means a physician with an unlimited license to practice medicine in Indiana and who performs the duties and responsibilities described in 836 IAC 2-2-1.**

(b) If a medical director takes any of the following actions against a member of the emergency medical services personnel, the medical director shall provide to the member and to the chief of the member's volunteer fire department a written explanation of the reasons for the action taken by the medical director:

(1) The medical director refuses or fails to supervise or otherwise provide medical control and direction to the member.

(2) The medical director refuses or fails to attest to the competency of the member to perform emergency medical services.

(3) The medical director suspends the member from performing emergency medical services.

(c) Before a volunteer fire department takes an action that affects the member's appointment with the volunteer fire department as the result of a medical director's action described in subsection (b), the member is entitled to a hearing and appeal concerning the medical director's action as provided in IC 36-8-3-4. The safety board of the unit that entered into an agreement with the volunteer fire department under section 3 of

this chapter shall hear the member's appeal provided by this subsection.

(d) If the medical director's action that is the subject of an appeal under subsection (c) is based on a health care decision made by the member in performing emergency medical services, the safety board conducting the hearing shall consult with an independent medical expert to determine whether the member followed the applicable emergency medical services protocol in making the health care decision. The independent medical expert:

(1) must be a physician trained in emergency medical services; and

(2) may not be affiliated with the same hospital as the medical director.

P.L.14-2010

[S.93. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-21-8-35 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 35. (a) Upon the immediate approach of an authorized emergency vehicle, when the person who drives the authorized emergency vehicle is giving audible signal by siren or displaying alternately flashing red, red and white, or red and blue lights, a person who drives another vehicle shall do the following unless otherwise directed by a law enforcement officer:

(1) Yield the right-of-way.

(2) Immediately drive to a position parallel to and as close as possible to the right-hand edge or curb of the highway clear of any intersection.

(3) Stop and remain in the position until the authorized

emergency vehicle has passed.

(b) Upon approaching a stationary authorized emergency vehicle, when the authorized emergency vehicle is giving a signal by displaying alternately flashing red, red and white, or red and blue lights, a person who drives an approaching vehicle shall:

(1) proceeding with due caution, yield the right-of-way by making a lane change into a lane not adjacent to that of the authorized emergency vehicle, if possible with due regard to safety and traffic conditions, if on a highway having at least four (4) lanes with not less than two (2) lanes proceeding in the same direction as the approaching vehicle; or

(2) proceeding with due caution, reduce the speed of the vehicle **to a speed at least ten (10) miles per hour less than the posted speed limit,** maintaining a safe speed for road conditions, if changing lanes would be impossible or unsafe.

(c) Upon approaching a stationary recovery vehicle, **a stationary utility service vehicle (as defined in IC 8-1-8.3-5),** or a stationary **road, street, or** highway maintenance vehicle, when the vehicle is giving a signal by displaying alternately flashing amber lights, a person who drives an approaching vehicle shall:

(1) proceeding with due caution, yield the right-of-way by making a lane change into a lane not adjacent to that of the recovery vehicle, **utility service vehicle,** or **road, street, or** highway maintenance vehicle, if possible with due regard to safety and traffic conditions, if on a highway having at least four (4) lanes with not less than two (2) lanes proceeding in the same direction as the approaching vehicle; or

(2) proceeding with due caution, reduce the speed of the vehicle **to a speed at least ten (10) miles per hour less than the posted speed limit,** maintaining a safe speed for road conditions, if changing lanes would be impossible or unsafe.

(d) This section does not operate to relieve the person who drives an authorized emergency vehicle, a recovery vehicle, **a utility service vehicle,** or a **road, street, or** highway maintenance vehicle from the duty to operate the vehicle with due regard for the safety of all persons using the highway.

P.L.15-2010
[S.103. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning public safety.

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

SECTION 1. IC 10-16-2-7, AS AMENDED BY P.L.71-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. The adjutant general shall appoint ~~three (3)~~ **four (4)** assistant adjutants general to serve at the will and pleasure of the adjutant general as follows:

(1) One (1) assistant adjutant general from the Indiana Army National Guard to be commander of the Indiana Army National Guard forces, except the forces described in subdivision (3). A person is not eligible for appointment as assistant adjutant general unless the person is a member of the Indiana Army National Guard and has attained the rank of major or above. The person must be a federally recognized officer and may hold the rank of major general or other rank authorized by the table of organization for the Army National Guard.

~~(1)~~ **(2)** One (1) assistant adjutant general from the Indiana Army National Guard to be chief of staff to the adjutant general for all the Indiana Army National Guard forces, except those forces described in subdivision ~~(3).~~ **(4).** This assistant adjutant general shall perform duties assigned by the adjutant general and is responsible for all administrative and operational functions of the Indiana Army National Guard, except those related to forces described in subdivision ~~(3).~~ **(4).** A person is not eligible for appointment as assistant adjutant general unless the person is a member of the Indiana Army National Guard with at least six (6) years service in the Indiana Army National Guard and has attained the rank of major or above. The person must be a

federally recognized officer and may hold the rank of brigadier general or other rank authorized by the table of organization for the Army National Guard.

~~(2)~~ **(3)** One (1) assistant adjutant general from the Indiana Air National Guard to be chief of staff to the adjutant general for all the Indiana Air National Guard forces. This assistant adjutant general shall perform duties assigned by the adjutant general and is responsible for administrative and operational functions of the Indiana Air National Guard. A person is not eligible for appointment as air forces chief of staff unless the person is a member of the Indiana Air National Guard with at least six (6) years service as a commissioned officer and has attained the rank of major or above. The person must be a federally recognized officer and may hold the rank of brigadier general or other rank authorized by the tables of organization for the Air National Guard.

~~(3)~~ **(4)** One (1) assistant adjutant general from the Indiana Army National Guard to be chief of staff to the adjutant general for all Indiana Army National Guard forces assigned to the Camp Atterbury Muscatatuck Urban Training Center. This assistant adjutant general shall perform duties assigned by the adjutant general and is responsible for all administrative and operational functions of Indiana Army National Guard forces assigned to the Camp Atterbury Muscatatuck Urban Training Center. A person is not eligible for appointment as assistant adjutant general unless the person is a member of the Indiana Army National Guard with at least six (6) years service in the Indiana Army National Guard and has attained the rank of major or above. The person must be a federally recognized officer and may hold the rank of brigadier general or other rank authorized by the table of organization for the Army National Guard.

P.L.16-2010
[S.110. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning natural and cultural resources.

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

SECTION 1. IC 14-33-5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Before the annual meeting, the board shall prepare the ballots and a list of the freeholders of the district, which must be certified by the county auditor and placed in the district's files. A deficiency in this process or an omission of the names of any freeholders does not void action taken at an annual meeting.

(b) ~~A freeholder as prescribed by IC 14-33-2-3 is entitled to~~ Only one (1) vote **may be cast** per ~~freeholder.~~ **freehold.**

SECTION 2. IC 14-33-5-11.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 11.5. (a) Notwithstanding the other provisions of this chapter, if there is only one (1) nominee for election to the board to represent an area, the nominee for election to the board to represent that area is considered elected.**

(b) Notwithstanding the other provisions of this chapter, if there is only one (1) nominee for election to the board for each area for which a director is to be elected, the following apply:

(1) The election otherwise required to be held under this chapter is not required to be held.

(2) Each of the nominees for election to the board is considered elected as if the election had been held and each nominee was elected as provided in this chapter.

SECTION 3. IC 14-33-5-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 18. (a) The board may appoint, prescribe the duties, and fix the compensation of the

following:

(1) A secretary.

(2) A financial clerk.

(3) An engineer.

(4) Employees that are necessary for the discharge of duties and responsibilities of the board.

(b) A financial clerk shall execute a surety bond in the manner prescribed by IC 5-4-1.

(c) The board may make contracts for **the following:**

(1) Special and temporary services, including professional counsel.

(2) Leases of land to a provider of commercial mobile service (as defined in 47 U.S.C. 332) that allows for the construction, use, and maintenance of a tower that is used for telecommunications purposes.

SECTION 4. IC 14-33-5.4-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.5. (a) If in the opinion of the secretary of the district a freehold has been divided into multiple freeholds for the sole purpose of increasing the number of freeholders eligible to cast a vote in an election under this chapter, the secretary of the district may determine to exclude the freeholders of those multiple freeholds from the list of freeholders referred to in section 3(f) of this chapter.**

(b) The determination of the secretary of the district under subsection (a) may be challenged by petitioning the circuit court that created the district.

SECTION 5. IC 14-33-5.4-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 7.5. (a) Notwithstanding the other provisions of this chapter, if there is only one (1) nominee for election to the board to represent an area, the nominee for election to the board to represent that area is considered elected.**

(b) Notwithstanding the other provisions of this chapter, if there is only one (1) nominee for election to the board for each area for which a director is to be elected, the following apply:

(1) The election otherwise required to be held under this chapter is not required to be held.

(2) Each of the nominees for election to the board is considered elected as if the election had been held and each nominee was elected as provided in this chapter.

SECTION 6. **An emergency is declared for this act.**

P.L.17-2010
[S.117. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-23-2-2, AS AMENDED BY P.L.147-2009, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) An application for a license under this chapter must:

(1) be accompanied by the fee required under IC 9-29-8;

(2) be on a form prescribed by the secretary of state;

(3) contain the information the secretary of state considers necessary to enable the secretary of state to determine fully the following information:

(A) The qualifications and eligibility of the applicant to receive the license.

(B) The location of each of the applicant's places of business in Indiana.

(C) The ability of the applicant to conduct properly the business for which the application is submitted; and

(4) contain evidence of ~~the~~ **a** bond required in subsection (e).

(b) An application for a license as a dealer must show whether the applicant proposes to sell new or used motor vehicles, or both.

(c) An applicant who proposes to use the Internet or other computer network in aid of its sale of motor vehicles to consumers in Indiana, which activities may result in the creation of business records outside

Indiana, shall provide the division with the name, address, and telephone number of the person who has control of those business records. The secretary of state may not issue a license to a dealer who transacts business in this manner who does not have an established place of business in Indiana.

(d) This subsection applies to an application for a license as a dealer in a city having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000). The application must include an affidavit from:

(1) the person charged with enforcing a zoning ordinance described in this subsection; or

(2) the zoning enforcement officer under IC 36-7-4, if one exists;

who has jurisdiction over the real property where the applicant wants to operate as a dealer. The affidavit must state that the proposed location is zoned for the operation of a dealer's establishment. The applicant may file the affidavit at any time after the filing of the application. However, the secretary of state may not issue a license until the applicant files the affidavit.

(e) **This subsection does not apply to a person listed in the categories set forth in section 1(a)(10) through 1(a)(12) of this chapter and that was licensed under this chapter before July 1, 2009.** A licensee shall maintain a bond satisfactory to the secretary of state in the amount of twenty-five thousand dollars ($25,000), which must:

(1) be in favor of the state; and

(2) secure payment of fines, penalties, costs, and fees assessed by the secretary of state after notice, opportunity for a hearing, and opportunity for judicial review, in addition to securing the payment of damages to a person aggrieved by a violation of this chapter by the licensee after a judgment has been issued.

(f) Service shall be made in accordance with the Indiana Rules of Trial Procedure.

SECTION 2. IC 9-23-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. **(a)** It is an unfair practice for a manufacturer or distributor to violate IC 23-2-2.7.

(b) It is an unfair practice for a manufacturer or distributor to enter into an agreement in which a dealer is required to waive the provisions of:

(1) this chapter; or

(2) IC 23-2-2.7.

However, this subsection does not apply to a voluntary agreement in which separate consideration is offered and accepted.

P.L.18-2010

[S.126. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning utilities.

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

SECTION 1. IC 8-1-17.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

Chapter 17.5. Merger or Consolidation of Rural Electric Membership Corporations and Telephone Cooperative Corporations

Sec. 1. As used in this chapter, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

Sec. 2. As used in this chapter, "communications service" has the meaning set forth in IC 8-1-32.5-3.

Sec. 3. As used in this chapter, "patronage capital" means revenues and receipts returned to members under section 24(d) of this chapter.

Sec. 4. As used in this chapter, "retail electric service" has the meaning set forth in IC 8-1-2.3-2(c).

Sec. 5. As used in this chapter, "successor corporation" means a corporation that is formed from a consolidation of two (2) or more corporations under this chapter.

Sec. 6. As used in this chapter, "surviving corporation" means the corporation that remains after a merger of two (2) or more corporations under this chapter.

Sec. 7. (a) A corporation organized under IC 8-1-13 may merge or consolidate with:

(1) one (1) or more cooperative corporations organized under IC 8-1-17; or

(2) one (1) or more corporations formed under this chapter;

if a plan of merger or consolidation that complies with section 8 of this chapter is approved under section 9 of this chapter.

(b) A cooperative corporation organized under IC 8-1-17 may merge or consolidate with:

(1) one (1) or more corporations organized under IC 8-1-13; or

(2) one (1) or more corporations formed under this chapter;

if a plan of merger or consolidation that complies with section 8 of this chapter is approved under section 9 of this chapter.

(c) A surviving corporation or successor corporation formed under this chapter:

(1) has all the rights, powers, privileges, immunities, and exemptions of:

(A) a local district corporation organized under IC 8-1-13; and

(B) a local cooperative corporation organized under IC 8-1-17; and

(2) is considered to be both:

(A) a local district corporation, within the meaning of that term as used in IC 8-1-13; and

(B) a local cooperative corporation, within the meaning of that term as used in IC 8-1-17.

Sec. 8. A plan of merger or consolidation must include the following:

(1) The name of each merging or consolidating corporation.

(2) The name of the surviving corporation or successor corporation.

(3) The terms and conditions of the merger or consolidation and the mode of carrying the merger or consolidation into effect, including the manner in which members of the merging or consolidating corporations may or shall become members of the surviving corporation or successor corporation.

(4) A plan for the retirement of patronage capital accrued by members of the merging or consolidating corporations.

(5) The proposed articles of merger or consolidation or a comprehensive summary of the proposed articles of merger or consolidation.

(6) The effective date of the merger or consolidation.

(7) The number of, and length of terms for, directors of the surviving corporation or successor corporation and, if there will be voting districts in the service areas of the surviving corporation or successor corporation, a description of the districts and the number of directors to represent each district.

(8) The names and addresses of the directors of the surviving corporation or successor corporation.

(9) Any other provision concerning the planned merger or consolidation considered necessary or appropriate by the boards of directors of the merging or consolidating corporations.

Sec. 9. The board of directors of each corporation that seeks to merge or consolidate with another corporation, as authorized by section 7 of this chapter, must obtain from the corporation's own membership approval of a plan of merger or consolidation that complies with section 8 of this chapter. A corporation that seeks approval from its membership under this section shall give notice to the corporation's members of the place, date, and time of a meeting at which the members may vote on the plan of merger or consolidation. The notice required by this section:

(1) must be given:

(A) not less than ten (10) days before the date of the meeting, if the notice is given by first class or registered mail; or

(B) not less than thirty (30) days or more than sixty (60) days before the date of the meeting, if the notice is given by a method other than that described in clause (A);

(2) must state that a purpose of the meeting is to consider a plan of merger or consolidation; and

(3) must include or be accompanied by a copy or summary of the plan of merger or consolidation prepared in compliance with section 8 of this chapter, including a copy or summary of the proposed articles of merger or consolidation, as required by section 8(5) of this chapter.

Sec. 10. (a) If at each meeting of members at which a vote is taken on a plan of merger or consolidation, as required by section 9 of this chapter, the plan of merger or consolidation is approved by a resolution adopted and receiving the affirmative vote of at least a majority of the members present and voting at the meeting, the directors of the surviving corporation or successor corporation, as identified in the plan of merger or consolidation, shall subscribe and acknowledge articles entitled and endorsed "Articles of merger (consolidation) of _____" (the blank space being filled in with the names of the corporations being merged or consolidated, as appropriate).

(b) The articles of merger or consolidation required by subsection (a) must include the following:

(1) The names of the corporations being merged or consolidated.

(2) The name of the surviving corporation or successor corporation.

(3) A statement that each merging or consolidating corporation agrees to the merger or consolidation.

(4) The maximum number of directors for the surviving corporation or successor corporation, which number may not be less than three (3).

(5) The names and addresses of the directors of the surviving corporation or successor corporation.

(6) The terms and conditions of the merger or consolidation and the mode of carrying the merger or consolidation into effect, including the manner in which members of the merging or consolidating corporations may or shall become members of the surviving corporation or successor corporation.

(7) The location of the surviving corporation's or successor corporation's principal office, along with the mailing address for the surviving corporation or successor corporation.

(8) A specified period for the duration of the surviving corporation or successor corporation or a statement that the duration of the surviving corporation or successor corporation is to be perpetual.

(c) In addition to the items required by subsection (b), the articles of merger or consolidation required by subsection (a) may include:

(1) provisions creating, defining, limiting, or regulating the powers of the surviving corporation or successor corporation; and

(2) any other provision that:

(A) is not contrary to law;

(B) is contained in the plan of merger or consolidation approved by the respective memberships of the merging or consolidating corporations; and

(C) concerns the regulation of the business or conduct of the affairs of the surviving corporation or successor corporation.

(d) Subject to subsection (f), the articles of merger or consolidation, or one (1) or more certified copies of the articles of merger or consolidation, shall be filed in the office of the secretary of state. Upon filing with the secretary of state, the surviving corporation or successor corporation, under its designated name, constitutes a body corporate with all the powers of the merging or consolidating corporations as originally formed under:

(1) IC 8-1-13;

(2) IC 8-1-17; or

(3) this chapter;

as applicable.

(e) Upon being filed with the secretary of state under subsection (d), the articles of merger or consolidation are considered the articles of incorporation of the surviving corporation or successor corporation, and the surviving corporation or successor corporation may subsequently amend the articles of incorporation in accordance with IC 23-17-17.

(f) At any time after a plan of merger or consolidation is approved by the respective memberships of the corporations that seek to merge or consolidate, as described in subsection (a), and before articles of merger or consolidation are filed with the secretary of state under subsection (d), the plan of merger or consolidation may be abandoned without further action by the respective memberships, boards of directors, or other persons who proposed or approved the plan of merger or consolidation for the corporations that sought to merge or consolidate. A plan of merger or consolidation that is abandoned under this subsection must be done:

(1) in accordance with any procedure set forth for that purpose in the plan of merger or consolidation; or

(2) in the manner determined by the boards of directors of the corporations that sought to merge or consolidate, if a procedure described in subdivision (1) is not set forth in the plan of merger or consolidation.

Sec. 11. After a merger or consolidation takes effect under section 10(d) of this chapter, the following apply:

(1) If two (2) or more corporations merge into a surviving corporation, the separate existence of each merging corporation ceases upon the effective date of the merger and only the surviving corporation exists.

(2) If a consolidation of two (2) or more corporations occurs, the separate existence of each consolidating corporation ceases upon the effective date of the consolidation and only the successor corporation exists.

(3) The title to real property and other property owned by each merging or consolidating corporation is vested in the surviving corporation or successor corporation without reversion or impairment, subject to any conditions or liens to which the property was subject before the merger or consolidation.

(4) The surviving corporation or successor corporation assumes all liabilities and obligations of each merging or consolidating corporation.

(5) A proceeding that:

(A) is initiated against a merging or consolidating corporation before the merger or consolidation becomes effective under section 10(d) of this chapter; and

(B) has not been resolved at the time the merger or consolidation becomes effective under section 10(d) of this chapter;

may be continued as if the merger or consolidation did not occur, or the surviving corporation or successor corporation may be substituted in the proceeding for the corporation whose existence ceases under subdivision (1) or (2) at the time the merger becomes effective under section 10(d) of this chapter.

(6) Any terms of the plan of merger or consolidation that are

not included in the articles of merger or consolidation filed with the secretary of state under section 10 of this chapter are considered contract rights only and are not considered part of the governing document of the surviving corporation or successor corporation.

Sec. 12. (a) Each surviving corporation or successor corporation formed under this chapter must have a board of directors that constitutes the governing body of the surviving corporation or successor corporation. Unless otherwise provided in the surviving corporation's or successor corporation's bylaws, or in the surviving corporation's or successor corporation's articles of incorporation, a director of the surviving corporation or successor corporation must be:

(1) a member of the surviving corporation or successor corporation;

(2) an officer, a director, or a partner of a member of the surviving corporation or successor corporation; or

(3) an owner of a member of the surviving corporation or successor corporation, if the member is a sole proprietorship.

(b) Directors, other than those named in the surviving corporation's or successor corporation's bylaws or articles of incorporation, shall be elected by those members entitled to vote for the surviving corporation's or successor corporation's directors. Unless the surviving corporation's or successor corporation's bylaws or articles of incorporation provide otherwise, the directors shall be elected annually.

(c) The surviving corporation's or successor corporation's bylaws or articles of incorporation may provide the following:

(1) That the directors may hold office for any stated period not exceeding three (3) years.

(2) That the directors shall be elected so that the terms of one (1) or more directors expire at any specified time.

(3) That only the number of directors needed to succeed those whose terms are about to expire or to fill vacancies shall be elected in any given year.

(4) That the areas in which the members of the surviving corporation or successor corporation reside shall be apportioned into districts. If the bylaws or articles of incorporation provide for the creation of districts under this

subdivision:

(A) the bylaws or articles of incorporation must prescribe the procedure by which the members residing in any one (1) district may nominate a director; and

(B) the bylaws or articles of incorporation may provide that the person receiving the most votes in an election for a director representing a district is the winner of the election, regardless of whether the person receives a majority of the total votes cast by members eligible to vote and voting in the election.

(5) That a fair remuneration may or shall be paid for the time actually spent by the:

(A) officers;

(B) directors; or

(C) members of the executive committee;

of the surviving corporation or successor corporation in the performance of their duties.

(d) The:

(1) officers;

(2) directors; or

(3) members of the executive committee;

of the surviving corporation or successor corporation are entitled to reimbursement for expenses actually incurred in the performance of their duties, regardless of whether the surviving corporation's or successor corporation's bylaws or articles of incorporation provide for remuneration for the performance of those duties under subsection (c)(5).

(e) The board of directors of the surviving corporation or successor corporation shall annually designate and elect those officers the board considers necessary.

Sec. 13. The board of directors of the surviving corporation or successor corporation has the power to do all things necessary or convenient to conduct the business of the surviving corporation or successor corporation, including the following:

(1) The power to make, alter, amend, or repeal bylaws that:

(A) concern the regulation and management of the affairs of the surviving corporation or successor corporation; and

(B) are not inconsistent with any applicable law or with the articles of incorporation.

(2) The power to appoint agents and employees and to fix their compensation and the compensation of the officers of the surviving corporation or successor corporation.

(3) The power to execute instruments.

(4) The power to delegate to one (1) or more:

(A) directors;

(B) agents; or

(C) employees;

of the surviving corporation or successor corporation the powers and duties the board considers appropriate.

(5) The power to make the board's own rules and regulations concerning the board's procedures.

Sec. 14. (a) A surviving corporation or successor corporation may issue to its members certificates of membership and each member is entitled to only one (1) vote on each question or election at any regular or special meeting of the surviving corporation or successor corporation.

(b) Meetings of members may be held at any place provided for in the bylaws. An annual meeting of the members shall be held at the time provided for in the bylaws.

(c) Unless otherwise provided in the bylaws or articles of incorporation of the surviving corporation or successor corporation, the following apply:

(1) Special meetings may be called:

(A) by the board of directors;

(B) upon a petition signed by at least five percent (5%) of all the members; or

(C) by any other officers or persons as may be provided in the articles of incorporation or the bylaws.

(2) Written or printed notice stating the place, date, and time of a meeting of members and, in the case of a special meeting, each purpose for which the meeting is called, shall be delivered not less than ten (10) days or more than thirty (30) days before the date of the meeting, either personally or by mail, by or at the direction of the officers or persons calling the meeting, to each member of record entitled to vote at the meeting. If mailed, the notice is considered delivered when deposited in the United States mail in a sealed envelope addressed to the member at the member's address as it

appears on the records of the surviving corporation or successor corporation, with postage prepaid. Notice of meetings of members may be waived in writing.

(3) Two percent (2%) of all members present in person at any meeting for which notice has been given as provided in subdivision (2) constitutes a quorum for the transaction of business at the meeting.

(4) A majority vote of those members who are present in person and voting at any regular meeting, or at any special meeting called at least in part for the purpose of the vote, is necessary for the taking of any action, the adoption of any resolution, or the election of any directors or officers, as applicable.

(d) As provided in section 12(c)(4) of this chapter, the bylaws or articles of incorporation of the surviving corporation or successor corporation may provide that if more than two (2) persons run for election as a director from the same district, the person receiving the most votes is elected, regardless of whether that person receives a majority of the total votes cast by those members present in person and voting at the meeting at which the election occurs.

Sec. 15. A person may not become or remain a member of a surviving corporation or successor corporation formed under this chapter unless the person:

(1) uses retail electric service or communications service supplied by the surviving corporation or successor corporation; and

(2) complies with the terms and conditions:

(A) concerning membership; and

(B) set forth in the bylaws or articles of incorporation of the surviving corporation or successor corporation.

Sec. 16. (a) A member of a surviving corporation or successor corporation formed under this chapter is not liable or responsible for the debts or liabilities of the surviving corporation or successor corporation.

(b) A director of a surviving corporation or successor corporation formed under this chapter is not personally liable for the acts or omissions of the surviving corporation or successor corporation if the director acts in good faith in performing the director's duties under this chapter or under the bylaws or articles

of incorporation of the surviving corporation or successor corporation.

Sec. 17. (a) A surviving corporation or successor corporation formed under this chapter has all the powers and may provide any of the services that any party to the merger or consolidation had or could provide under:

(1) IC 8-1-13;

(2) IC 8-1-17; or

(3) this chapter;

on the effective date of the merger or consolidation.

(b) A surviving corporation or successor corporation formed under this chapter is vested with all powers necessary for the accomplishment of the surviving corporation's or successor corporation's corporate purpose. An enumeration of particular powers granted by this chapter does not:

(1) impair any grant of general power by this chapter; or

(2) limit any grant of a particular power to the same class of powers as the power so enumerated.

(c) As used in this section, "services" shall be interpreted in its broadest sense and includes any services authorized by:

(1) IC 8-1-13;

(2) IC 8-1-17; or

(3) this chapter.

Sec. 18. A surviving corporation or successor corporation formed under this chapter may perform any acts necessary or convenient for carrying out the purpose for which the surviving corporation or successor corporation was formed, including the following:

(1) To sue and be sued.

(2) To have a seal and alter the seal as the board considers appropriate.

(3) To acquire, hold, and dispose of property, real and personal, tangible and intangible, or any interest in property, and to pay for the property or interest in property in cash or on credit, and to secure and procure payment of all or any part of the purchase price on the terms and conditions that the board determines appropriate.

(4) To acquire, own, exchange, operate, maintain, and improve a system or systems for the delivery of retail electric

service or communications service.

(5) To borrow money and otherwise contract indebtedness, and to issue or guarantee notes, bonds, and other evidences of indebtedness and to secure the payment of the notes, bonds, and other evidences of indebtedness by mortgage, pledge, or deed of trust of, or any other encumbrance upon, any or all of the surviving corporation's or successor corporation's then owned or later acquired real or personal property, assets, franchises, or revenues.

(6) To construct, purchase, lease as lessee, or otherwise acquire, and to improve, expand, install, equip, maintain, and operate, and to sell, assign, convey, lease as lessor, mortgage, pledge, or otherwise dispose of or encumber electric or communications facilities or systems, lands, buildings, structures, plants and equipment, exchanges, and any other real or personal property, tangible or intangible that is necessary or appropriate to accomplish the purpose for which the surviving corporation or successor corporation was formed.

(7) To construct, operate, and maintain electric or communications facilities across or along any street or public highway, or over any lands which are now or may be the property of this state or any political subdivision of the state, after obtaining any necessary franchise or permit. Before any electric or communications facilities are constructed across or along a highway in the state highway system, the surviving corporation or successor corporation shall obtain a permit to do so from the Indiana department of transportation, and the permit from the Indiana department of transportation shall not be unreasonably withheld, delayed, or denied. The location and setting of the facilities shall be approved by the Indiana department of transportation and, upon that approval, shall be subject to the supervision of the Indiana department of transportation. Before any electric or communications facilities are constructed on or across lands belonging to the state, the surviving corporation or successor corporation shall first obtain a permit to do so from the department having charge of the lands, and the permit from that department shall not be unreasonably withheld, delayed,

or denied. The location and setting of the facilities shall be approved by the department having jurisdiction and, upon that approval, shall be subject to the supervision of that department. The electric or communications facilities shall be erected and maintained so as not to interfere with the use and maintenance of the streets, highways, and lands, and the facilities or any part of the facilities may not be located so as to interfere with the ingress or egress from any premises on a street or highway. This section does not prohibit the body having charge of the street or highway from requiring the relocation of any facility or part of a facility which may affect the proper use of the street or highway for public travel, for drainage, or for the repair, construction, or reconstruction of the street or highway. The surviving corporation or successor corporation shall restore the street, highway, or lands to their former condition or state to the extent possible and shall not use the street, highway, or lands in a manner that impairs unnecessarily their usefulness or injures the property of others.

(8) To connect and interconnect the surviving corporation's or successor corporation's communications facilities or systems with other communications facilities or systems.

(9) To accept gifts or grants of property, real or personal, from any person, municipality, or federal agency and to accept voluntary and uncompensated services.

(10) To make any contracts necessary or convenient for the full exercise of the powers granted by this chapter, including contracts with any person, federal agency, or municipality for the purchase of energy needed by the surviving corporation or successor corporation to supply its members; for the management and conduct of the business of the surviving corporation or successor corporation; and for the fixing of the rates, fees, or charges for service rendered or to be rendered by the surviving corporation or successor corporation.

(11) To sell, lease, mortgage, or otherwise encumber or dispose of all or any part of the surviving corporation's or successor corporation's property as provided in this chapter.

(12) To levy and collect reasonable fees, rents, tolls, and other charges for services rendered.

(13) To exercise the right of eminent domain in the manner provided by law.

(14) To recover, after a period of two (2) years, any unclaimed stocks, dividends, capital credits, patronage capital, utility deposits, membership fees, account balances, or book equities for which the owner cannot be found and that are the result of distributable savings of the surviving corporation or successor corporation being returned to the members on a pro rata basis under section 24(d) of this chapter.

(15) To cease doing business and to dissolve and surrender the surviving corporation's or successor corporation's corporate franchise.

(16) To issue membership certificates.

(17) To adopt, amend, and repeal bylaws.

(18) To perform any of acts set forth in this section under, through, or by means of the surviving corporation's or successor corporation's own officers, agents, or employees, or by contracts with any person, federal agency, or municipality.

Sec. 19. A surviving corporation or successor corporation formed under this chapter may not sell, lease, exchange, mortgage, pledge, or otherwise sell all, or substantially all, of the surviving corporation's or successor corporation's property unless the transaction is authorized by a resolution adopted at a meeting of the surviving corporation's or successor corporation's members duly called and held as provided in section 14 of this chapter. Unless otherwise provided in the surviving corporation's or successor corporation's bylaws or articles of incorporation, the resolution must receive the affirmative vote of:

(1) at least a majority of the surviving corporation's or successor corporation's members who are present at the meeting held under this section; and

(2) the affirmative vote of at least a majority of the corporation's directors who are present at a meeting of the board of directors called and held as provided in the surviving corporation's or successor corporation's bylaws or articles of incorporation.

Sec. 20. (a) A surviving corporation or successor corporation formed under this chapter has the power and is authorized, from time to time, to issue the surviving corporation's or successor

corporation's obligations for any corporate purpose. The obligations may be authorized by one (1) or more resolutions of the board and may bear the date or dates, mature at the time or times, not exceeding forty (40) years from their respective dates, bear interest at any rate, payable semiannually, be in the denominations, be in the form, either coupon or registered, carry the registration privileges, be executed in the manner, be payable in the medium of payment, at the place or places, and be subject to the terms of redemption, not exceeding the principal amount of the obligations plus accrued interest, as the board's resolution or resolutions may provide.

(b) The obligations may be sold in the manner and upon the terms as the board may determine at not less than the principal amount of the obligations plus accrued interest.

(c) Notwithstanding any provision of law to the contrary, any obligations and related interest coupons, if any, issued under this chapter must possess all the qualities of negotiable instruments.

Sec. 21. In connection with the issuance of any obligations, a surviving corporation or successor corporation formed under this chapter may make any covenants or agreements and do any acts and things that may be necessary, convenient, or desirable in order to secure the surviving corporation's or successor corporation's obligations or which, in the absolute discretion of the board, tend to make the obligations more marketable, notwithstanding that the covenants, agreements, acts, or things may constitute a limitation on the exercise of the powers granted by this chapter.

Sec. 22. A surviving corporation or successor corporation formed under this chapter may, out of any funds available for that purpose, purchase:

(1) any obligations issued by the surviving corporation or successor corporation; and

(2) any accrued interest on the obligations;

at a price determined by resolution of the board. Any obligation described in this section shall be cancelled upon its purchase by the surviving corporation or successor corporation.

Sec. 23. (a) A surviving corporation or successor corporation formed under this chapter may be dissolved by filing in the office of the secretary of state articles of dissolution that must be entitled and endorsed "Articles of dissolution of _____" (the blank

space being filled in with the name of the surviving corporation or successor corporation) and must include the following:

(1) The name of the surviving corporation or successor corporation and the names of the original corporations that were merged or consolidated to form the surviving corporation or successor corporation.

(2) The date of filing the following in the office of the secretary of state:

(A) the surviving corporation's or successor corporation's articles of incorporation, as most recently amended; and

(B) the articles of incorporation of the original corporations that were merged or consolidated to form the surviving corporation or successor corporation.

(3) A statement that the corporation elects to dissolve.

(4) The name and post office address of each of the directors of the surviving corporation or successor corporation, and the name, title, and post office address of each of the officers of the surviving corporation or successor corporation.

(b) The articles of dissolution shall be subscribed and acknowledged by the surviving corporation's or successor corporation's president or a vice president, and by the secretary or an assistant secretary, who shall make and annex an affidavit stating that they have been authorized to execute and file the articles by a resolution adopted by the members of the surviving corporation or successor corporation at a meeting called and held as provided in section 14 of this chapter.

(c) The articles of dissolution, or one (1) or more certified copies of the articles, shall be filed in the office of the secretary of state and upon that filing, the corporation shall be considered dissolved.

(d) A surviving corporation or successor corporation dissolved under subsection (c) shall continue for the purpose of paying, satisfying, and discharging any existing liabilities or obligations and collecting or liquidating its assets, and doing all other acts required to adjust and wind up its business and affairs, and may sue and be sued in its corporate name.

(e) Any assets remaining after all liabilities or obligations of the surviving corporation or successor corporation have been satisfied or discharged pass to and become the property of the state.

Sec. 24. (a) A surviving corporation or successor corporation

formed under this chapter shall be required to furnish reasonably adequate:

(1) retail electric service or communications service, or both; and

(2) facilities for furnishing any service described in subdivision (1) that is provided by the surviving corporation or successor corporation.

The charge made by a surviving corporation or successor corporation for any service rendered or to be rendered, either directly or in connection with the service, must be nondiscriminatory, reasonable, and just, and every discriminatory, unjust, or unreasonable charge for a service provided under this section is prohibited and declared unlawful.

(b) Reasonable and just charges for service within the meaning of this section are charges that produce sufficient revenue:

(1) to pay all legal and other necessary expense incident to the operation of the surviving corporation's or successor corporation's systems, including maintenance costs, operating charges, upkeep, repairs, depreciation and amortization, and interest charges on bonds or other obligations;

(2) to provide a sinking fund for the liquidation of bonds or other evidences of indebtedness;

(3) to provide adequate funds to be used as working capital, as well as funds for making extensions and replacements; and

(4) for the payment of any taxes that may be assessed against the corporation or its property.

(c) Charges made under this section must produce an income sufficient to maintain the surviving corporation's or successor corporation's property in a sound physical and financial condition to render adequate and efficient service. Any rate too low to meet the requirements of this section is unlawful.

(d) Revenues and receipts not needed for the purposes described in this section, or not needed as reserves for those purposes, shall be returned to the members on a pro rata basis according to the amounts paid by members for:

(1) retail electric service; or

(2) communications service;

as appropriate. Amounts returned under this subsection may be either in cash or in abatement of current charges for the services

described in this subsection, as the board may decide.

(e) As used in subsection (f), "financial assistance" means:

(1) a loan or loan guarantee; or

(2) a lien accommodation provided to secure a loan made by another lender;

that is made by the Rural Utility Service of the United States Department of Agriculture (RUS) or by the Rural Telephone Bank.

(f) As used in subsections (g) and (h), "RUS borrower" means a surviving corporation or successor corporation formed under this chapter that is the recipient of financial assistance from the Rural Utility Service of the United States Department of Agriculture (RUS).

(g) In determining rates under this section, an RUS borrower must charge rates sufficient to enable the RUS borrower to:

(1) satisfy the RUS borrower's reasonable expenses and obligations; and

(2) repay the full amount of any financial assistance and the interest on the financial assistance.

(h) As long as there remains any unpaid part of any financial assistance associated with the property of an RUS borrower, the rates of the RUS borrower must be set at a level sufficient to repay the financial assistance, regardless of the full or partial retirement of the property or any other change in the status of the property.

Sec. 25. Notwithstanding any other law, the commission may exercise jurisdiction over a surviving corporation or successor corporation formed under this chapter only to do the following:

(1) Ensure compliance with IC 8-1-2.8 concerning the provision of dual party relay services to hearing impaired and speech impaired persons in Indiana.

(2) Perform the commission's duties under IC 8-1-19.5 concerning the administration of the 211 dialing code for communications service used to provide access to human services information and referrals.

(3) Enforce rules adopted under IC 8-1-29 to ensure that a customer of a telecommunications provider is not:

(A) switched to another telecommunications provider unless the customer authorizes the switch; or

(B) billed for services by a telecommunications provider that without the customer's authorization added the

services to the customer's service order.

(4) Conduct proceedings under:

(A) the federal Telecommunications Act of 1996 (47 U.S.C. 151 et seq.); and

(B) IC 20-20-16;

concerning universal service and access to telecommunications service and equipment, including the designation of eligible telecommunications carriers under 47 U.S.C. 214.

(5) Perform any act with respect to interconnection agreements or disputes that the commission is authorized to perform under IC 8-1-2.6-1.5 or IC 8-1-2-5.

(6) Issue or maintain certificates of territorial authority for communications service providers under IC 8-1-32.5.

(7) Perform the commission's duties under IC 8-1-34 to issue and maintain certificates of franchise authority to multichannel video programming distributors offering video service to Indiana customers.

(8) Perform the commission's duties under IC 8-1-2.6-13(d)(9) concerning the reporting of information by communications service providers.

(9) Administer the Indiana lifeline assistance program under IC 8-1-36.

(10) Fulfill the commission's duties under any state or federal law concerning the administration of any universally applicable dialing code for any communications service.

(11) Perform the commission's duties under IC 8-1-2.3 with respect to assigned service areas for electricity suppliers.

(12) Issue:

(A) certificates of public convenience and necessity, certificates of territorial authority, and indeterminate permits under IC 8-1-2;

(B) certificates of public convenience and necessity under IC 8-1-8.5; or

(C) certificates of public convenience and necessity under IC 8-1-8.7.

(13) Determine territorial disputes between water utilities under IC 8-1-2-86.5.

Sec. 26. Any person adversely affected by any final decision,

ruling, or order of:

(1) the commission; or

(2) a court with jurisdiction;

under this chapter may appeal the decision, ruling, or order under the same appeal procedures set forth in IC 8-1-3.

Sec. 27. IC 23-17 and all rights and powers under IC 23-17 apply to a surviving corporation or successor corporation formed under this chapter, unless the provisions of IC 23-17 are in conflict or inconsistent with the express provisions of this chapter.

P.L.19-2010

[S.128. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning public safety.

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

SECTION 1. IC 10-14-3-10.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10.6. (a) As used in this section, "participating unit" refers to a unit that does not opt out under subsection (c) from participating in the statewide mutual aid program.

(b) As used in this section, "unit" ~~has the meaning set forth~~ **means the following:**

(1) A unit (as defined in IC 36-1-2-23).

(2) A fire protection district established under IC 36-8-11.

(3) A provider unit (as defined in IC 36-8-19-3) acting on behalf of a fire protection territory established under IC 36-8-19.

(c) A unit may choose not to participate in the statewide mutual aid program if the unit:

(1) adopts an ordinance or a resolution declaring that the unit will not participate in the statewide mutual aid program; and

(2) provides a copy of the ordinance or resolution to:

(A) the local emergency management organization that serves the unit; and

(B) the department.

(d) Each participating unit shall establish an incident management system and a unified command system to be used in a response to a disaster or an emergency.

(e) A participating unit may request the assistance of at least one (1) other participating unit to:

(1) manage disaster response or recovery; or

(2) conduct disaster response or recovery related exercises, testing, or training.

(f) A request for assistance to a participating unit under subsection (e) shall be made by and to the executive of the unit or the executive's authorized representative. A request may be oral or in writing. A written request shall be made on forms developed by the department. An oral request shall be confirmed in writing not later than twenty-four (24) hours after the oral request is made.

(g) A request must include the following information:

(1) A description of the disaster response and recovery functions for which assistance is needed, including the following:

(A) Fire.

(B) Law enforcement.

(C) Emergency medical.

(D) Transportation.

(E) Communications.

(F) Public works and engineering.

(G) Building inspection.

(H) Planning and information assistance.

(I) Mass care.

(J) Resource support.

(K) Health and other medical services.

(L) Search and rescue.

(2) The amount and type of services, equipment, supplies, materials, personnel, and other resources needed and a reasonable estimate of the length of time they will be needed.

(3) The specific place and time for staging of the assisting participating unit's provision of assistance and a point of contact at that location.

(h) A participating unit that is requested to render assistance shall take the necessary action to provide and make available the requested services, equipment, supplies, materials, personnel, and other resources.

(i) A participating unit's obligation to provide assistance is subject to the following restrictions:

(1) A participating unit's request to receive assistance is effective only:

(A) upon declaration of a local disaster emergency by the executive officer of the unit under section ~~23~~ **29** of this chapter; or

(B) upon the commencement of the exercises, testing, or training.

(2) The assistance shall continue as long as:

(A) the state of emergency remains in effect and the loaned resources are required by the receiving participating unit or the loaned resources remain in the receiving participating unit; or

(B) the exercises, testing, or training is in progress.

(3) The participating unit rendering the assistance may withhold resources or recall loaned resources to the extent necessary to provide for the participating unit's own reasonable protection.

(4) Emergency forces providing assistance shall continue under the command and control of their regular leaders, but operationally those forces shall be under the control of the incident commander or unified commander designated by the requesting participating unit.

SECTION 2. IC 10-14-3-10.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10.7. (a) As used in this section, "participating unit" has the meaning set forth in section 10.6(a) of this chapter.

(b) Each participating unit shall provide for the payment of compensation and benefits to:

(1) an injured member; and

(2) a representative of a deceased member;

of the participating unit's emergency forces if the member is injured or killed while rendering assistance under section 10.6 of this chapter in the same manner and on the same terms as if the injury or death were sustained while the member was rendering assistance for or within the

member's own unit. Expenses incurred under this subsection are not reimbursable under subsection (c).

(c) A participating unit rendering assistance for disaster response or recovery to another participating unit under section 10.6 of this chapter shall be reimbursed by the participating unit receiving the assistance for the following:

(1) A loss of, damage to, or expense incurred in the operation of any equipment in answering the request for assistance, **to the extent the loss, damage, or expense is not covered by a reimbursement from insurance to the participating unit rendering assistance.**

(2) An expense incurred in the provision of a service in answering the request for assistance, **to the extent the expense is not covered by a reimbursement from insurance to the participating unit rendering assistance.**

(3) An expense incurred in answering the request for assistance, **to the extent the expense is not covered by a reimbursement from insurance to the participating unit rendering assistance.**

(4) An amount equal to the deductible portion of an insurance policy used to reimburse all or part of an expense or other cost described in subdivisions (1) through (3).

(d) Except as provided by an agreement entered into under subsection (e), the following labor and equipment reimbursement rates apply to reimbursement under subsection (c):

(1) The labor reimbursement rates are as follows:

(A) The straight time costs of the labor force of the participating unit rendering assistance shall be reimbursed at the normal pay rates for responding personnel.

(B) The overtime costs of the labor force of the participating unit rendering assistance shall be reimbursed at one hundred fifty percent (150%) of the normal pay rates for the responding personnel if it is the normal practice of the requesting unit to pay these personnel overtime.

(2) The equipment reimbursement rates are the lesser of the following:

(A) The rates for equipment costs reimbursement established by the Federal Emergency Management Agency or its successor agency.

(B) The equipment costs established by the participating unit rendering assistance.

(e) At least two (2) participating units may enter into agreements establishing a different allocation of loss, damage, expense, or costs among themselves than that specified in subsections (c) and (d).

(f) Officers and employees of a participating unit rendering assistance to another participating unit under this section shall be considered agents of the requesting **participating** unit for the purpose of tort liability and immunity.

(g) This section does not prevent any participating unit from entering into a mutual aid or other agreement with another unit, **fire protection district, or provider unit (as defined in IC 36-8-19-3) acting on behalf of a fire protection territory,** or affect any other agreement to which a unit, **a fire protection district, or a fire protection territory** is a party, including an agreement entered into under this chapter or IC 36-1-7.

P.L.20-2010
[S.134. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning general provisions.

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

SECTION 1. IC 1-1-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. All acts enacted before the 1976 regular session of the Indiana general assembly are repealed, except that this repeal does not include the following:

(1) The following acts of incorporation enacted before the 36th session of the general assembly, and their amendments, whether those amendments were enacted before, during, or after the 36th session:

Acts 1807, c.75, s.1-2.

Acts 1810, c.17, s.1-9.
1824 Revised Statutes, c.64, s.5-6.
Acts 1832, c.133, s.1.
Local Acts 1835, c.96, s.1-3.
Local Acts 1836, c.7, s.1-22.
Local Acts 1836, c.9, s.1-21.
Local Acts 1836, c.23, s.1-4.
Local Acts 1837, c.4, s.1-10.
Local Acts 1838, c.5, s.1-57.
Local Acts 1838, c.9, s.1-22.
Local Acts 1838, c.11, s.1-17.
Local Acts 1838, c.198, s.1.
Local Acts 1839, c.21, s.1-3 and 5-11.
Local Acts 1839, c.42, s.1-2.
Local Acts 1840, c.33, s.1-5.
Local Acts 1841, c.37, s.1-3 and 7-22.
Local Acts 1842, c.45, s.1.
Local Acts 1842, c.51, s.1.
Local Acts 1843, c.4, s.1-5.
Local Acts 1843, c.27, s.1-2.
Local Acts 1843, c.31, s.1-2.
Local Acts 1844, c.11, s.1-4.
Local Acts 1844, c.30, s.1-4.
Local Acts 1844, c.31, s.1-4.
Local Acts 1844, c.34, s.1-3.
Local Acts 1844, c.134, s.1-5.
Local Acts 1845, c.118, s.1-4.
Local Acts 1845, c.234, s.1.
Local Acts 1845, c.250, s.1.
Local Acts 1846, c.2, s.1-3.
Local Acts 1846, c.61, s.1.
Local Acts 1846, c.168, s.1-5.
Local Acts 1846, c.329, s.1-3.
Local Acts 1847, c.22, s.1-13.
Local Acts 1847, c.71, s.1-4 and 6-9.
Local Acts 1847, c.93, s.1-4.
Local Acts 1847, c.129, s.1-4.
Local Acts 1847, c.172, s.1-2.

Local Acts 1847, c.204, s.1-3.
Local Acts 1847, c.336, s.1-5.
Local Acts 1848, c.123, s.1.
Local Acts 1848, c.252, s.1.
Local Acts 1848, c.346, s.1-15.
Local Acts 1849, c.116, s.1-9.
Local Acts 1849, c.203, s.1.
Local Acts 1849, c.220, s.1-4.
Local Acts 1849, c.221, s.1-7.
Local Acts 1849, c.269, s.1.
Local Acts 1850, c.138, s.1-5.
Local Acts 1850, c.213, s.1.
Local Acts 1850, c.265, s.1-10.
Local Acts 1850, c.269, s.1-8.
Local Acts 1850, c.331, s.1-17.
Local Acts 1850, c.338, s.1.
Local Acts 1851, c.1, ~~s.1-19,~~ **s.1-10, 12-19,** 27-34, and 36.
Local Acts 1851, c.39, s.1.
Local Acts 1851, c.92, s.1-34.
Local Acts 1851, c.226, s.1-3.
Local Acts 1851, c.281, s.1-10.
Local Acts 1851, c.336, s.1-7.
Acts 1865(ss), c.11, s.1-6.
Acts 1873, c.88, s.1.
Acts 1873, c.101, s.1.
Acts 1873, c.103, s.1.
Acts 1885, c.42, s.1.
Acts 1895, c.59, s.1.
Acts 1901, c.153, s.1.
Acts 1905, c.7, s.1.
Acts 1909, c.7, s.1-4.
Acts 1909, c.51, s.1.
Acts 1911, c.167, s.1-2.
Acts 1913, c.253, s.1.
Acts 1925, c.165, s.1-3.
Acts 1927, c.68, s.1-5.
Acts 1935, c.58, s.1.
Acts 1937, c.227, s.1.

Acts 1939, c.51.
Acts 1959, c.165, s.1.
Acts 1963, c.107, s.1-2.

(2) The following appropriation:
Acts 1967, c.180, s.3.

(3) The following statement of legislative purpose, finding, intent, or policy:
Acts 1973, P.L.322, s.1.

SECTION 2. IC 4-20.5-7-4.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 4.7. A reference to the Brothers of Saint Joseph in a record filed with or created by the state or a political subdivision is a reference to the Brothers of Holy Cross, Inc.**

SECTION 3. IC 4-20.5-7-20 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 20. (a) As used in this section, "real estate and the improvements" refers to the real estate and the improvements generally known as the Old Pathology Building and the Dead House that are held by Central State Hospital and that are described as follows:**

Part of the Southwest Quarter of Section 4, Township 15 North, Range 3 East, Marion County, Indiana, and being more particularly described as follows: Beginning at a point on the North line of said quarter section being North 88 degrees 20 minutes 04 seconds East (assumed bearing) 615.07 feet from the Northwest corner thereof; thence continue North 88 degrees 20 minutes 04 seconds East along said North line 298.15 feet; thence South 0 degrees 25 minutes 14 seconds West 986.30 feet; thence North 88 degrees 39 minutes 18 seconds West 184.05 feet; thence North 6 degrees 15 minutes 40 seconds West 979.13 feet to the point of beginning and containing 5.423 acres, more or less. Subject to right-of-way for Vermont Street off the entire North side thereof and all other legal easements and rights-of-way of record. Also subject to and together with an easement for ingress and egress being a part of the Southwest Quarter of Section 4, Township 15 North, Range 3 East, Marion County, Indiana,

and being more particularly described as follows: Beginning at a point on the North line of said quarter section being North 88 degrees 20 minutes 04 seconds East (assumed bearing) 823.22 feet from the Northwest corner thereof; thence continue North 88 degrees 20 minutes 04 seconds East along said North line 90.00 feet; thence South 0 degrees 25 minutes 14 seconds West 61.00 feet; thence South 57 degrees 55 minutes 21 seconds West 71.07 feet; thence South 0 degrees 25 minutes 14 seconds West 886.15 feet; thence North 88 degrees 39 minutes 18 seconds West 30.00 feet; thence North 0 degrees 25 minutes 14 seconds East 368.57 feet; thence North 67 degrees 14 minutes 53 seconds West 155.70 feet; thence North 6 degrees 15 minutes 40 seconds West 25.00 feet; thence South 75 degrees 48 minutes 59 seconds East 151.27 feet; thence North 0 degrees 25 minutes 14 seconds East 565.00 feet to the point of beginning and containing in said easement 0.905 acres, more or less, subject to all legal easements and rights-of-way of record.

(b) Notwithstanding any other law, the appropriate officials, acting on behalf and in the name of the state, shall enter into a lease with the Indiana Medical History Museum, Inc., or its successor, at the sole option of the Indiana Medical History Museum, Inc., at the expiration of the lease described in P.L.245-1986, SECTION 2 or at any time during the lease described in P.L.245-1986, SECTION 2, leasing the real estate and the improvements.

(c) The Indiana Medical History Museum, Inc., shall use the real estate and the improvements for public charitable, educational, scientific, and general museum purposes.

(d) The lease described in subsection (b) must:

(1) be for a period of ninety-nine (99) years at a rental of one dollar ($1) per year with the option to renew the lease for an additional ninety-nine (99) years at a rental of one dollar ($1) per year;

(2) allow the Indiana Medical History Museum, Inc., to purchase services from Central State Hospital at the cost of those services to Central State Hospital (the lease must provide a method of determining these costs; however, the method may be amended with the consent of the parties);

(3) provide that the Indiana Medical History Museum, Inc., is responsible for the maintenance of the real estate and the improvements;

(4) allow the Indiana Medical History Museum, Inc., to relocate the improvements generally known as the Old Pathology Building and the Dead House to a new site that is generally available to the people of Indiana;

(5) require the Indiana Medical History Museum, Inc., to take title to any improvement described in subdivision (4) that is transferred to a site that is not owned by the state or an instrumentality of the state, subject to a covenant, enforceable by the state, restricting the use of the improvement to a charitable, educational, scientific, and general museum purpose;

(6) provide for the termination of the lease with respect to any improvement described in subdivision (4) that is moved to a site that is not owned by the state or an instrumentality of the state;

(7) provide for the termination of the lease with respect to the real estate described in subsection (a) after all improvements described in subdivision (4) are transferred to another site, regardless of whether the site is owned by the state or an instrumentality of the state;

(8) allow the state to terminate the lease if any of the real estate and improvements are subleased without the consent of the state or used for a purpose other than a public charitable, educational, scientific, or general museum purpose; and

(9) permit amendments at any time with the consent of all parties to the lease.

SECTION 4. IC 4-20.5-7-21 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 21. (a) As used in this section, "city" refers to the city of Madison, Indiana.**

(b) As used in this section, "heritage trail" refers to a multiple purpose public use trail.

(c) As used in this section, "hospital" refers to the Madison State Hospital or its successor.

(d) As used in this section, "real estate" refers to the real estate and improvements that are:

(1) held by the hospital;

(2) located on the grounds of the hospital; and

(3) designated as a heritage trail by agreement of the city and the hospital.

(e) The city, at its expense, shall have a staked survey performed and prepare a legal description of the real estate that meets the approval of the governor and the commissioner of the Indiana department of administration.

(f) The governor and the commissioner of the Indiana department of administration are authorized and directed on behalf of and in the name of the state of Indiana to enter into a lease agreement with the city that contains the following:

(1) A lease of the real estate surveyed and described in subsection (e) to the city for thirty (30) years at a rental of one dollar ($1) per year.

(2) A provision for maintenance of the heritage trail by the city or the hospital.

(3) A statement that the city may purchase services from the hospital at the cost of those services to the hospital, including the method of determining the costs. The method of determining costs may be amended with the consent of all parties to the lease.

(4) An easement to the real estate to allow visitor access to the real estate. The easement may be amended with the consent of all parties to the lease.

(5) A statement that the state may terminate the lease if any part of the real estate is:

(A) subleased without the consent of the state; or

(B) used for a purpose other than a heritage trail.

(g) The city shall use the real estate leased under this section for heritage trail purposes.

SECTION 5. IC 5-20-1-3, AS AMENDED BY P.L.235-2005, SECTION 86, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) There is created a public body corporate and politic of the state of Indiana to be known as the "Indiana housing and community development authority". The authority shall consist of the following seven (7) members:

(1) The lieutenant governor or the lieutenant governor's designee.

(2) The treasurer of state, or the treasurer of state's designee.

(3) The public finance director of the Indiana finance authority, or the public finance director's designee.

(4) Four (4) members appointed by the governor.

Not more than three (3) of the members of the authority appointed under subdivision (4) shall be members of the same political party. Members of the authority appointed by the governor shall serve for a term of four (4) years, except that all vacancies shall be filled for the unexpired term. However, any appointed member of the authority shall be removable at the pleasure of the governor, with or without cause. A member of the authority shall receive no compensation for the member's services but shall be entitled to reimbursement for the necessary expenses, including traveling expenses, incurred in the discharge of the member's duties. Each member shall hold office until the member's successor has been appointed and has qualified. A certificate of appointment or reappointment of any members shall be filed with the authority and this certificate shall be conclusive evidence of the due and proper appointments of the member.

(b) The powers of the authority shall be vested in the members thereof in office from time to time. A majority of the members of the authority shall constitute a quorum for the purposes of conducting its business and exercising its powers and for all other purposes, notwithstanding the existence of any vacancies. Action may be taken by the authority upon a vote of a majority of the members present, unless the bylaws of the authority require a larger number. Meetings of the members of the authority may be held anywhere within or outside the state.

(c) The governor shall appoint a chairman and vice-chairman from the members of the authority. The governor shall appoint an executive director for the authority, who shall serve at the pleasure of the governor and receive compensation as fixed by the authority. The authority shall employ legal and technical experts and such other officers, agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties, and compensation. The authority may also engage independent legal counsel to assist it. The authority may delegate to one (1) or more of its agents or employees such powers or duties as it may deem proper.

(d) The authority may also contract with any entity, including the Indiana finance authority, to provide staff or services, including the

functions of the executive director and employees of the authority, under such terms as the authority determines.

(e) After May 14, 2005, a reference to the Indiana housing finance authority in a statute, rule, or other document is considered a reference to the authority as the successor agency.

SECTION 6. IC 5-28-1-2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 2. The corporation is a continuation of the Indiana economic development corporation established by IC 4-1.5-3-1 (before its repeal).**

SECTION 7. IC 12-20-1-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 5. (a) After June 30, 2005, a reference to "poor relief" in a statute, a rule, an interim guideline, a contract, an application for benefits, an eligibility standard, a tax levy, a fund, a bond issue or another form of indebtedness, or any other legal document or order shall be treated as a reference to "township assistance".**

(b) The renaming of "poor relief" as "township assistance" does not affect:

(1) any rights or liabilities accrued;

(2) any penalties incurred;

(3) any violations committed;

(4) any proceedings begun;

(5) any contract;

(6) any application for or standard of benefits;

(7) any tax levy;

(8) any fund;

(9) any bond issue or other form of indebtedness; or

(10) any legal document or order.

SECTION 8. IC 35-32-1-2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 2. The change of references in the Indiana Code from community service to community restitution or service by P.L.32-2000 shall not be construed to:**

(1) release a person from a court order issued before July 1, 2000, requiring the person to perform community service; or

(2) limit the power of an entity to operate any program as a community restitution program after June 30, 2000, that was

operated before July 1, 2000, as a community service program.

SECTION 9. IC 36-7-14-1.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 1.3. (a) After June 30, 2005, a reference in any statute, rule, ordinance, resolution, contract, or other document or record to a blighted, deteriorated, or deteriorating area established under this chapter shall be treated as a reference to an area needing redevelopment (as defined in IC 36-7-1-3).**

(b) After June 30, 2005, a reference in any statute, rule, ordinance, resolution, contract, or other document or record to a redevelopment area established under this chapter shall be treated as a reference to a redevelopment project area established under this chapter or IC 36-7-15.1.

SECTION 10. IC 36-7-15.1-1.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 1.3. (a) After June 30, 2005, a reference in any statute, rule, ordinance, resolution, contract, or other document or record to a blighted, deteriorated, or deteriorating area established under this chapter shall be treated as a reference to an area needing redevelopment (as defined in IC 36-7-1-3).**

(b) After June 30, 2005, a reference in any statute, rule, ordinance, resolution, contract, or other document or record to a redevelopment area established under this chapter shall be treated as a reference to a redevelopment project area established under IC 36-7-14 or this chapter.

SECTION 11. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2010]: P.L.245-1986, SECTION 3; P.L.1-1989, SECTION 78; P.L.184-1999, SECTION 2; P.L.32-2000, SECTION 28; P.L.4-2005, SECTION 149; P.L.73-2005, SECTION 176; P.L.185-2005, SECTION 54; P.L.235-2005, SECTION 217.

P.L.21-2010
[S.140. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning family law and juvenile law.

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

SECTION 1. IC 31-14-5-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 9. A man who is barred under IC 31-19 from establishing paternity may not establish paternity by:**

(1) filing a paternity action as next friend of a child; or

(2) requesting a prosecuting attorney to file a paternity action.

SECTION 2. IC 31-19-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. Notice of the adoption proceeding required under section 3 of this chapter shall be given to an unnamed putative father in substantially the following form:

"NOTICE TO UNNAMED FATHER

The unnamed putative father of the child born to _____ (mother's name) on _____ (date), or the person who claims to be the father of the child born to _____ (mother's name) on _____ (date), is notified that a petition for adoption of the child was filed in the office of the clerk of _____ court, _____ (address of court).

If the unnamed putative father seeks to contest the adoption of the child, the unnamed putative father must file a motion to contest the adoption in accordance with IC 31-19-10-1 in the above named court ~~or a paternity action under IC 31-14~~ within thirty (30) days after the date of service of this notice. This notice may be served by publication.

If the unnamed putative father

~~(1)~~ does not file

~~(A)~~ a motion to contest the adoption ~~or~~

~~(B) a paternity action under IC 31-14;~~

within thirty (30) days after service of this notice, ~~or~~

~~(2) after filing a paternity action under IC 31-14 fails to establish paternity;~~

the above named court shall hear and determine the petition for adoption. The unnamed putative father's consent is irrevocably implied and the unnamed putative father loses the right to contest the adoption or the validity of the unnamed putative father's implied consent to the adoption. The unnamed putative father loses the right to establish paternity of the child under IC 31-14.

Nothing _____ (mother's name) or any one else says to the unnamed putative father of the child relieves the unnamed putative father of his obligations under this notice.

Under Indiana law, a putative father is a person who is named as or claims that he may be the father of a child born out of wedlock but who has not yet been legally proven to be the child's father.

This notice complies with IC 31-19-4-4 but does not exhaustively set forth the unnamed putative father's legal obligations under the Indiana adoption statutes. A person being served with this notice should consult the Indiana adoption statutes.".

SECTION 3. IC 31-19-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. Notice of the adoption proceeding shall be given to:

(1) the putative father who is entitled to notice under section 1 or 2 of this chapter; or

(2) a named putative father under section 3 of this chapter;

in substantially the following form:

"NOTICE TO NAMED FATHER

_____ (putative father's name), who has been named the father of the child born to _____ (mother's name) on _____ (date), or who claims to be the father of the child born to _____ (mother's name) on _____ (date), is notified that a petition for adoption of the child was filed in the office of the clerk of _____ court, _____ (address of the court).

If _____ (putative father's name) seeks to contest the adoption of the child, he must file a motion to contest the adoption in accordance with IC 31-19-10-1 in the above named court ~~or a paternity action under IC 31-14~~ not later than thirty (30) days after the date of service of this notice.

If _____ (putative father's name)

~~(1)~~ does not file

~~(A)~~ a motion to contest the adoption ~~or~~

~~(B) a paternity action under IC 31-14;~~

within thirty (30) days after service of this notice, ~~or~~

~~(2) after filing a paternity action under IC 31-14 fails to establish paternity;~~

the above named court will hear and determine the petition for adoption. His consent will be irrevocably implied and he will lose his right to contest either the adoption or the validity of his implied consent to the adoption. He will lose his right to establish his paternity of the child under IC 31-14.

Nothing _____ (mother's name) or anyone else says to _____ (putative father's name) relieves _____ (putative father's name) of his obligations under this notice.

Under Indiana law, a putative father is a person who is named as or claims that he may be the father of a child born out of wedlock but who has not yet been legally proven to be the child's father. For purposes of this notice, _____ (putative father's name) is a putative father under the laws in Indiana regarding adoption.

This notice complies with IC 31-19-4-5 but does not exhaustively set forth a putative father's legal obligations under the Indiana adoption statutes. A person being served with this notice should consult the Indiana adoption statutes.".

SECTION 4. IC 31-19-5-1, AS AMENDED BY P.L.58-2009, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. **(a)** This chapter applies to a putative father whenever:

(1) an adoption under IC 31-19-2 has been or may be filed regarding a child who may have been conceived by the putative father; and

(2) on or before the date the child's mother executes a consent to the child's adoption, the child's mother has not disclosed the name or address, or both, of the putative father to ~~an~~ **the** attorney or agency that is arranging the child's adoption.

(b) This chapter does not apply if, on or before the date the child's mother executes a consent to the child's adoption, the child's mother discloses the name and address of the putative father to the

attorney or agency that is arranging the child's adoption.

SECTION 5. IC 31-19-9-2, AS AMENDED BY P.L.145-2006, SECTION 251, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The consent to adoption may be executed at any time after the birth of the child, either in the presence of:

(1) the court;

(2) a notary public or other person authorized to take acknowledgments; or

(3) an authorized agent of:

(A) the department;

(B) a county office of family and children; or

(C) a licensed child placing agency.

(b) The child's mother may not execute a consent to adoption before the birth of the child.

(c) The child's father may execute a consent to adoption before the birth of the child if the consent to adoption:

(1) is in writing;

(2) is signed by the child's father in the presence of a notary public; and

(3) contains an acknowledgment that:

(A) the consent to adoption is irrevocable; and

(B) the child's father will not receive notice of the adoption proceedings.

(d) A child's father who consents to the adoption of the child under subsection (c) may not challenge or contest the child's adoption.

(e) A person who executes a written consent to the adoption of a child may not execute a second or subsequent written consent to have another person adopt the child unless one (1) or more of the following apply:

(1) Each original petitioner provides a written statement that the petitioner is not adopting the child.

(2) The person consenting to the adoption has been permitted to withdraw the first consent to adoption under IC 31-19-10.

(3) The court dismisses the petition for adoption filed by the original petitioner or petitioners for adoption based upon a showing, by clear and convincing evidence, that it is not in the best interests of the child that the petition for adoption be

granted.

(4) The court denies the petition to adopt the child filed by the original petitioner or petitioners for adoption.

SECTION 6. IC 31-19-9-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. A putative father's consent to adoption is irrevocably implied without further court action if the putative father:

(1) fails to file

~~(A)~~ a motion to contest the adoption in accordance with IC 31-19-10 ~~and~~

~~(B) a paternity action under IC 31-14;~~

within thirty (30) days after service of notice under IC 31-19-4 **in the court in which the adoption is pending;**

(2) having filed a motion to contest the adoption in accordance with IC 31-19-10, fails to appear at the hearing set to contest the adoption;

(3) having filed a paternity action under IC 31-14, fails to establish paternity in the action; or

(4) is required to but fails to register with the putative father registry established by IC 31-19-5 within the period under IC 31-19-5-12.

SECTION 7. IC 31-19-11-1, AS AMENDED BY P.L.3-2008, SECTION 238, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Whenever the court has heard the evidence and finds that:

(1) the adoption requested is in the best interest of the child;

(2) the petitioner or petitioners for adoption are of sufficient ability to rear the child and furnish suitable support and education;

(3) the report of the investigation and recommendation under IC 31-19-8-5 has been filed;

(4) the attorney or agency arranging an adoption has filed with the court an affidavit prepared by the state department of health under IC 31-19-5-16 indicating whether a man is entitled to notice of the adoption because the man has registered with the putative father registry in accordance with IC 31-19-5;

(5) proper notice arising under subdivision (4), if notice is necessary, of the adoption has been given;

(6) the attorney or agency has filed with the court an affidavit prepared by the state department of health under:

(A) IC 31-19-6 indicating whether a record of a paternity determination; or

(B) IC 16-37-2-2(g) indicating whether a paternity affidavit executed under IC 16-37-2-2.1;

has been filed in relation to the child;

(7) proper consent, if consent is necessary, to the adoption has been given;

(8) the petitioner for adoption is not prohibited from adopting the child as the result of an inappropriate criminal history described in subsection (c) or (d); and

(9) the person, licensed child placing agency, or county office of family and children that has placed the child for adoption has provided the documents and other information required under IC 31-19-17 to the prospective adoptive parents;

the court shall grant the petition for adoption and enter an adoption decree.

(b) A court may not grant an adoption unless the state department of health's affidavit under IC 31-19-5-16 is filed with the court as provided under subsection (a)(4).

(c) A conviction of a felony or a misdemeanor related to the health and safety of a child by a petitioner for adoption is a permissible basis for the court to deny the petition for adoption. In addition, the court may not grant an adoption if a petitioner for adoption has been convicted of any of the felonies, **or convicted of an attempt or conspiracy to commit any of the felonies,** described as follows:

(1) Murder (IC 35-42-1-1).

(2) Causing suicide (IC 35-42-1-2).

(3) Assisting suicide (IC 35-42-1-2.5).

(4) Voluntary manslaughter (IC 35-42-1-3).

(5) Reckless homicide (IC 35-42-1-5).

(6) Battery as a felony (IC 35-42-2-1).

(7) Domestic battery (IC 35-42-2-1.3).

(8) Aggravated battery (IC 35-42-2-1.5).

(9) Kidnapping (IC 35-42-3-2).

(10) Criminal confinement (IC 35-42-3-3).

(11) A felony sex offense under IC 35-42-4.

(12) Carjacking (IC 35-42-5-2).

(13) Arson (IC 35-43-1-1).

(14) Incest (IC 35-46-1-3).

(15) Neglect of a dependent (IC 35-46-1-4(a)(1) and IC 35-46-1-4(a)(2)).

(16) Child selling (IC 35-46-1-4(d)).

(17) A felony involving a weapon under IC 35-47 or IC 35-47.5.

(18) A felony relating to controlled substances under IC 35-48-4.

(19) An offense relating to material or a performance that is harmful to minors or obscene under IC 35-49-3.

(20) A felony ~~that is substantially equivalent to a felony listed in~~ **under the laws of another jurisdiction, including a military court, that is substantially equivalent to any of the offenses listed in** subdivisions (1) through (19). ~~for which the conviction was entered in another state.~~

However, the court is not prohibited from granting an adoption based upon a felony conviction under subdivision (6), (12), (13), (17), or (18), or its equivalent under subdivision (20), if the offense was not committed within the immediately preceding five (5) year period.

(d) A court may not grant an adoption if the petitioner is a sex or violent offender (as defined in IC 11-8-8-5) **or a sexually violent predator (as defined in IC 35-38-1-7.5).**

SECTION 8. IC 31-35-2-4, AS AMENDED BY P.L.131-2009, SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) A petition to terminate the parent-child relationship involving a delinquent child or a child in need of services may be signed and filed with the juvenile or probate court by any of the following:

(1) The attorney for the department.

(2) The child's court appointed special advocate.

(3) The child's guardian ad litem.

(b) The petition must **meet the following requirements:**

(1) **The petition must** be entitled "In the Matter of the Termination of the Parent-Child Relationship of _____, a child, and _____, the child's parent (or parents)". ~~and~~

(2) **The petition must** allege: ~~that:~~

(A) **that** one (1) of the following ~~exists:~~ **is true:**

(i) The child has been removed from the parent for at least

six (6) months under a dispositional decree.

(ii) A court has entered a finding under IC 31-34-21-5.6 that reasonable efforts for family preservation or reunification are not required, including a description of the court's finding, the date of the finding, and the manner in which the finding was made. ~~or~~

(iii) The child has been removed from the parent and has been under the supervision of a county office of family and children or probation department for at least fifteen (15) months of the most recent twenty-two (22) months, beginning with the date the child is removed from the home as a result of the child being alleged to be a child in need of services or a delinquent child;

(B) **that one (1) of the following is true:**

(i) There is a reasonable probability that ~~(i)~~ the conditions that resulted in the child's removal or the reasons for placement outside the home of the parents will not be remedied. ~~or~~

(ii) **There is a reasonable probability that** the continuation of the parent-child relationship poses a threat to the well-being of the child.

(iii) The child has, on two (2) separate occasions, been adjudicated a child in need of services;

(C) **that** termination is in the best interests of the child; and

(D) **that** there is a satisfactory plan for the care and treatment of the child.

(3) **The petition must** indicate whether at least one (1) of the factors listed in section 4.5(d)(1) through 4.5(d)(3) of this chapter applies and specify each factor that would apply as the basis for filing a motion to dismiss the petition.

SECTION 9. IC 31-35-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. The verified petition filed under section 4 of this chapter must:

(1) be entitled "In the Matter of the Termination of the Parent-Child Relationship of _____, a child, and _____, the parent (or parents)"; and

(2) allege: ~~that:~~

(A) **that** the victim of an offense listed in section 4(1) of this

chapter is:

(i) the subject of the petition;

(ii) the biological or adoptive sibling of the subject of the petition; or

(iii) the child of a spouse of the individual whose parent-child relationship is sought to be terminated under this article;

(B) **that** the individual whose parent-child relationship is sought to be terminated under this article was convicted;

(C) **that** the child has been removed:

(i) from the parent under a dispositional decree; and

(ii) from the parent's custody for at least six (6) months under a court order;

(D) **that one (1) of the following is true:**

(i) There is a reasonable probability that ~~(i)~~ the conditions that resulted in the child's removal or the reasons for placement outside the parent's home will not be remedied. ~~or~~

(ii) **There is a reasonable probability that** continuation of the parent-child relationship poses a threat to the well-being of the child.

(iii) The child has, on two (2) separate occasions, been adjudicated a child in need of services;

(E) **that** termination is in the best interests of the child; and

(F) **that** there is a satisfactory plan for the care and treatment of the child.

SECTION 10. IC 35-46-1-21, AS ADDED BY P.L.146-2007, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 21. (a) Only a person that is an attorney licensed to practice law or a child placing agency licensed under the laws of ~~any state or the District of Columbia~~ **Indiana** may place a paid advertisement or paid listing of the person's telephone number, on the person's own behalf, in a telephone directory that:

(1) a child is offered or wanted for adoption; or

(2) the person is able to place, locate, or receive a child for adoption.

(b) A person that publishes a telephone directory that is distributed in Indiana:

(1) shall include, at the beginning of any classified heading for adoption and adoption services, a statement that informs directory users that only attorneys licensed to practice law and licensed child placing agencies may legally provide adoption services under Indiana law; and

(2) may publish an advertisement described in subsection (a) in the telephone directory only if the advertisement contains the following:

(A) For an attorney licensed to practice law **in Indiana,** the person's attorney number.

(B) For a child placing agency licensed under the laws of ~~any state or the District of Columbia,~~ **Indiana,** the number on the person's child placing agency license.

(c) A person who knowingly or intentionally violates subsection (a) commits unauthorized adoption advertising, a Class A misdemeanor.

SECTION 11. IC 35-46-1-22, AS AMENDED BY P.L.146-2008, SECTION 685, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 22. (a) As used in this section, "adoption services" means at least one (1) of the following services that is provided for compensation, an item of value, or reimbursement, either directly or indirectly, and provided either before or after the services are rendered:

(1) Arranging for the placement of a child.

(2) Identifying a child for adoption.

(3) Matching adoptive parents with biological parents.

(4) Arranging or facilitating an adoption.

(5) Taking or acknowledging consents or surrenders for termination of parental rights for adoption purposes.

(6) Performing background studies on:

(A) a child who is going to be adopted; or

(B) adoptive parents.

(7) Making determinations concerning the best interests of a child and the appropriateness in placing the child for adoption.

(8) Postplacement monitoring of a child before the child is adopted.

(b) As used in this section, the term "adoption services" does not include the following:

(1) Legal services provided by an attorney licensed in Indiana.

(2) Adoption related services provided by a governmental entity or a person appointed to perform an investigation by the court.

(3) General education and training on adoption issues.

(4) Postadoption services, including supportive services to families to promote the well-being of members of adoptive families or birth families.

(c) This section does not apply to the following persons:

(1) The department of child services, an agency or person authorized to act on behalf of the department of child services, or a similar agency or county office with similar responsibilities in another state.

(2) The division of family resources, an agency or person authorized to act on behalf of the division of family resources, or a similar agency or county office with similar responsibilities in another state.

(3) A child placing agency licensed under the laws of Indiana. ~~or another state.~~

(4) An attorney licensed to practice law in Indiana. ~~or another state.~~

(5) A prospective biological parent or adoptive parent acting on the individual's own behalf.

(d) A person who knowingly or intentionally provides, engages in, or facilitates adoption services to a birth parent or prospective adoptive parent who resides in Indiana commits unauthorized adoption facilitation, a Class A misdemeanor.

SECTION 12. **An emergency is declared for this act.**

P.L.22-2010
[S.148. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning human services.

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

SECTION 1. IC 12-11-1.1-1, AS AMENDED BY P.L.99-2007, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The bureau of developmental disabilities services is established within the division.

(b) The bureau shall plan, coordinate, and administer the provision of individualized, integrated community based services for individuals with a developmental disability and their families, within the limits of available resources. The planning and delivery of services must be based on future plans of the individual with a developmental disability rather than on traditional determinations of eligibility for discrete services, with an emphasis on the preferences of the individual with a developmental disability and that individual's family.

(c) Services for individuals with a developmental disability must be services that meet the following conditions:

(1) Are provided under public supervision.

(2) Are designed to meet the developmental needs of individuals with a developmental disability.

(3) Meet all required state and federal standards.

(4) Are provided by qualified personnel.

(5) To the extent appropriate, are provided in home and community based settings in which individuals without disabilities participate.

(6) Are provided in conformity with a service plan developed under IC 12-11-2.1-2.

(d) The bureau shall approve entities to provide community based services and supports. **Beginning July 1, 2011, the bureau shall ensure that an entity approved to provide adult day services,**

identified day habilitation, or vocational services under home and community based services waivers is accredited by at least one (1) of the following organizations:

(1) The Commission on Accreditation of Rehabilitation Facilities (CARF), or its successor.

(2) The Council on Quality and Leadership In Supports for People with Disabilities, or its successor.

(3) The Joint Commission on Accreditation of Healthcare Organizations (JCAHO), or its successor.

(4) The National Committee for Quality Assurance, or its successor.

(5) The ISO-9001 human services QA system.

(6) An independent national accreditation organization approved by the secretary.

(e) The bureau shall approve and monitor community based residential, habilitation, and vocational service providers that provide alternatives to placement of individuals with a developmental disability in state institutions and health facilities licensed under IC 16-28 for individuals with a developmental disability. The services must simulate, to the extent feasible, patterns and conditions of everyday life that are as close as possible to normal. The community based service categories include the following:

(1) Supervised group living programs, which serve at least four (4) individuals and not more than eight (8) individuals, are funded by Medicaid, and are licensed by the community residential facilities council.

(2) Supported living service arrangements to meet the unique needs of individuals in integrated settings. Supported living service arrangements providing residential services may not serve more than four (4) unrelated individuals in any one (1) setting. However, the head of the bureau shall waive this limitation for a setting providing residential services to more than four (4) unrelated individuals in any one (1) setting if the setting was in existence on June 30, 1999.

(f) To the extent that services described in subsection (e) are available and meet the individual's needs, an individual is entitled to receive services in the least restrictive environment possible.

(g) Community based services under subsection (e)(1) or (e)(2)

must consider the needs of and provide choices and options for:

(1) individuals with a developmental disability; and

(2) families of individuals with a developmental disability.

(h) The bureau shall administer a system of service coordination to carry out this chapter.

SECTION 2. **An emergency is declared for this act.**

P.L.23-2010

[S.172. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning pensions.

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

SECTION 1. IC 36-8-8-13.8, AS AMENDED BY P.L.1-2007, SECTION 242, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13.8. (a) This section applies to an active or retired member who dies other than in the line of duty (as defined in section 14.1 of this chapter) after August 31, 1982.

(b) If a fund member dies while receiving retirement or disability benefits, the following apply:

(1) Except as otherwise provided in this subsection, each of the member's surviving children is entitled to a monthly benefit equal to twenty percent (20%) of the fund member's monthly benefit:

(A) until the child becomes eighteen (18) years of age; or

(B) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university;

whichever period is longer. However, if the board finds upon the submission of satisfactory proof that a child who is at least eighteen (18) years of age is mentally or physically incapacitated, is not a ward of the state, and is not receiving a benefit under

clause (B), the child is entitled to receive an amount each month that is equal to the greater of thirty percent (30%) of the monthly pay of a first class patrolman or first class firefighter or fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death as long as the mental or physical incapacity of the child continues. Benefits paid for a child shall be paid to the surviving parent as long as the child resides with and is supported by the surviving parent. If the surviving parent dies, the benefits shall be paid to the legal guardian of the child.

(2) The member's surviving spouse is entitled to a monthly benefit equal to sixty percent (60%) of the fund member's monthly benefit during the spouse's lifetime. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

If a fund member dies while receiving retirement or disability benefits, there is no surviving eligible child or spouse, and there is proof satisfactory to the local board, subject to review in the manner specified in section 13.1(c) of this chapter, that the parent was wholly dependent on the fund member, the member's surviving parent is entitled, or both surviving parents if qualified are entitled jointly, to receive fifty percent (50%) of the fund member's monthly benefit during the parent's or parents' lifetime. **As used in this subsection, a parent is wholly dependent on a fund member if the fund member claimed the parent as a dependent on the federal income tax return filed by the fund member in the year before the year in which the fund member died.**

(c) Except as otherwise provided in this subsection, if a fund member dies while on active duty or while retired and not receiving benefits, the member's children and the member's spouse, or the member's parent or parents are entitled to receive a monthly benefit determined under subsection (b). If the fund member did not have at least twenty (20) years of service or was not at least fifty-two (52) years of age, the benefit is computed as if the member:

(1) did have twenty (20) years of service; and

(2) was fifty-two (52) years of age.

SECTION 2. IC 36-8-8-13.9, AS AMENDED BY P.L.1-2007,

SECTION 243, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13.9. (a) This section applies to an active member who died in the line of duty (as defined in section 14.1 of this chapter) before September 1, 1982.

(b) Except as otherwise provided in this subsection, if a fund member dies in the line of duty, the following apply:

(1) Each of the member's surviving children is entitled to a monthly benefit equal to twenty percent (20%) of the fund member's monthly benefit:

(A) until the child becomes eighteen (18) years of age; or

(B) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university;

whichever period is longer. However, if the board finds upon the submission of satisfactory proof that a child who is at least eighteen (18) years of age is mentally or physically incapacitated, is not a ward of the state, and is not receiving a benefit under clause (B), the child is entitled to receive an amount each month that is equal to the greater of thirty percent (30%) of the monthly pay of a first class patrolman or first class firefighter or fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death as long as the mental or physical incapacity of the child continues. Benefits paid for a child shall be paid to the surviving parent as long as the child resides with and is supported by the surviving parent. If the surviving parent dies, the benefits shall be paid to the legal guardian of the child.

(2) The member's surviving spouse is entitled to a monthly benefit equal to sixty percent (60%) of the fund member's monthly benefit during the spouse's lifetime. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

If there is no surviving eligible child or spouse, and there is proof satisfactory to the local board, subject to review in the manner specified in section 13.1(c) of this chapter, that the parent was wholly dependent on the fund member, the member's surviving parent is

entitled, or both surviving parents if qualified are entitled jointly, to receive fifty percent (50%) of the fund member's monthly benefit during the parent's or parents' lifetime. **As used in this subsection, a parent is wholly dependent on a fund member if the fund member claimed the parent as a dependent on the federal income tax return filed by the fund member in the year before the year in which the fund member died.**

(c) If the fund member did not have at least twenty (20) years of service or was not at least fifty-two (52) years of age, the benefit under subsection (b) is computed as if the member:

(1) did have twenty (20) years of service; and

(2) was fifty-two (52) years of age.

(d) The unit of local government that employed the deceased member shall after December 31, 2003, offer to provide and pay for health insurance coverage for the member's surviving spouse and for each natural child, stepchild, or adopted child of the member:

(1) until the child becomes eighteen (18) years of age;

(2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or

(3) during the entire period of the child's physical or mental disability;

whichever period is longest. If health insurance coverage is offered by the unit to active members, the health insurance provided to a surviving spouse and child under this subsection must be equal in coverage to that offered to active members. The offer to provide and pay for health insurance coverage shall remain open for as long as there is a surviving spouse or as long as a natural child, stepchild, or adopted child of the member is eligible for coverage under subdivision (1), (2), or (3).

SECTION 3. IC 36-8-8-14.1, AS AMENDED BY P.L.1-2007, SECTION 244, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14.1. (a) Benefits paid under this section are subject to section 2.5 of this chapter.

(b) This section applies to an active member who dies in the line of duty after August 31, 1982.

(c) If a fund member dies in the line of duty after August 31, 1982, the member's surviving spouse is entitled to a monthly benefit during the spouse's lifetime, equal to the benefit to which the member would

have been entitled on the date of the member's death, but not less than the benefit payable to a member with twenty (20) years service at fifty-two (52) years of age. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

(d) If a fund member dies in the line of duty, each of the member's surviving children is entitled to a monthly benefit equal to twenty percent (20%) of the fund member's monthly benefit:

(1) until the child reaches eighteen (18) years of age; or

(2) until the child reaches twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university;

whichever period is longer. However, if the board finds upon the submission of satisfactory proof that a child who is at least eighteen (18) years of age is mentally or physically incapacitated, is not a ward of the state, and is not receiving a benefit under subdivision (2), the child is entitled to receive an amount each month that is equal to the greater of thirty percent (30%) of the monthly pay of a first class patrolman or first class firefighter or fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death as long as the mental or physical incapacity of the child continues. Benefits paid for a child shall be paid to the surviving parent as long as the child resides with and is supported by the surviving parent. If the surviving parent dies, the benefits shall be paid to the legal guardian of the child.

(e) If there is no surviving eligible child or spouse, and there is proof satisfactory to the local board, subject to review in the manner specified in section 13.1(c) of this chapter, that the parent was wholly dependent on the fund member, the member's surviving parent is entitled, or both surviving parents if qualified are entitled jointly, to receive fifty percent (50%) of the fund member's monthly benefit during the parent's or parents' lifetime. **As used in this subsection, a parent is wholly dependent on a fund member if the fund member claimed the parent as a dependent on the federal income tax return filed by the fund member in the year before the year in which the fund member died.**

(f) If the fund member did not have at least twenty (20) years of

service or was not at least fifty-two (52) years old, the benefit is computed as if the member:

(1) did have twenty (20) years of service; and

(2) was fifty-two (52) years of age.

(g) For purposes of this section, "dies in the line of duty" means death that occurs as a direct result of personal injury or illness caused by incident, accident, or violence that results from:

(1) any action that the member, in the member's capacity as a police officer:

(A) is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or

(B) performs in the course of controlling or reducing crime or enforcing the criminal law; or

(2) any action that the member, in the member's capacity as a firefighter:

(A) is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or

(B) performs while on the scene of an emergency run (including false alarms) or on the way to or from the scene.

The term includes a death presumed incurred in the line of duty under IC 5-10-13.

(h) The unit of local government that employed the deceased member shall after December 31, 2003, offer to provide and pay for health insurance coverage for the member's surviving spouse and for each natural child, stepchild, or adopted child of the member:

(1) until the child becomes eighteen (18) years of age;

(2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or

(3) during the entire period of the child's physical or mental disability;

whichever period is longest. If health insurance coverage is offered by the unit to active members, the health insurance provided to a surviving spouse and child under this subsection must be equal in coverage to that offered to active members. The offer to provide and pay for health insurance coverage shall remain open for as long as there is a surviving spouse or as long as a natural child, stepchild, or adopted child of the member is eligible for coverage under subdivision (1), (2), or (3).

SECTION 4. IC 36-8-8-24 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009 (RETROACTIVE)]: **Sec. 24. (a) A fund member may designate one (1) or more beneficiaries to receive in a lump sum the fund member's contributions plus interest at a rate determined by the PERF board if the fund member dies:**

(1) without receiving a retirement benefit under sections 10 and 11 of this chapter;

(2) without receiving a disability benefit under section 13.3 or 13.5 of this chapter;

(3) without a survivor entitled to receive a benefit under section 13.8, 13.9, or 14.1 of this chapter; and

(4) without the PERF board returning the fund member's contributions under section 8 of this chapter.

(b) A fund member who chooses to designate one (1) or more beneficiaries under this section shall file the fund member's designation with the PERF board on a form prescribed by the PERF board.

(c) The PERF board shall adopt rules to allow a fund member who designates more than one (1) beneficiary to allocate the contributions and interest paid in percentage increments.

(d) Whenever a fund member does not designate a beneficiary under this section and has no survivors entitled to receive a benefit under section 13.8, 13.9, or 14.1 of this chapter, the PERF board shall refund to the fund member's estate:

(1) the fund member's contributions; plus

(2) interest at a rate determined by the PERF board.

SECTION 5. **An emergency is declared for this act.**

P.L.24-2010
[S.176. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning trade regulation.

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

SECTION 1. IC 24-3-5.4-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 5.5. As used in this chapter, "importer" means a person that imports, other than for personal consumption, one (1) or more brand families of a nonparticipating manufacturer.**

SECTION 2. IC 24-3-5.4-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 6.5. As used in this chapter, "newly qualified nonparticipating manufacturer" means a nonparticipating manufacturer:**

(1) that has filed a certification under section 13 of this chapter; and

(2) whose brand families are not listed in a directory under section 14 of this chapter.

SECTION 3. IC 24-3-5.4-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 13. (a) Not later than April 30 of each year, a tobacco product manufacturer whose cigarettes are sold in Indiana, whether directly or through a distributor, retailer, or similar intermediary, shall certify to the department and the attorney general that, as of the date of the certification, the tobacco product manufacturer is:

(1) a participating manufacturer; or

(2) in full compliance with IC 24-3-3.

The department shall prescribe the form of the certification.

(b) A participating manufacturer shall include in a certification under subsection (a) a list of the participating manufacturer's brand

families. The participating manufacturer shall update the list by filing a supplemental certification with the department and the attorney general not less than thirty (30) days before the participating manufacturer adds a brand family or otherwise modifies the list of brand families.

(c) A nonparticipating manufacturer shall include in a certification under subsection (a) a list of the nonparticipating manufacturer's brand families, including the following:

(1) A separate listing of each brand family that was sold in Indiana during the calendar year before the year in which the certification is filed.

(2) A separate listing of the number of units sold for each brand family that was sold in Indiana during the calendar year before the year in which the certification is filed.

(3) An indication of any brand family that was sold in Indiana during the calendar year before the year in which the certification is filed and that is not sold in Indiana as of the date of the certification.

(4) The name and address of any other manufacturer of a brand family that was sold in Indiana during the calendar year before the year in which the certification is filed.

(d) A nonparticipating manufacturer shall file a supplemental certification with the attorney general not less than thirty (30) days before the nonparticipating manufacturer adds to or otherwise modifies its list of brand families.

(e) A nonparticipating manufacturer shall certify the following in a certification under subsection (a):

(1) The nonparticipating manufacturer:

(A) is registered to do business in Indiana; or

(B) has appointed an agent for service of process and provided notice under section 16 of this chapter.

(2) The nonparticipating manufacturer has:

(A) established and continues to maintain a qualified escrow fund; and

(B) executed a qualified escrow agreement that:

(i) the attorney general has approved; and

(ii) governs the qualified escrow fund.

(3) The nonparticipating manufacturer is in full compliance with:

(A) this section; ~~and~~

(B) section 13.5 of this chapter, if applicable;

(C) section 13.6 of this chapter, if applicable; and

~~(B)~~ **(D)** IC 24-3-3.

(4) The name, address, and telephone number of the financial institution that holds the nonparticipating manufacturer's qualified escrow fund.

(5) The account number and any subaccount numbers of the nonparticipating manufacturer's qualified escrow fund.

(6) The amounts and dates of deposits that the nonparticipating manufacturer placed in the qualified escrow fund for cigarettes sold in Indiana during the calendar year before the year in which the certification is filed, including any verification required by the attorney general.

(7) The amounts and dates of withdrawals or transfers of funds that the nonparticipating manufacturer made from a qualified escrow fund into which the nonparticipating manufacturer made or makes escrow payments under IC 24-3-3.

(f) A tobacco product manufacturer shall not include a brand family in the tobacco product manufacturer's certification under subsection (a) unless:

(1) in the case of a participating manufacturer, the participating manufacturer affirms that the brand family is considered the participating manufacturer's cigarettes for purposes of calculating the participating manufacturer's payments under the master settlement agreement for the year in which the certification is filed in the volume and shares determined under the master settlement agreement; or

(2) in the case of a nonparticipating manufacturer, the nonparticipating manufacturer affirms that the brand family is considered to be the nonparticipating manufacturer's cigarettes for purposes of IC 24-3-3-12(2).

(g) This section does not limit or otherwise affect the state's right to maintain that a brand family constitutes cigarettes of a different tobacco product manufacturer for purposes of calculating payments under the master settlement agreement or for purposes of IC 24-3-3.

(h) A nonparticipating manufacturer shall maintain all invoices and documentation of sales and any other relevant information for a period

of five (5) years unless otherwise required by law to maintain the invoices, documentation of sales, or other relevant information for more than five (5) years.

SECTION 4. IC 24-3-5.4-13.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 13.5. (a) This section applies to a nonparticipating manufacturer whose principal place of business is located outside the United States.**

(b) Each year, a nonparticipating manufacturer shall provide to the attorney general a declaration from each of the nonparticipating manufacturer's importers that does the following:

(1) States that the importer assumes joint and several liability with the nonparticipating manufacturer for the following payments, penalties, costs, and fees with respect to the importer:

(A) Any escrow payments required under IC 24-3-3-12(2) for deposit in a qualified escrow fund.

(B) Any penalties assessed against the nonparticipating manufacturer under IC 24-3-3 or this chapter.

(C) Payment of all costs and fees recovered by the state against the nonparticipating manufacturer under section 28 of this chapter.

(2) Appoints a registered agent for service of process for the importer and provides notice in accordance with section 16 of this chapter.

The attorney general shall prescribe the form of a declaration under this subsection, including dates for filing the declaration.

SECTION 5. IC 24-3-5.4-13.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 13.6. (a) The attorney general may determine that a nonparticipating manufacturer, including a newly qualified nonparticipating manufacturer, poses an elevated risk for noncompliance with this article if any of the following apply:**

(1) The nonparticipating manufacturer or an affiliate of a nonparticipating manufacturer has failed to make required payments into a qualified escrow fund in any state during the three (3) calendar years immediately preceding the date of the

determination unless:

(A) the nonparticipating manufacturer or affiliate:

(i) did not knowingly or recklessly fail to make the required payments; and

(ii) makes the required payment not more than one hundred eighty (180) days after receiving notice of the missed or insufficient payment; or

(B) the failure to make the required payment is:

(i) the subject of a good faith dispute that is documented to the satisfaction of the attorney general; and

(ii) cured not more than one hundred eighty (180) days after entry of a final order that resolves the good faith dispute and establishes the amount of the required escrow payment.

(2) A state has removed the nonparticipating manufacturer, an affiliate of the nonparticipating manufacturer, or a brand family of the nonparticipating manufacturer or an affiliate of the nonparticipating manufacturer from the state's tobacco directory for noncompliance with state law during the three (3) calendar years immediately preceding the date of the determination.

(3) A state has:

(A) litigation pending; or

(B) an unsatisfied judgment;

against the nonparticipating manufacturer or an affiliate of the nonparticipating manufacturer for escrow payments or penalties, costs, or fees related to the nonparticipating manufacturer or affiliate's noncompliance with the state's escrow laws.

(b) The attorney general shall require:

(1) a newly qualified nonparticipating manufacturer; or

(2) a nonparticipating manufacturer that:

(A) has filed a certification under section 13 of this chapter; and

(B) poses an elevated risk for noncompliance, as determined by the attorney general under subsection (a);

to post a bond as described in subsection (c).

(c) A bond required under subsection (b) must be:

(1) posted by corporate surety located within the United

States;

(2) in an amount equal to the greater of:

(A) fifty thousand dollars ($50,000); or

(B) the amount that the nonparticipating manufacturer is required to place into a qualified escrow fund under IC 24-3-3-12(2) for the calendar year in which the bond is posted;

(3) written in favor of the state of Indiana; and

(4) for a nonparticipating manufacturer, conditioned on the performance of the nonparticipating manufacturer, or an importer that assumes joint and several liability with the nonparticipating manufacturer under section 13.5 of this chapter, of all of obligations and duties of the nonparticipating manufacturer under this article during the calendar year in which the bond is posted and the immediately succeeding calendar year.

(d) If the attorney general determines under subsection (a) that a newly qualified nonparticipating manufacturer poses an elevated risk of noncompliance, the attorney general may require the newly qualified nonparticipating manufacturer to post a bond under subsection (c) for at least the first three (3) years during which the newly qualified nonparticipating manufacturers brand families are listed in a directory under section 14 of this chapter.

SECTION 6. IC 24-3-5.4-14, AS AMENDED BY P.L.177-2005, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 14. (a) Not later than July 1 of each year, the attorney general shall make available to the public by publishing on accessIndiana (as operated under IC 4-13.1-2) a directory listing all brand families listed in certifications filed under section 13 of this chapter.

(b) A directory described in subsection (a) shall not include the name or brand families of a nonparticipating manufacturer:

(1) that fails to comply with section 13 of this chapter; ~~or~~

(2) whose certification fails to comply with section 13(c) or 13(e) of this chapter, unless the attorney general determines that the failure has been remedied; **or**

(3) that:

(A) has filed a certification under section 13 of this

chapter; and

(B) poses an elevated risk for noncompliance, as determined by the attorney general under section 13.6(a) of this chapter;

unless the nonparticipating manufacturer, or an importer that assumes joint and several liability with the nonparticipating manufacturer under section 13.5 of this chapter, posts a bond under section 13.6 of this chapter.

(c) The directory may not include a tobacco product manufacturer or a brand family if the attorney general concludes that:

(1) in the case of a nonparticipating manufacturer, all escrow payments required under IC 24-3-3-12 for any period for any brand family, whether or not listed by the nonparticipating manufacturer, have not been fully paid into a qualified escrow fund governed by a qualified escrow agreement that has been approved by the attorney general; or

(2) all outstanding final judgments, including interest on the judgments, for violations of IC 24-3-3 have not been fully satisfied for the tobacco product manufacturer or brand family.

(d) The directory may not include a newly qualified nonparticipating manufacturer unless the newly qualified nonparticipating manufacturer posts a bond under section 13.6 of this chapter.

~~(d)~~ **(e)** The attorney general shall update the directory as necessary to correct mistakes or to add or remove a tobacco product manufacturer or brand family to keep the directory in conformity with the requirements of this chapter.

~~(e)~~ **(f)** The attorney general shall post in the directory and transmit by electronic mail or other means to each distributor or stamping agent notice of any removal from the directory of a tobacco product manufacturer or brand family not later than thirty (30) days before the attorney general removes the tobacco product manufacturer or brand family from the directory.

~~(f)~~ **(g)** Unless otherwise provided in an agreement between a tobacco product manufacturer and a distributor or stamping agent, a distributor or stamping agent is entitled to a refund from a tobacco product manufacturer for any money paid by the distributor or stamping agent to the tobacco product manufacturer for any cigarettes

of the tobacco product manufacturer or brand family that:

(1) are in the possession of the distributor or stamping agent on; or

(2) the distributor or stamping agent receives from a retailer after;

the date on which the tobacco product manufacturer or brand family is removed from the directory.

~~(g)~~ **(h)** Unless otherwise provided in an agreement between a retailer and a distributor, stamping agent, or tobacco product manufacturer, a retailer is entitled to a refund from a distributor, stamping agent, or tobacco product manufacturer for any money paid by the retailer to the distributor, stamping agent, or tobacco product manufacturer for any cigarettes of the tobacco product manufacturer or brand family that are in the possession of the retailer on the date on which the tobacco product manufacturer or brand family is removed from the directory.

~~(h)~~ **(i)** The attorney general shall not restore a tobacco product manufacturer or brand family to the directory until the tobacco product manufacturer pays a distributor, stamping agent, or retailer any refund due under subsection ~~(f)~~ **(g)** or ~~(g).~~ **(h).**

~~(i)~~ **(j)** A distributor or stamping agent shall provide and update as necessary an electronic mail address to the attorney general for purposes of receiving a notification required by this chapter.

P.L.25-2010

[S.178. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning family law and juvenile law.

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

SECTION 1. IC 16-37-2-2.1, AS AMENDED BY P.L.146-2006, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2.1. (a) A paternity affidavit may be executed as

provided in this section through:

(1) a hospital; or

(2) a local health department.

(b) Immediately before or after the birth of a child who is born out of wedlock, a person who attends or plans to attend the birth, including personnel of all public or private birthing hospitals, shall:

(1) provide an opportunity for:

(A) the child's mother; and

(B) a man who reasonably appears to be the child's biological father;

to execute an affidavit acknowledging paternity of the child; and

(2) verbally explain to the individuals listed in subdivision (1) the legal effects of an executed paternity affidavit as described in subsection ~~(g).~~ **(h).**

(c) A paternity affidavit must be executed on a form provided by the state department. The paternity affidavit is valid only if the affidavit is executed as follows:

(1) If executed through a hospital, the paternity affidavit must be completed not more than seventy-two (72) hours after the child's birth.

(2) If executed through a local health department, the paternity affidavit must be completed before the child has reached the age of emancipation.

(d) A paternity affidavit is not valid if it is executed after the mother of the child has executed a consent to adoption of the child and a petition to adopt the child has been filed.

(e) A paternity affidavit executed under this section must contain or be attached to all of the following:

(1) The mother's sworn statement asserting that a person described in subsection (b)(1)(B) is the child's biological father.

(2) A statement by a person identified as the father under subdivision (1) attesting to a belief that he is the child's biological father.

(3) Written information furnished by the child support bureau of the department of child services:

(A) explaining the effect of an executed paternity affidavit as described in subsection ~~(g);~~ **(h);** and

(B) describing the availability of child support enforcement

services.

(4) The Social Security number of each parent.

(f) A paternity affidavit executed under this section must contain all of the following:

(1) A statement:

(A) that, if the mother and the person described in subsection (e)(2) check the box located next to this statement and sign on the signature lines described in subdivision (2), the mother and the person described in subsection (e)(2) agree to share joint legal custody of the child; and

(B) that joint legal custody means that the persons sharing joint legal custody:

(i) share authority and responsibility for the major decisions concerning the child's upbringing, including the child's education, health care, and religious training; and

(ii) have equal access to the child's school and medical records.

(2) Two (2) signature lines located below the statements described in subdivision (1).

(3) A statement that, if the mother and the person described in subsection (e)(2) do not agree to share joint legal custody, the mother has sole legal custody unless another determination is made by a court in a proceeding under IC 31-14.

(4) A statement that even if the mother and the person described in subsection (e)(2) share joint legal custody, the mother has primary physical custody of the child unless another determination is made by a court in a proceeding under IC 31-14.

(5) A statement that, if the mother and the person described in subsection (e)(2) agree to share joint legal custody as described under subdivision (1)(A), the agreement to share joint legal custody is void unless the result of a genetic test performed by an accredited laboratory:

(A) indicates that the person described in subsection (e)(2) is the child's biological father; and

(B) is submitted to a local health officer not later than sixty

(60) days after the child's birth.

(6) A statement with signature lines that affirms that an individual described in subsection (r) has had an opportunity to consult with an adult chosen by the individual.

~~(f)~~ **(g)** A woman who knowingly or intentionally falsely names a man as the child's biological father under this section commits a Class A misdemeanor.

~~(g)~~ **(h)** A paternity affidavit executed under this section:

(1) establishes paternity;

(2) gives rise to parental rights and responsibilities of the person described in subsection (e)(2), including:

(A) the right of the child's mother or the Title IV-D agency to obtain a child support order against the person, which may include an order requiring the provision of health insurance coverage; and

(B) ~~reasonable~~ parenting time ~~rights~~ **in accordance with the parenting time guidelines adopted by the Indiana supreme court,** unless another determination is made by a court in a proceeding under IC 31-14-14; and

(3) may be filed with a court by the department of child services.

However, if a paternity affidavit is executed under this section, **unless another determination is made by a court in a proceeding under IC 31-14 or the child's mother and the person described in subsection (e)(2) agree to share joint legal custody of the child as described in subsection (f),** the child's mother has sole legal **and primary physical** custody of the child. ~~unless another custody determination is made by a court in a proceeding under IC 31-14.~~

~~(h)~~ **(i)** Notwithstanding any other law, a man who is a party to a paternity affidavit executed under this section may, within sixty (60) days of the date that a paternity affidavit is executed under this section, file an action in a court with jurisdiction over paternity to request an order for a genetic test.

~~(i)~~ **(j)** A paternity affidavit that is properly executed under this section may not be rescinded more than sixty (60) days after the paternity affidavit is executed unless a court:

(1) has determined that fraud, duress, or material mistake of fact existed in the execution of the paternity affidavit; and

(2) at the request of a man described in subsection ~~(h),~~ **(i),** has

ordered a genetic test, and the test indicates that the man is excluded as the father of the child.

~~(j)~~ **(k)** Unless good cause is shown, a court shall not suspend the legal responsibilities under subsection ~~(g)(2)(A)~~ **(h)(2)(A)** of a party to the executed paternity affidavit during a challenge to the affidavit.

~~(k)~~ **(l)** The court may not set aside the paternity affidavit unless a genetic test ordered under subsection ~~(h)~~ ~~or~~ ~~(i)~~ **(i) or (j)** excludes the person who executed the paternity affidavit as the child's biological father.

~~(l)~~ **(m)** If a paternity affidavit is not executed under subsection (b), the hospital where the birth occurs or a person in attendance at the birth shall inform the child's mother of services available for establishing paternity.

~~(m)~~ **(n)** Except as provided in this section, if a man has executed a paternity affidavit in accordance with this section, the executed paternity affidavit conclusively establishes the man as the legal father of a child without any further proceedings by a court.

(o) If both the mother and the person described in subsection (e)(2) check the box and sign as described in subsection (f)(1)(A), the mother and the person described in subsection (e)(2):

(1) share joint legal custody of the child; and

(2) have equal access to the child's school and medical records.

An action to establish custody or parenting time of a party who has agreed under subsection (f) to share joint legal custody shall be tried de novo.

(p) Before a paternity affidavit executed under this section is signed, it must be presented separately to:

(1) the child's mother; and

(2) the man who reasonably appears to be the child's biological father;

so that the child's mother may review the affidavit alone and without the presence of the man who reasonably appears to be the child's biological father, and so that the man who reasonably appears to be the child's biological father may review the affidavit alone and without the presence of the child's mother. A signed paternity affidavit is voidable if the requirements of this subsection are not satisfied.

(q) An agreement to share joint legal custody described under subsection (f) is void if either of the following applies:

(1) A genetic test performed by an accredited laboratory indicates a person described in subsection (e)(2) is not the biological father of the child.

(2) A person described in subsection (e)(2) fails to submit:

(A) to a local health officer; and

(B) not later than sixty (60) days after the date of the child's birth;

the results of a genetic test performed by an accredited laboratory that indicates the person is the biological father of the child.

(r) An individual who is:

(1) a:

(A) child's mother; or

(B) person identified as the father under subsection (e)(1); and

(2) less than eighteen (18) years of age;

must have an opportunity to consult with any adult chosen by the individual regarding the contents of a paternity affidavit before signing the paternity affidavit under this section. A signed paternity affidavit is voidable if the individual does not have the opportunity to consult with an adult chosen by the individual.

SECTION 2. IC 31-14-13-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. A biological mother of a child born out of wedlock has sole legal custody of the child, **except as provided in IC 16-37-2-2.1, and** unless a statute or court order provides otherwise under the following:

(1) IC 12-26 (involuntary commitment of a child).

(2) IC 29-3 (guardianship and protective proceedings under the probate code).

(3) IC 31-14 (custody of a child born outside of a marriage).

(4) IC 31-34 (child in need of services).

(5) IC 31-37 (delinquent child).

(6) IC 35-46 (offenses against the family).

(7) IC 35-50 (criminal sentences).

(8) An order by a court that has jurisdiction over the child.

P.L.26-2010
[S.186. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning public safety.

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

SECTION 1. IC 10-11-2-26, AS AMENDED BY P.L.21-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 26. (a) The superintendent may assign qualified persons who are not state police officers to supervise or operate permanent or portable weigh stations. A person assigned under this section may stop, inspect, and issue citations to operators of trucks and trailers having a declared gross weight of at least ten thousand one (10,001) pounds and buses at a permanent or portable weigh station or while operating a clearly marked Indiana state police vehicle for violations of the following:

(1) IC 6-1.1-7-10.
(2) IC 6-6-1.1-1202.
(3) IC 6-6-2.5.
(4) IC 6-6-4.1-12.
(5) IC 8-2.1.
(6) IC 9-18.
(7) IC 9-19.
(8) IC 9-20.
(9) IC 9-21-7-2 through IC 9-21-7-11.
(10) IC 9-21-8-41 pertaining to the duty to obey an official traffic control device for a weigh station.
(11) IC 9-21-8-45 through IC 9-21-8-48.
(12) IC 9-21-9.
(13) IC 9-21-15.
(14) IC 9-21-21.
(15) IC 9-24-1-1 through IC 9-24-1-2.
(16) IC 9-24-1-7.

(17) Except as provided in subsection (c), IC 9-24-1-6, IC 9-24-6-16, IC 9-24-6-17, and IC 9-24-6-18, commercial driver's license.

(18) IC 9-24-4.

(19) IC 9-24-5.

(20) IC 9-24-11-4.

(21) IC 9-24-13-3.

(22) IC 9-24-18-1 through IC 9-24-18-2.

(23) IC 9-25-4-3.

(24) IC 9-28-4.

(25) IC 9-28-5.

(26) IC 9-28-6.

(27) IC 9-29-5-11 through IC 9-29-5-13.

(28) IC 9-29-5-42.

(29) IC 9-29-6-1.

(30) IC 10-14-8.

~~(30)~~ **(31)** IC 13-17-5-1, IC 13-17-5-2, IC 13-17-5-3, or IC 13-17-5-4.

~~(31)~~ **(32)** IC 13-30-2-1.

(b) For the purpose of enforcing this section, a person assigned under this section may detain a person in the same manner as a law enforcement officer under IC 34-28-5-3.

(c) A person assigned under this section may not enforce IC 9-24-6-14 or IC 9-24-6-15.

SECTION 2. IC 10-14-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) This chapter applies to **the following:**

(1) High level radioactive waste transported to ~~or from facilities sited, constructed, or operated in accordance with the federal Nuclear Waste Policy Act of 1982.~~ **a site authorized by a government agency to receive, store, reprocess, or dispose of high level radioactive waste or spent nuclear fuel.**

(2) Low level radioactive waste that is:

(A) transported to a site authorized by a government agency to receive low level radioactive waste; or

(B) shipped to a storage or treatment site before disposal.

(b) This chapter does not apply to:

(1) radioactive ~~materials~~ **waste** shipped by ~~or for~~ the ~~federal~~

~~government for: (1) military; (2) national security; or (3) national defense; purposes.~~ **United States Department of Defense; or**

(2) the transport of low level radioactive waste between premises owned by or operated under the license of a licensee by a motor vehicle owned by or under contract to the licensee and a facility owned by or operated under the license of a licensee in Indiana.

SECTION 3. IC 10-14-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. As used in this chapter, "high level radioactive waste" means:

(1) irradiated reactor fuel;

(2) liquid wastes resulting from the operation of a first cycle solvent extraction system or its equivalent and the concentrated wastes from a subsequent extraction cycle or its equivalent in a facility for reprocessing irradiated reactor fuel; ~~and~~

(3) solids into which liquid wastes described in subdivision (2) have been converted; **and**

(4) materials produced as a byproduct of the reactions that occur inside a nuclear reactor in either of the following forms:

(A) Spent nuclear fuel that is accepted for disposal.

(B) Waste materials remaining after spent nuclear fuel is reprocessed.

SECTION 4. IC 10-14-8-2.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 2.3. As used in this chapter, "licensee" refers to an entity that is licensed by the United States Nuclear Regulatory Commission to own or use radioactive materials.**

SECTION 5. IC 10-14-8-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 2.5. As used in this chapter, "low level radioactive waste" means radioactive material from a facility licensed by the United States Nuclear Regulatory Commission under 10 CFR 50 other than the following:**

(1) High level radioactive waste.

(2) Spent nuclear fuel.

(3) Transuranic waste.

(4) Byproduct material (as defined in 42 U.S.C. 2014(e)).

SECTION 6. IC 10-14-8-2.7 IS ADDED TO THE INDIANA CODE

AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 2.7. As used in this chapter, "spent nuclear fuel" means fuel:**

(1) that has been withdrawn from a nuclear reactor following irradiation; and

(2) whose constituent elements have not been separated by reprocessing.

SECTION 7. IC 10-14-8-2.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 2.9. (a) A shipper of high or low level radioactive waste in Indiana must submit an application to the department of homeland security in the form and manner prescribed by the department of homeland security.**

(b) The department of homeland security may issue a permit to a person that:

(1) submits a completed application; and

(2) pays a fee set by the department of homeland security.

(c) The permit must:

(1) specify the purpose for which the permit is issued; and

(2) contain an expiration date.

SECTION 8. IC 10-14-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) Before a person may transport high level radioactive waste in Indiana, the ~~person who is responsible for the shipment~~ **shipper** must submit the following to the director:

(1) ~~A notice that includes:~~

~~(A) the highway or railway route, date, and time of the shipment of high level radioactive waste; and~~

~~(B) other information required under 10 CFR 71.5(a) and 10 CFR 73.37(f).~~ **An appropriate permit issued under section 2.9 of this chapter.**

(2) ~~A transportation fee of one thousand dollars ($1,000) for each cask of nuclear waste in the shipment.~~ **The following fees:**

(A) For each truck shipment, two thousand five hundred dollars ($2,500) per truck.

(B) For each rail shipment:

(i) four thousand five hundred dollars ($4,500) for the first cask; and

(ii) three thousand dollars ($3,000) for the second and additional casks.

(b) The director shall deposit fees collected under this section in the nuclear response fund established by section 6 of this chapter.

(c) As used in this section, "cask" means a heavily shielded container:

(1) used for the shipment of radioactive materials, including high level radioactive waste and spent nuclear fuel; and

(2) whose design is approved by the United States Nuclear Regulatory Commission.

SECTION 9. IC 10-14-8-3.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3.1. (a) Before a person may transport low level radioactive waste ~~(as defined in IC 13-11-2-121(a))~~ in Indiana, the ~~person who is responsible for the shipment~~ **shipper** must submit:

(1) an appropriate permit issued under section 2.9 of this chapter; and

(2) a transportation fee of one hundred dollars ($100) for each ~~total~~ shipment of low level radioactive waste;

to the director.

(b) The director shall deposit fees collected under this section in the nuclear response fund established by section 6 of this chapter.

SECTION 10. IC 10-14-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) The director shall consult with:

(1) the state health commissioner of the state department of health;

(2) the commissioner of the Indiana department of transportation;

(3) the commissioner of the department of environmental management;

(4) the director of the department of natural resources;

(5) the superintendent of the state police department;

(6) representatives of the:

(A) United States Nuclear Regulatory Commission;

(B) Federal Emergency Management Agency;

(C) United States Department of Energy; and

(D) United States Department of Transportation; and

(7) a representative of a local emergency management agency

designated by the director;

to prepare a plan for emergency response to a ~~high level~~ radioactive waste transportation accident in Indiana. The plan must include provisions for evacuation, containment, and cleanup and must designate the role of each state or local government agency involved in the emergency response plan.

(b) The director shall report to the general assembly each year on the:

(1) status of the plan prepared under subsection (a); and

(2) ability of the state to respond adequately to a ~~high level~~ radioactive waste transportation accident in Indiana.

A report under this subsection to the general assembly must be in an electronic format under IC 5-14-6.

SECTION 11. IC 10-14-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) Under 49 CFR Part 177, the director may require preferred highway routes for transporting high level radioactive waste in Indiana if the director determines under United States Department of Transportation "Guidelines for Selecting Preferred Highway Routes for ~~Large~~ **Highway Route Controlled** Quantity Shipments of Radioactive Materials" that alternative routes are safer than proposed routes.

(b) The director shall:

(1) annually review federally approved highway and railway routes for transporting high level radioactive waste in Indiana; and

(2) select new state designated routes in accordance with 49 CFR Part ~~177~~ **172.80** if safety considerations indicate the alternate routes would be preferable.

(c) Before the director may require alternative routes under subsection (a) or select new state designated routes under subsection (b), the director must do the following:

(1) Consult with all of the persons described in section 4(a) of this chapter.

(2) Conduct or engage in substantial consultation with the affected local county authorities.

(3) Notify the:

(A) state health commissioner of the state department of health;

(B) commissioner of the department of environmental management;

(C) superintendent of the state police department; and

(D) local emergency management agency and applicable local fire and law enforcement agencies in each affected county;

of the director's final decision concerning an alternative route or a new state designated route before the date upon which the alternative route or new state designated route takes effect.

~~(4) If the director wishes to change the route of a railway shipment of high level radioactive waste, the director must notify the United States Department of Energy and the appropriate rail carrier of any changes the director feels should be made to the route.~~

(d) The state is not liable by requiring alternate routes to be used as provided under this section.

SECTION 12. IC 10-14-8-6, AS AMENDED BY P.L.1-2006, SECTION 177, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) The nuclear response fund is established to:

(1) provide appropriate education, training, and equipment to **state and** local emergency responders:

~~(1) in counties~~ **(A)** that ~~will be affected by~~ **respond to a release of radioactive waste caused by or during** the transportation of ~~high level~~ radioactive waste under this chapter; and

~~(2)~~ **(B)** to ~~(A)~~ prevent, ~~(B)~~ prepare for, and ~~(C)~~ respond to acts of terrorism; **and**

(2) otherwise enforce this chapter.

(b) Sources of money for the fund consist of transportation fees deposited under section 3(b) **or 3.1(b)** of this chapter.

(c) The department of homeland security shall administer the fund. Money in the fund is annually appropriated to the ~~state emergency response commission~~ **department of homeland security** to be used for purposes described in subsection (a).

(d) The expenses of administering the fund shall be paid from money in the fund.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same

manner as other public funds may be invested.

(f) Money in the fund at the end of a fiscal year does not revert to the state general fund.

SECTION 13. IC 10-14-8-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9. A ~~person that transports:~~ **shipper of:**

(1) low level radioactive waste; ~~(as defined in IC 13-11-2-121(a)),~~ or

(2) high level radioactive waste;

in Indiana shall reimburse each governmental entity that provides security for a shipment for reasonable and necessary expenses incurred by the governmental entity in providing the security.

SECTION 14. IC 10-14-8-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 10. (a) The state police department may detain, seize, or impound a motor vehicle and its cargo if the state police department determines that the motor vehicle is involved in a violation of this chapter. The state police department shall observe established state police department guidelines in seizing or impounding the motor vehicle and cargo.**

(b) To obtain possession of a seized or impounded motor vehicle or its cargo, the motor carrier that operates the motor vehicle must correct any violations of this chapter, including without limitation the failure to obtain a permit required under this chapter that resulted in the detention, seizure, or impounding of the motor vehicle or cargo.

SECTION 15. IC 10-14-8-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 11. (a) The following may conduct inspections of motor vehicles and cargo to determine violations of and enforce this chapter:**

(1) The state police department.

(2) Agents of the state police department.

(3) Motor carrier inspectors of the state police department.

(4) Other eligible law enforcement officers.

(b) With respect to any rail shipment, the following may request from a shipper or carrier a copy of the appropriate permit issued under section 2.9 of this chapter to the shipper:

(1) The state police department.

(2) Agents of the state police department.

(3) Motor carrier inspectors of the state police department.

(4) Rail safety inspectors.

(5) Other eligible law enforcement officers.

SECTION 16. IC 10-14-8-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 12. A person who violates this chapter commits a Class B infraction.**

SECTION 17. IC 13-25-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) The commission shall do the following:

(1) Encourage and support the development of emergency planning efforts to provide:

(A) state government entities;

(B) local governments; and

(C) the public;

with information concerning potential chemical hazards in Indiana.

(2) Assist the state in complying with the requirements of SARA.

(3) Design and supervise the operation of emergency planning districts in Indiana.

(4) Gather and distribute information needed for effective emergency response planning.

(b) A local emergency planning committee shall do the following:

(1) Satisfy the requirements of SARA.

(2) Prepare and submit a roster of committee members to the commission at least one (1) time each year.

(3) Meet at least two (2) times, on separate days, every six (6) months.

(4) Prepare and submit the report required under IC 6-6-10-8.

(c) A local emergency planning committee member who is an employee of a unit (as defined in IC 36-1-2-23) may appoint a designee to act on the committee member's behalf under this chapter. An appointment under this subsection must:

(1) be in writing;

(2) specify the duration of the appointment; and

(3) be submitted to the committee at least two (2) calendar

days before the first meeting that the designee attends on behalf of the member.

SECTION 18. IC 22-12-3-2, AS AMENDED BY P.L.101-2006, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) The education board consists of eleven (11) voting members ~~The governor shall appoint nine (9) individuals as voting members of the education board, each to serve a term of four (4) years.~~ **as follows:**

(1) The state fire marshal ~~and~~ **or the state fire marshal's designee.**

(2) The ~~deputy~~ director of the department's division of preparedness and training ~~shall also serve as voting members of the education board.~~ **or the director's designee.**

(3) Nine (9) members appointed by the governor, each serving a four (4) year term.

(b) Each appointed member of the education board must be qualified by experience or education in the field of fire protection and related fields.

(c) Each appointed member of the education board must be a resident of Indiana.

(d) The education board must include the following appointed members:

(1) Seven (7) individuals who are members of fire departments. Appointments under this subdivision must include the following:

(A) At least one (1) individual who is a full-time firefighter (as defined in IC 36-8-10.5-3).

(B) At least one (1) individual who is a volunteer firefighter (as defined in IC 36-8-12-2).

(C) At least one (1) individual who is a fire department officer.

(2) Two (2) citizens who are not members of a fire department.

P.L.27-2010
[S.187. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning public safety.

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

SECTION 1. IC 5-2-4-1, AS AMENDED BY P.L.1-2007, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. As used in this chapter, unless the context otherwise requires:

(1) "Criminal history information" means information collected by criminal justice agencies or individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal criminal charges, and any disposition arising therefrom, sentencing, correctional supervision, and release.

(2) "Criminal intelligence information" means information on identifiable individuals compiled in an effort to anticipate, prevent, or monitor possible criminal activity, including terrorist activity. "Criminal intelligence information" does not include criminal investigative information, which is information on identifiable individuals compiled in the course of the investigation of specific criminal acts.

(3) "Criminal justice agency" means any agency or department of any level of government which performs as its principal function the apprehension, prosecution, adjudication, incarceration, **or** rehabilitation of criminal offenders, or location of parents with child support obligations under 42 U.S.C. 653. The term includes:

(A) a nongovernmental entity that performs as its principal function the:

(i) apprehension, prosecution, adjudication, incarceration, or rehabilitation of criminal offenders; or

(ii) location of parents with child support obligations under

42 U.S.C. 653;

under a contract with an agency or department of any level of government;

(B) the department of homeland security; and

(C) the Indiana intelligence fusion center established by ~~IC 10-19-10-2.~~ **IC 10-11-9-2.**

SECTION 2. IC 10-11-2-32 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 32. The superintendent shall operate the Indiana intelligence fusion center established by IC 10-11-9-2.**

SECTION 3. IC 10-11-9 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

Chapter 9. Indiana Intelligence Fusion Center

Sec. 1. As used in this chapter, "collect" means to solicit or receive.

Sec. 2. The Indiana intelligence fusion center is established to:

(1) collect;

(2) integrate;

(3) evaluate;

(4) analyze;

(5) disseminate; and

(6) maintain;

criminal intelligence information and other information to support governmental agencies and private organizations in detecting, preventing, investigating, and responding to criminal and terrorist activity in compliance with applicable state and federal laws and regulations, including 28 CFR 23.

Sec. 3. (a) The department shall operate the Indiana intelligence fusion center under the direction of the governor.

(b) The department shall cooperate with:

(1) the department of homeland security;

(2) local, state, or federal government agencies; and

(3) private organizations;

subject to applicable state and federal laws and regulations, including 28 CFR 23.

Sec. 4. The Indiana intelligence fusion center may collect criminal intelligence information only if:

(1) reasonable suspicion exists that the subject of the criminal intelligence information is involved with or has knowledge of possible criminal or terrorist activity; and

(2) the criminal intelligence information is relevant to the criminal or terrorist activity.

SECTION 4. IC 10-19-3-3, AS AMENDED BY P.L.101-2006, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. The executive director shall do the following:

(1) Serve as the chief executive and administrative officer of the department.

(2) Serve as the director of the council.

(3) Administer the application for, and disbursement of, federal and state homeland security money for all Indiana state and local governments.

(4) Develop a single strategic plan for preparing and responding to homeland security emergencies in consultation with the council.

(5) Serve as the state coordinating officer under federal law for all matters relating to emergency and disaster mitigation, preparedness, response, and recovery.

(6) Use and allocate the services, facilities, equipment, personnel, and resources of any state agency, on the governor's behalf, as is reasonably necessary in the preparation for, response to, or recovery from an emergency or disaster situation that threatens or has occurred in Indiana.

(7) Develop a plan to protect key state assets and public infrastructure from a disaster or terrorist attack.

~~(8) Operate the fusion center.~~

SECTION 5. IC 10-19-8-2, AS AMENDED BY P.L.120-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) The council consists of the following members:

(1) The lieutenant governor.

(2) The executive director.

(3) The superintendent of the state police department.

(4) The adjutant general.

(5) The state health commissioner.

(6) The commissioner of the department of environmental

management.

(7) The director of the Indiana state department of agriculture.

(8) The chairman of the Indiana utility regulatory commission.

(9) The commissioner of the Indiana department of transportation.

(10) The executive director of the Indiana criminal justice institute.

(11) The commissioner of the bureau of motor vehicles.

(12) A local law enforcement officer or a member of the law enforcement training academy appointed by the governor.

(13) The speaker of the house of representatives or the speaker's designee.

(14) The president pro tempore of the senate or the president pro tempore's designee.

(15) The chief justice of the supreme court.

(16) The director of the department of natural resources or, if designated by the director, the deputy director who manages the bureau of law enforcement and administration.

(17) The state veterinarian.

(18) The chief information officer of the office of technology.

(b) The members of the council under subsection (a)(13), (a)(14), and (a)(15) are nonvoting members.

(c) Representatives of the United States Department of Justice may serve as members of the council as the council and the Department of Justice may determine. Any representatives of the Department of Justice serve as nonvoting members of the council.

SECTION 6. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2010]: IC 10-19-1-5; IC 10-19-10.

SECTION 7. [EFFECTIVE UPON PASSAGE] **(a) The budget agency shall, in consultation with the department of homeland security and the state police department, transfer any funds and balances necessary to implement the transfer of operation of the Indiana intelligence fusion center from the department of homeland security under IC 10-19-10 (before its repeal by this act) to the state police department under IC 10-11-9, as added by this act.**

(b) This SECTION expires June 30, 2011.

SECTION 8. **An emergency is declared for this act.**

P.L.28-2010
[S.221. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-24-15-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. The following information must be included in a petition filed under section 2 of this chapter:

(1) The petitioner's age, place of residence, and occupation.

(2) That the petitioner has never been convicted of a similar offense or been suspended for a similar reason.

(3) The reason and nature of the hardship or burden upon the petitioner's family or dependents.

(4) The nature of and the necessity of the use of a motor vehicle in the petitioner's employment.

(5) The petitioner's place of employment, hours worked, and route to be traveled for employment purposes.

(6) After June 30, 2005, a certified copy of the petitioner's driving record in Indiana and other states in which the petitioner has held driving privileges, including all states in which the petitioner has held a commercial driver's license.

(7) After June 30, 2005, a verified statement that the petitioner meets eligibility requirements for a restricted license as set forth in section 6.5 of this chapter.

(8) Whether the person is a habitual violator of traffic laws under IC 9-30-10.

SECTION 2. IC 9-24-15-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. **(a)** The court shall, after hearing the evidence upon a petition filed under this chapter and without any requests, make, sign, and file special finding of facts in writing. Except as provided in section 6.5 of this chapter, the court may

do either of the following:

(1) Refuse to grant the petition.

(2) Make a final determination in the nature of a recommendation to the bureau that the petitioner be granted a restricted driving permit.

The judge of the court shall sign the recommendation and have the recommendation entered in the order book by the clerk of the court, with a copy sent to the bureau.

(b) If the court recommends that a person who is a habitual traffic violator under IC 9-30-10 be granted a restricted driving permit, the court shall require the person to submit to reasonable monitoring requirements.

SECTION 3. IC 9-24-15-6.5, AS AMENDED BY P.L.2-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6.5. (a) The court shall grant a petition for a restricted driving permit filed under this chapter if all of the following conditions exist:

(1) The person was not convicted of one (1) or more of the following:

(A) A Class D felony under IC 9-30-5-4 before July 1, 1996, or a Class D felony or a Class C felony under IC 9-30-5-4 after June 30, 1996.

(B) A Class C felony under IC 9-30-5-5 before July 1, 1996, or a Class C felony or a Class B felony under IC 9-30-5-5 after June 30, 1996.

(2) The person's driving privileges were suspended under IC 9-30-6-9(c) or IC 35-48-4-15.

(3) The driving that was the basis of the suspension was not in connection with the person's work.

(4) The person does not have a previous conviction for operating while intoxicated.

(5) The person is participating in a rehabilitation program certified by either the division of mental health and addiction or the Indiana judicial center as a condition of the person's probation.

(b) The person filing the petition for a restricted driving permit shall include in the petition the information specified in subsection (a) in addition to the information required by sections 3 through 4 of this

chapter.

(c) Whenever the court grants a person restricted driving privileges under this chapter, that part of the court's order granting probationary driving privileges shall not take effect until the person's driving privileges have been suspended for at least thirty (30) days under IC 9-30-6-9. In a county that provides for the installation of an ignition interlock device under IC 9-30-8, installation of an ignition interlock device is required as a condition of probationary driving privileges for the entire duration of the probationary driving privileges.

(d) If a court requires installation of a certified ignition interlock device under subsection (c), the court shall order the bureau to record this requirement in the person's operating record in accordance with IC 9-14-3-7. When the person is no longer required to operate only a motor vehicle equipped with an ignition interlock device, the court shall notify the bureau that the ignition interlock use requirement has expired and order the bureau to update its records accordingly.

(e) If the court recommends that a person who is a habitual traffic violator under IC 9-30-10 be granted a restricted driving permit, the court shall require the person to submit to reasonable monitoring requirements.

SECTION 4. IC 9-24-15-6.7, AS AMENDED BY P.L.68-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6.7. (a) If a petitioner whose driving license or permit is suspended under IC 9-25-6-19, IC 9-25-6-20, or IC 9-25-6-21 proves to the satisfaction of the court that public transportation is unavailable for travel by the petitioner:

(1) to and from the petitioner's regular place of employment;

(2) in the course of the petitioner's regular employment;

(3) to and from the petitioner's place of worship; or

(4) to participate in parenting time with the petitioner's children consistent with a court order granting parenting time;

the court may grant a petition for a restricted driving permit filed under this chapter.

(b) A restricted driving permit issued by the bureau under this section must specify that the restricted driving permit is valid only for purposes of driving under the conditions described in subsection (a).

(c) A restricted driving permit issued by the bureau under this section shall be:

(1) issued in the same manner; and

(2) subject to all requirements;

as other permits under this chapter. **If the court recommends that a person who is a habitual traffic violator under IC 9-30-10 be granted a restricted driving permit, the court shall require the person to submit to reasonable monitoring requirements.**

SECTION 5. IC 9-30-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) A person who has accumulated at least two (2) judgments within a ten (10) year period for any of the following violations, singularly or in combination, not arising out of the same incident, and with at least one (1) violation occurring after March 31, 1984, is a habitual violator:

(1) Reckless homicide resulting from the operation of a motor vehicle.

(2) Voluntary or involuntary manslaughter resulting from the operation of a motor vehicle.

(3) Failure of the driver of a motor vehicle involved in an accident resulting in death or injury to any person to stop at the scene of the accident and give the required information and assistance.

(4) Operation of a vehicle while intoxicated resulting in death.

(5) Before July 1, 1997, operation of a vehicle with at least ten-hundredths percent (0.10%) alcohol in the blood resulting in death.

(6) After June 30, 1997, and before July 1, 2001, operation of a vehicle with an alcohol concentration equivalent to at least ten-hundredths (0.10) gram of alcohol per:

(A) one hundred (100) milliliters of the blood; or

(B) two hundred ten (210) liters of the breath;

resulting in death.

(7) After June 30, 2001, operation of a vehicle with an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol per:

(A) one hundred (100) milliliters of the blood; or

(B) two hundred ten (210) liters of the breath;

resulting in death.

(b) A person who has accumulated at least three (3) judgments within a ten (10) year period for any of the following violations, singularly or in combination, not arising out of the same incident, and

with at least one (1) violation occurring after March 31, 1984, is a habitual violator:

(1) Operation of a vehicle while intoxicated.

(2) Before July 1, 1997, operation of a vehicle with at least ten-hundredths percent (0.10%) alcohol in the blood.

(3) After June 30, 1997, and before July 1, 2001, operation of a vehicle with an alcohol concentration equivalent to at least ten-hundredths (0.10) gram of alcohol per:

(A) one hundred (100) milliliters of the blood; or

(B) two hundred ten (210) liters of the breath.

(4) After June 30, 2001, operation of a vehicle with an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol per:

(A) one hundred (100) milliliters of the blood; or

(B) two hundred ten (210) liters of the breath.

(5) Operating a motor vehicle while the person's license to do so has been suspended or revoked as a result of the person's conviction of an offense under IC 9-1-4-52 (repealed July 1, 1991), IC 9-24-18-5(b) (repealed July 1, 2000), IC 9-24-19-3, or IC 9-24-19-5.

(6) Operating a motor vehicle without ever having obtained a license to do so.

(7) Reckless driving.

(8) Criminal recklessness involving the operation of a motor vehicle.

(9) Drag racing or engaging in a speed contest in violation of law.

(10) Violating IC 9-4-1-40 (repealed July 1, 1991), IC 9-4-1-46 (repealed July 1, 1991), IC 9-26-1-1(1), IC 9-26-1-1(2), IC 9-26-1-1(4), IC 9-26-1-2(1), IC 9-26-1-2(2), IC 9-26-1-3, or IC 9-26-1-4.

(11) Any felony under an Indiana motor vehicle statute or any felony in the commission of which a motor vehicle is used.

A judgment for a violation enumerated in subsection (a) shall be added to the violations described in this subsection for the purposes of this subsection.

(c) A person who has accumulated at least ten (10) judgments within a ten (10) year period for any traffic violation, except a parking or an equipment violation, of the type required to be reported to the

bureau, singularly or in combination, not arising out of the same incident, and with at least one (1) violation occurring after March 31, 1984, is a habitual violator. However, at least one (1) of the judgments must be for a violation enumerated in subsection (a) or (b). A judgment for a violation enumerated in subsection (a) or (b) shall be added to the judgments described in this subsection for the purposes of this subsection.

(d) For purposes of this section, a judgment includes a judgment in any other jurisdiction in which the elements of the offense for which the conviction was entered are substantially similar to the elements of the offenses described in subsections (a) and (b).

SECTION 6. IC 9-30-10-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9. (a) After June 30, 2005, this section does not apply to a person who:

(1) holds a commercial driver's license; and

(2) has been charged with an offense involving the operation of a motor vehicle in accordance with the federal Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Public Law 106-159.113 Stat. 1748).

(b) If a court finds that a person:

(1) is a habitual violator under section 4(c) of this chapter;

(2) has not been previously placed on probation under this section by a court;

(3) operates a vehicle for commercial or business purposes, and the person's mileage for commercial or business purposes:

(A) is substantially in excess of the mileage of an average driver; and

(B) may have been a factor that contributed to the person's poor driving record; and

(4) does not have:

(A) a judgment for a violation enumerated in section 4(a) of this chapter; or

(B) at least three (3) judgments (singularly or in combination and not arising out of the same incident) of the violations enumerated in section 4(b) of this chapter;

the court may place the person on probation in accordance with subsection (d).

(c) If a court finds that a person:

(1) is a habitual violator under section 4(b) of this chapter;

(2) has not been previously placed on probation under this section by a court;

(3) does not have a judgment for any violation listed in section 4(a) of this chapter;

(4) has had the person's driving privileges suspended under this chapter for at least five (5) consecutive years; and

(5) has not violated the terms of the person's suspension by operating a vehicle;

the court may place the person on probation in accordance with subsection (d). However, if the person has any judgments for operation of a vehicle before July 1, 2001, while intoxicated or with an alcohol concentration equivalent to at least ten-hundredths (0.10) gram of alcohol per one hundred (100) milliliters of the blood or two hundred ten (210) liters of the breath, or for the operation of a vehicle after June 30, 2001, while intoxicated or with an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol per one hundred (100) milliliters of the blood or two hundred ten (210) liters of the breath, the court, before the court places a person on probation under subsection (d), must find that the person has successfully fulfilled the requirements of a rehabilitation program certified by one (1) or both of the following:

(A) The division of mental health and addiction.

(B) The Indiana judicial center.

(d) Whenever a court places a habitual violator on probation, the court:

(1) shall record each of the court's findings under this section in writing;

(2) shall obtain the person's driver's license or permit and send the license or permit to the bureau;

(3) shall direct the person to apply to the bureau for a restricted driver's license;

(4) shall order the bureau to issue the person an appropriate license;

(5) shall place the person on probation for a fixed period of not less than three (3) years and not more than ten (10) years;

(6) shall attach restrictions to the person's driving privileges, including restrictions limiting the person's driving to:

(A) commercial or business purposes or other employment related driving;

(B) specific purposes in exceptional circumstances; ~~and~~

(C) rehabilitation programs; **and**

(D) specified hours during which the person may drive;

(7) shall require the person to submit to reasonable monitoring requirements;

~~(7)~~ **(8)** shall order the person to file proof of financial responsibility for three (3) years following the date of being placed on probation; and

~~(8)~~ **(9)** ~~may~~ **shall** impose other appropriate conditions of probation, **which must include one (1) or more of the following conditions if the person was determined to be a habitual violator under IC 9-30-10-4(a)(4) through IC 9-30-10-4(a)(7) or IC 9-30-10-4(b)(1) through IC 9-30-10-4(b)(4), and at least one (1) of the offenses occurred within five (5) years prior to the granting of the probationary or restricted license:**

(A) An order prohibiting the person from operating a motor vehicle or motorized bicycle with an alcohol concentration equivalent to at least two-hundredths (0.02) gram of alcohol per:

(i) one hundred (100) milliliters of the person's blood; or

(ii) two hundred ten (210) liters of the person's breath;

or while under the influence of any other intoxicating substance.

(B) An order that the person submit to a method to monitor the person's compliance with the prohibition against operating a motor vehicle or motorized bicycle with an alcohol concentration equivalent to at least two-hundredths (0.02) gram of alcohol per:

(i) one hundred (100) milliliters of the person's blood; or

(ii) two hundred ten (210) liters of the person's breath;

or while intoxicated (as defined under IC 9-13-2-86).

(C) The court shall determine the appropriate monitoring method, which may include one (1) or more of the following:

(i) The person may operate only a motor vehicle equipped with an ignition interlock device.

(ii) The person must submit to a chemical test if a law enforcement officer lawfully stops the person while operating a motor vehicle or motorized bicycle and the law enforcement officer requests that the person submit to a chemical test.

(iii) The person must wear a device that detects and records the person's use of alcohol.

(iv) The person must submit to any other reasonable monitoring requirement as determined by the court.

(e) If a court finds that a person:

(1) is a habitual violator under section 4(b) or 4(c) of this chapter;

(2) does not have any judgments for violations under section 4(a) of this chapter;

(3) does not have any judgments or convictions for violations under section 4(b) of this chapter, except for judgments or convictions under section 4(b)(5) of this chapter that resulted from driving on a suspended license that was suspended for:

(A) the commission of infractions only; or

(B) previously driving on a suspended license;

(4) has not been previously placed on probation under this section by a court; and

(5) has had the person's driving privileges suspended under this chapter for at least three (3) consecutive years and has not violated the terms of the person's suspension by operating a vehicle for at least three (3) consecutive years;

the court may place the person on probation under subsection (d).

SECTION 7. IC 9-30-10-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 13. (a) The bureau may issue a license to operate a motor vehicle to a habitual violator whose driving privileges are suspended under section 5(b) of this chapter if the following conditions exist:

(1) The time specified for the person's probation or the restriction or suspension of the person's license has elapsed.

(2) The person has met all the requirements of all applicable statutes and rules relating to the licensing of motor vehicle operators.

(3) The person files with the bureau and maintains for three (3) years after filing proof of financial responsibility in accordance

with IC 9-25.

(4) The bureau places a restriction on the person's driver's license and driving record that indicates the person is prohibited from operating a motor vehicle or motorized bicycle with an alcohol concentration equivalent to at least two-hundredths (0.02) gram of alcohol per:

(A) one hundred (100) milliliters of the person's blood; or

(B) two hundred ten (210) liters of the person's breath;

or while intoxicated (as defined under IC 9-13-2-86) for three (3) years after the bureau issues the driver's license to the person.

(5) The person signs a bureau form by which the person agrees that as a condition to obtaining the driver's license the person will submit to a chemical test at any time during the period three (3) years after the bureau issues the driver's license to the person if a law enforcement officer lawfully stops the person while operating a motor vehicle or motorized bicycle and the law enforcement officer requests that the person submit to a chemical test.

(b) The bureau may issue a license to operate a motor vehicle to a habitual violator whose driving privileges have been suspended for life if the following conditions exist:

(1) The bureau has received an order for rescission of suspension and reinstatement issued under section 15 of this chapter.

(2) The person to whom the license is to be issued has never been convicted of a violation described in section 4(a) or 17 of this chapter.

(3) The person has not been convicted of an offense under section 16 of this chapter more than one (1) time.

(4) The person has met all the requirements of all applicable statutes and rules relating to the licensing of motor vehicle operators.

(5) The person files with the bureau, and maintains for three (3) years after filing proof of financial responsibility in accordance with IC 9-25.

(6) The bureau places a restriction on the person's driver's license and driving record that indicates the person is prohibited from operating a motor vehicle or motorized

bicycle with an alcohol concentration equivalent to at least two-hundredths (0.02) gram of alcohol per:

(A) one hundred (100) milliliters of the person's blood; or

(B) two hundred ten (210) liters of the person's breath;

or while intoxicated (as defined under IC 9-13-2-86) for three (3) years after the bureau issues the driver's license to the person.

(7) The person signs a bureau form by which the person agrees that as a condition to obtaining the driver's license the person will submit to a chemical test at any time during the period three (3) years after the bureau issues the driver's license to the person if a law enforcement officer lawfully stops the person while operating a motor vehicle or motorized bicycle and the law enforcement officer requests that the person submit to a chemical test.

(c) A habitual violator is not eligible for relief under the hardship provisions of IC 9-24-15.

SECTION 8. IC 9-30-10-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 15. (a) Upon receiving a petition filed under section 14 of this chapter, a court shall set a date for hearing the matter and direct the clerk of the court to provide notice of the hearing date to the following:

(1) The petitioner.

(2) The prosecuting attorney of the county where the petitioner resides.

(3) The bureau.

(b) A court may order the rescission of the order that required the suspension of the petitioner's driving privileges for life and may order the bureau to reinstate the driving privileges of a petitioner whose driving privileges have been suspended for life if, after the hearing of the matter, the court makes the following written findings and conclusions, based on clear and convincing evidence:

(1) That the petitioner has never been convicted of a violation described in section 4(a) of this chapter.

(2) That the petitioner has never been convicted of an offense under section 17 of this chapter.

(3) That the petitioner has not been convicted of an offense under section 16 of this chapter more than one (1) time.

(4) If the person is petitioning the court under section 14(a) of this chapter that ten (10) years have elapsed since the date on which an order was issued that required the suspension of the petitioner's driving privileges for life.

(5) That there has been a substantial change in the petitioner's circumstances indicating the petitioner would no longer pose a risk to the safety of others if the petitioner's driving privileges were reinstated.

(6) That there has been a substantial change in the petitioner's circumstances indicating that the suspension of the petitioner's driving privileges for life has become unreasonable.

(7) That it is in the best interests of society for the petitioner's driving privileges to be reinstated.

(8) If the person is petitioning the court under section 14(e) of this chapter:

(A) that three (3) years have elapsed since the date the order was issued that required the suspension of the petitioner's driving privileges for life; and

(B) that the conditions listed under section 14(e) of this chapter are satisfied.

(c) The petitioner has the burden of proof under this section and an order issued under subsection (b) is a final order, appealable by any party to the action.

(d) In an order for reinstatement of driving privileges issued under this section, the court may require the bureau to issue to the prevailing petitioner:

(1) a license to operate a motor vehicle under section 13(b) of this chapter; or

(2) a restricted driving license for a time and subject to conditions specified by the court, **which must include one (1) or more of the following conditions if the person was determined to be a habitual violator under IC 9-30-10-4(a)(4) through IC 9-30-10-4(a)(7) or IC 9-30-10-4(b)(1) through IC 9-30-10-4(b)(4), and at least one (1) of the offenses occurred within five (5) years prior to the granting of the probationary or restricted license:**

(A) Specified hours during which the person may drive.

(B) An order prohibiting the person from operating a

motor vehicle or motorized bicycle with an alcohol concentration equivalent to at least two-hundredths (0.02) gram of alcohol per:

(i) one hundred (100) milliliters of the person's blood; or

(ii) two hundred ten (210) liters of the person's breath;

or while intoxicated (as defined under IC 9-13-2-86).

(C) An order that the person submit to a method to monitor the person's compliance with the prohibition against operating a motor vehicle or motorized bicycle with an alcohol concentration equivalent to at least two-hundredths (0.02) gram of alcohol per:

(i) one hundred (100) milliliters of the person's blood; or

(ii) two hundred ten (210) liters of the person's breath;

or while intoxicated (as defined under IC 9-13-2-86).

(D) The court shall determine the appropriate monitoring method, which may include one (1) or more of the following:

(i) The person may operate only a motor vehicle equipped with an ignition interlock device.

(ii) The person must submit to a chemical test if a law enforcement officer lawfully stops the person while operating a motor vehicle or motorized bicycle and the law enforcement officer requests that the person submit to a chemical test.

(iii) The person must wear a device that detects and records the person's use of alcohol.

(iv) The person must submit to any other reasonable monitoring requirement as determined by the court.

(e) If a court orders the bureau to issue a restricted driving license to a petitioner under subsection (d), the court shall specify the conditions under which the petitioner may be issued a license to operate a motor vehicle under section 13(b) of this chapter. After the expiration date of the restricted license and upon:

(1) fulfillment by the petitioner of the conditions specified by the court; and

(2) the expiration of the restricted license issued under subsection (d)(2);

the bureau shall issue to the petitioner a license to operate a motor vehicle under section 13(b) of this chapter.

SECTION 9. IC 9-30-10-17.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 17.5. A person who operates a vehicle or motorized bicycle in violation of conditions of a restricted license ordered by a court under IC 9-30-10-9(d)(9) or IC 9-30-10-15(d)(2) commits a Class A misdemeanor.**

SECTION 10. IC 9-30-10-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 18. In a criminal action brought under section 16, ~~or~~ 17, **or 17.5** of this chapter, it is a defense that the operation of a motor vehicle **or motorized bicycle** was necessary to save life or limb in an extreme emergency. The defendant must bear the burden of proof by a preponderance of the evidence to establish this defense.

P.L.29-2010
[S.226. Approved March 12, 2010.]

AN ACT concerning health.

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

SECTION 1. [EFFECTIVE JULY 1, 2010] **(a) The health finance commission shall study the topic of teen suicide, including the root causes and prevention, during the 2010 legislative interim.**

(b) This SECTION expires December 31, 2010.

P.L.30-2010
[S.252. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning education.

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

SECTION 1. IC 20-26-11-6, AS ADDED BY P.L.1-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) A school corporation may accept a transferring student without approval of the transferor corporation under section 5 of this chapter.

(b) A transfer may ~~not~~ be accepted ~~unless~~ **regardless of whether, as a condition of the transfer, the transferee school requires** the requesting parents or student ~~pays~~ **to pay** transfer tuition in an amount determined under the formula established in section 13 of this chapter for the payment of transfer tuition by a transferor school corporation. However, **if the transferee school elects to charge transfer tuition,** the transferee school may not offset the amounts described in section 13(b) STEP TWO (B) through section 13(b) STEP TWO (D) of this chapter from the amount charged to the requesting parents or student.

(c) **When the transferee school elects to charge tuition to the requesting parents or student,** the tuition determined under subsection (b) must be paid by the parents or the student before the end of the school year in installments as determined by the transferee corporation.

(d) Failure to pay a tuition installment **that is agreed to by the parents or student and the transferee school corporation** is a ground for exclusion from school.

(e) If the transferee school elects not to charge transfer tuition to the parents or student under this section, the transferee school may not charge transfer tuition or fees to the transferor school.

SECTION 2. IC 20-28-2-6, AS AMENDED BY P.L.12-2009, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2010]: Sec. 6. (a) Subject to subsection (c) and in addition to the powers and duties set forth in IC 20-20-22 or this article, the advisory board may adopt rules under IC 4-22-2 to do the following:

(1) Set standards for teacher licensing and for the administration of a professional licensing and certification process by the department.

(2) Approve or disapprove teacher preparation programs.

(3) Set fees to be charged in connection with teacher licensing.

(4) Suspend, revoke, or reinstate teacher licenses.

(5) Enter into agreements with other states to acquire reciprocal approval of teacher preparation programs.

(6) Set standards for teacher licensing concerning new subjects of study.

(7) Evaluate work experience and military service concerning postsecondary education and experience equivalency.

(8) Perform any other action that:

(A) relates to the improvement of instruction in the public schools through teacher education and professional development through continuing education; and

(B) attracts qualified candidates for teacher education from among the high school graduates of Indiana.

(9) Set standards for endorsement of school psychologists as independent practice school psychologists under IC 20-28-12.

(10) Before July 1, ~~2010,~~ **2011,** set standards for sign language interpreters who provide services to children with disabilities in an educational setting and an enforcement mechanism for the interpreter standards.

(b) Notwithstanding subsection (a)(1), an individual is entitled to one (1) year of occupational experience for purposes of obtaining an occupational specialist certificate under this article for each year the individual holds a license under IC 25-8-6.

(c) Before publishing notice of the intent to adopt a rule under IC 4-22-2, the advisory board must submit the proposed rule to the state superintendent for approval. If the state superintendent approves the rule, the advisory board may publish notice of the intent to adopt the rule. If the state superintendent does not approve the rule, the advisory board may not publish notice of the intent to adopt the rule.

(d) The advisory board may adopt rules under IC 4-22-2, including

emergency rules under IC 4-22-2-37.1, to establish procedures to expedite the issuance, renewal, or reinstatement under this article of a license or certificate of a person whose spouse serves on active duty (as defined in IC 25-1-12-2) and is assigned to a duty station in Indiana. Before publishing notice of the intent to adopt a permanent rule under IC 4-22-2, the advisory board must comply with subsection (c).

SECTION 3. [EFFECTIVE JULY 1, 2010] **460 IAC 2-5-1 through 460 IAC 2-5-9 are void. The publisher of the Indiana Administrative Code and Indiana Register shall remove these sections from the Indiana Administrative Code.**

P.L.31-2010
[S.257. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning higher education.

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

SECTION 1. IC 21-18-3-2, AS ADDED BY P.L.2-2007, SECTION 259, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. Except for the one (1) full-time faculty member and the one (1) student member, a member may not:

(1) be ~~an~~ **a full-time** employee of; or

(2) serve on the governing board of;

any state public or private college or university in Indiana.

SECTION 2. IC 21-27-2-2, AS ADDED BY P.L.179-2007, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) This section applies to a meeting of:

(1) the board of trustees or a committee of the board of trustees of any state educational institution (as defined in IC 21-7-13-32); **or**

(2) the commission for higher education established under IC 21-18-2-1.

(b) A member of the board of trustees **or the commission for**

higher education may participate in a meeting of the board **or commission:**

(1) at which at least a quorum is physically present at the place where the meeting is conducted; and

(2) by using a means of communication that permits:

(A) all other members participating in the meeting; and

(B) all members of the public physically present at the place where the meeting is conducted;

to simultaneously communicate with each other during the meeting.

(c) A member of a committee of the board of trustees may participate in a committee meeting by using a means of communication that permits:

(1) all other members participating in the meeting; and

(2) all members of the public physically present at the place where the meeting is conducted;

to simultaneously communicate with each other during the meeting.

(d) A member who participates in a meeting under subsection (b) or (c) is considered to be present at the meeting.

(e) The memoranda of the meeting prepared under IC 5-14-1.5-4 must state the name of:

(1) each member who was physically present at the place where the meeting was conducted;

(2) each member who participated in the meeting by using a means of communication described in subsection (b) or (c); and

(3) each member who was absent.

SECTION 3. IC 21-33-3-3, AS ADDED BY P.L.2-2007, SECTION 274, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. ~~(a) Except as provided in subsection (b), a project that has been approved or authorized by the general assembly is not subject to review by the commission for higher education.~~

~~(b)~~ The commission for higher education shall **complete a** review **of** a project approved or authorized by the general assembly ~~if the review is requested by~~ **within ninety (90) days after the project is submitted for review. If the review is not completed within ninety (90) days,** the budget agency or the budget committee **may proceed without the commission's review.**

SECTION 4. IC 21-33-3-5, AS ADDED BY P.L.2-2007, SECTION

274, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) Subject to this section, in addition to projects authorized by the general assembly, the board of trustees of a state educational institution may engage in a project to:

(1) construct buildings or facilities of a cost greater than five hundred thousand dollars ($500,000); or

(2) purchase or lease-purchase land, buildings, or facilities the principal value of which exceeds two hundred fifty thousand dollars ($250,000);

only if there are funds available for the project, the project meets any of the applicable conditions, and the project is reviewed by the commission for higher education and approved by the governor upon recommendation of the budget agency. **The review by the commission for higher education must be completed not later than ninety (90) days after the project is submitted for review.**

(b) If:

(1) any part of the cost of a project described in subsection (a) is paid by state appropriated funds or by mandatory student fees assessed all students; and

(2) the project is to:

(A) construct buildings or facilities of a cost greater than five hundred thousand dollars ($500,000); or

(B) purchase or lease-purchase land, buildings, or facilities the principal value of which exceeds three hundred thousand dollars ($300,000);

the project must also be approved by the general assembly.

(c) This section does not limit the board of trustees in supplementing a project approved by the general assembly from gifts or other available funds so long as approval for the expansion of the project is given by the governor on review by the commission for higher education and recommendation of the budget agency.

(d) The review and approval requirements of this section do not apply to a project to:

(1) construct buildings or facilities; or

(2) purchase or lease-purchase land, buildings, or facilities;

if the project involves the expansion or improvement of housing for students undertaken entirely by a fraternity or sorority at the state educational institution.

SECTION 5. IC 21-33-3-6, AS ADDED BY P.L.2-2007, SECTION 274, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) Subject to subsection (b), in addition to projects authorized by the general assembly, the board of trustees of a state educational institution may engage in a repair and rehabilitation project for which:

(1) the cost of the project exceeds seven hundred fifty thousand dollars ($750,000); and

(2) any part of the cost of the project is paid by state appropriated funds or by mandatory student fees assessed all students;

only if the project is reviewed by the commission for higher education and approved by the governor, on recommendation of the budget agency. **The review by the commission for higher education must be completed not later than ninety (90) days after the project is submitted for review.**

(b) If no part of the cost of a repair and rehabilitation project is paid by state appropriated funds or by mandatory student fees assessed all students, the review and approval requirements of this section apply only if the project exceeds one million dollars ($1,000,000).

SECTION 6. IC 21-33-3-7, AS ADDED BY P.L.2-2007, SECTION 274, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. In addition to projects authorized by the general assembly, the board of trustees of a state educational institution may engage in a project:

(1) to lease, other than a project to lease-purchase, a building or facility; and

(2) for which the annual cost of the project exceeds one hundred fifty thousand dollars ($150,000);

only if the project is reviewed by the commission for higher education and approved by the governor, on recommendation of the budget agency. **The review by the commission for higher education must be completed not later than ninety (90) days after the project is submitted for review.**

SECTION 7. IC 21-43-5-13, AS ADDED BY P.L.2-2007, SECTION 284, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 13. After June 30, ~~2008,~~ **2010,** a state educational institution or campus of a state educational institution that offers dual credit courses in liberal arts, professional, or career and

technical disciplines must be **either:**

(1) accredited by the National Alliance of Concurrent Enrollment Partnerships; **or**

(2) approved by the commission for higher education.

P.L.32-2010

[S.262. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 25-9-1-0.7, AS ADDED BY P.L.120-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 0.7. **(a)** As used in this chapter, **and except as provided in section 9.5 of this chapter,** "promoter" ~~has the meaning set forth in 15 U.S.C. 6301(9).~~ **means the person primarily responsible for organizing, promoting, and producing a professional boxing or sparring, professional unarmed combat, or professional wrestling match, contest, or exhibition.**

(b) The term does not include a hotel, casino, resort, or other commercial establishment hosting or sponsoring a professional boxing or sparring, professional unarmed combat, or professional wrestling match, contest, or exhibition, unless:

(1) the hotel, casino, resort, or other commercial establishment is primarily responsible for organizing, promoting, and producing the match, contest, or exhibition; and

(2) there is no other person primarily responsible for organizing, promoting, and producing the match, contest, or exhibition.

SECTION 2. IC 25-9-1-1.5, AS ADDED BY P.L.160-2009, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

UPON PASSAGE]: Sec. 1.5. (a) As used in this chapter, "fund" refers to the athletic commission fund created by this section.

(b) The athletic commission fund is created for purposes of administering this chapter. The fund shall be administered by the Indiana gaming commission.

(c) Expenses of administering the fund shall be paid from money in the fund.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the **state general** fund.

(e) The fund consists of:

(1) appropriations made by the general assembly;

(2) fees collected under this chapter; and

(3) penalties collected under this chapter.

(f) An amount necessary to administer this chapter is continually appropriated from the fund to the Indiana gaming commission.

(g) If the balance in the fund at the end of a particular fiscal year exceeds one hundred thousand dollars ($100,000), the amount that exceeds one hundred thousand dollars ($100,000) reverts to the state general fund.

SECTION 3. IC 25-9-1-22, AS AMENDED BY P.L.160-2009, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. (a) Every person, club, corporation, firm, or association which may conduct any match or exhibition under this chapter shall, within twenty-four (24) hours after the termination thereof:

(1) furnish to the commission by mail, a written report duly verified by that person or, if a club, corporation, firm, or association, by one (1) of its officers, showing the amount of the gross proceeds for the match or exhibition, and other related matters as the commission may prescribe;

(2) pay a tax of five percent (5%) of the price of admission collected from the sale of each admission ticket to the match or exhibition, which price shall be a separate and distinct charge and shall not include any tax imposed on and collected on account of the sale of any such ticket. Money derived from such state tax shall be deposited in the fund; and

(3) pay all fees established by the commission necessary to cover the administrative costs of its regulatory oversight function.

The commission may waive the tax on the price of admission for complimentary admissions.

(b) Before any license shall be granted for any boxing, sparring, or unarmed combat match or exhibition in this state, a bond or other instrument that provides financial recourse must be provided to the commission. The instrument must be:

(1) in an amount determined by the commission;

(2) approved as to form and sufficiency of the sureties thereon by the commission;

(3) payable to the state of Indiana; and

(4) conditioned for the payment of the tax imposed, the officials and contestants, and compliance with this chapter and the valid rules of the commission.

SECTION 4. IC 25-9-1-22.5, AS AMENDED BY P.L.160-2009, SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22.5. ~~(a)~~ Every ~~person, club, corporation, firm, or association~~ **promoter** holding or showing any **public** boxing, sparring, **mixed martial arts,** or unarmed combat ~~matches~~ **match or exhibition for viewing in Indiana** on a closed circuit telecast, pay per view telecast, or subscription television **that is** viewed ~~within Indiana, whether originating within Indiana or another state,~~ **by subscribers who are not present at the venue** shall furnish the executive director of the Indiana gaming commission a written report, under oath, stating the amount of gross proceeds ~~thereof,~~ **from the closed circuit telecast, pay per view telecast, or subscription television viewing in Indiana,** and such other matter as the commission may prescribe. ~~and~~ **The promoter** shall, within seventy-two (72) hours after the ~~showing of the contest~~ **determination of the outcome of the match or exhibition,** pay a tax of ~~five percent (5%)~~ **three percent (3%)** of ~~its total~~ **the** gross receipts ~~for the showing of the boxing, sparring, or unarmed combat~~ **from the viewing of the** match **or exhibition on a closed circuit telecast, pay per view telecast, or subscription television. However, the tax may not exceed fifty thousand dollars ($50,000) for each event.** Money derived from ~~such~~ **the** state tax shall be placed in the **state general** fund. **The budget agency may augment appropriations from the fund to the Indiana gaming commission to regulate**

boxing, sparring, unarmed combat, and any other form of mixed martial arts.

~~(b) This section does not apply to a showing occurring at a private residence.~~

SECTION 5. **An emergency is declared for this act.**

P.L.33-2010

[S.271. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 36-4-9-8, AS AMENDED BY P.L.141-2009, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8. (a) This section applies only to third class cities.

(b) The city executive shall appoint:

(1) a city civil engineer;

(2) a city attorney;

(3) a chief of the fire department;

(4) a chief of the police department; and

(5) other officers, employees, boards, and commissions required by statute.

(c) The board of public works and safety consists of three (3) or five (5) members (as determined by the city executive). The members of the board of public works and safety are:

(1) the city executive; and

(2) two (2) or four (4) persons appointed by the executive.

If the executive increases the number of board members from three (3) to five (5) members or decreases the number of board members from five (5) to three (3) members, the city shall publish notice under IC 5-3-1 of the increase or decrease in members and state the total

number of members appointed to the board. IC 36-4-4-2 notwithstanding, a member may hold other appointive or elective positions in city government during the member's tenure. IC 36-4-11-2 applies to board member appointments under this section. The city clerk is the clerk of the board.

(d) If the city legislative body adopts an ordinance under IC 36-4-12 to employ a city manager, the executive may appoint the city manager to a position on the board of public works and safety in place of the executive.

(e) The city executive may appoint a public safety director to:

(1) serve as the chief administrative officer of; and

(2) oversee the operations of;

the police department and fire department. The city executive shall determine the qualifications of the public safety director.

SECTION 2. IC 36-8-3-3, AS AMENDED BY P.L.169-2006, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) A majority of the members of the safety board constitutes a quorum. The board shall adopt rules concerning the time of holding regular and special meetings and of giving notice of them. The board shall elect one (1) of its members chairman, who holds the position as long as prescribed by the rules of the board. The board shall record all of its proceedings.

(b) The members of the safety board may act only as a board. No member may bind the board or the city except by resolution entered in the records of the board authorizing the member to act in its behalf as its authorized agent.

(c) The safety board shall appoint:

(1) the members and other employees of the police department other than those in an upper level policymaking position;

(2) the members and other employees of the fire department other than those in an upper level policymaking position;

(3) a market master; and

(4) other officials that are necessary for public safety purposes.

(d) The annual compensation of all members of the police and fire departments and other appointees shall be fixed by ordinance of the legislative body not later than September 30 of each year for the ensuing budget year. The ordinance may grade the members of the departments and regulate their pay by rank as well as by length of

service. If the legislative body fails to adopt an ordinance fixing the compensation of members of the police or fire department, the safety board may fix their compensation, subject to change by ordinance.

(e) The safety board, subject to ordinance, may also fix the number of members of the police and fire departments and the number of appointees for other purposes and may, subject to law, adopt rules for the appointment of members of the departments and for their government.

(f) The safety board shall divide the city into police precincts and fire districts.

(g) The police chief has exclusive control of the police department, and the fire chief has exclusive control of the fire department, subject to the rules and orders of the safety board. In time of emergency, the police chief and the fire chief are, for the time being, subordinate to the city executive and shall obey the city executive's orders and directions, notwithstanding any law or rule to the contrary.

P.L.34-2010

[S.281. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning public safety.

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

SECTION 1. IC 5-2-8-1, AS AMENDED BY P.L.20-2009, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) The following definitions apply in this section:

(1) "Abuse" means:

(A) conduct that causes bodily injury (as defined in IC 35-41-1-4) or damage to property; or

(B) a threat of conduct that would cause bodily injury (as defined in IC 35-41-1-4) or damage to property.

(2) "County law enforcement agency" includes:

(A) postsecondary educational institution police officers appointed under IC 21-17-5 or IC 21-39-4; and

(B) school corporation police officers appointed under IC 20-26-16.

(b) There is established in each county a county law enforcement continuing education program. The program is funded by amounts appropriated under **IC 33-37-8-4 or** IC 33-37-8-6.

(c) A county law enforcement agency receiving amounts based upon claims for law enforcement continuing education funds under IC 33-37-8-4 or IC 33-37-8-6 shall deposit each fee collected into the county law enforcement continuing education fund.

(d) Distribution of money in the county law enforcement continuing education fund shall be made to a county law enforcement agency without the necessity of first obtaining an appropriation from the county fiscal body.

(e) Money in excess of one hundred dollars ($100) that is unencumbered and remains in a county law enforcement continuing education fund for at least one (1) entire calendar year from the date of its deposit shall, at the end of a county's fiscal year, be deposited by the county auditor in the law enforcement training fund established under IC 5-2-1-13(b).

(f) To make a claim under IC 33-37-8-6, a law enforcement agency shall submit to the fiscal body a verified statement of cause numbers for fees collected that are attributable to the law enforcement efforts of that agency.

(g) A law enforcement agency shall submit a claim for fees under this section in the same county fiscal year in which the fees are collected under IC 33-37-4.

(h) A county law enforcement agency program shall provide to each law enforcement officer employed by the county and may provide to each law enforcement officer employed by a city or town law enforcement agency within the county continuing education concerning the following:

(1) Duties of a law enforcement officer in enforcing restraining orders, protective orders, temporary injunctions, and permanent injunctions involving abuse.

(2) Guidelines for making felony and misdemeanor arrests in

cases involving abuse.

(3) Techniques for handling incidents of abuse that:

(A) minimize the likelihood of injury to the law enforcement officer; and

(B) promote the safety of a victim.

(4) Information about the nature and extent of abuse.

(5) Information about the legal rights of and remedies available to victims of abuse.

(6) How to document and collect evidence in an abuse case.

(7) The legal consequences of abuse.

(8) The impact on children of law enforcement intervention in abuse cases.

(9) Services and facilities available to victims of abuse and abusers.

(10) Verification of restraining orders, protective orders, temporary injunctions, and permanent injunctions.

(11) Policies concerning arrest or release of suspects in abuse cases.

(12) Emergency assistance to victims of abuse and criminal justice options for victims of abuse.

(13) Landlord-tenant concerns in abuse cases.

(14) The taking of an abused child into protective custody.

(15) Assessment of a situation in which a child may be seriously endangered if the child is left in the child's home.

(16) Assessment of a situation involving an endangered adult (as defined in IC 12-10-3-2).

(17) Response to a sudden, unexpected infant death.

(18) Performing cardiopulmonary resuscitation and the Heimlich maneuver.

(i) A county law enforcement agency may enter into an agreement with other law enforcement agencies to provide the continuing education required by this section and section 2(f) of this chapter.

SECTION 2. IC 9-19-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) Except as otherwise provided in this section:

(1) a motor vehicle, trailer, semitrailer, and pole trailer; and

(2) any other vehicle that is drawn at the end of a train of vehicles;

must be equipped with at least one (1) tail lamp mounted on the rear that when lighted as required in this chapter, emits a red light plainly visible from a distance of five hundred (500) feet to the rear.

(b) Only the tail lamp on the rear-most vehicle of a train of vehicles is required to be seen from the distance specified.

(c) **Excluding a truck-tractor semitrailer-semitrailer combination equipped with a B-train assembly (as defined in IC 9-13-2-13) governed by section 7 of this chapter, truck-tractor, motorcycle, or motor-driven cycle:**

(1) a motor vehicle, trailer, semitrailer, **and** pole trailer; and

(2) any other vehicle drawn at the end of a train of vehicles; ~~excluding a truck-tractor,~~

that is

~~(1)~~ registered in Indiana and

~~(2)~~ manufactured or assembled after January 1, 1956, must be equipped with at least two (2) tail lamps mounted on the rear that, when lighted, complies with this section.

(d) A tail lamp upon a vehicle shall be located at a height of not less than twenty (20) inches and not more than seventy-two (72) inches.

(e) Either a tail lamp or a separate lamp must be placed and constructed so as to illuminate the rear registration plate with a white light and make the plate clearly legible from a distance of fifty (50) feet to the rear. A tail lamp or tail lamps, together with a separate lamp for illuminating the rear registration plate, must be wired so as to be lighted whenever the head lamps or auxiliary driving lamps are lighted.

SECTION 3. IC 9-21-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) Except as provided in subsection (b) and section 8 of this chapter, each vehicle upon an Indiana highway:

(1) between the time from sunset to sunrise; and

(2) at any other time when, due to insufficient light or unfavorable atmospheric conditions, persons and vehicles on the highway are not clearly discernible at a distance of five hundred (500) feet ahead;

must display lighted head lamps and other illuminating devices as required for different classes of vehicles under this chapter.

(b) All lamp equipment required for vehicles described in IC 9-19-6, **including each tail lamp required by law,** shall be lighted at the times

mentioned in subsection (a), except that clearance and sidemarker lamps are not required to be lighted on a vehicle when the vehicle is operated within a municipality if there is sufficient light to render clearly discernible persons and vehicles on the highway at a distance of five hundred (500) feet.

SECTION 4. IC 35-47-2-3, AS AMENDED BY HEA 1068-2010, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) A person desiring a license to carry a handgun shall apply:

(1) to the chief of police or corresponding law enforcement officer of the municipality in which the applicant resides;

(2) if that municipality has no such officer, or if the applicant does not reside in a municipality, to the sheriff of the county in which the applicant resides after the applicant has obtained an application form prescribed by the superintendent; or

(3) if the applicant is a resident of another state and has a regular place of business or employment in Indiana, to the sheriff of the county in which the applicant has a regular place of business or employment.

The superintendent and local law enforcement agencies shall allow an applicant desiring to obtain or renew a license to carry a handgun to submit an application electronically under this chapter if funds are available to establish and maintain an electronic application system.

(b) The law enforcement agency which accepts an application for a handgun license shall collect the following application fees:

(1) From a person applying for a four (4) year handgun license, a ten dollar ($10) application fee, five dollars ($5) of which shall be refunded if the license is not issued.

(2) From a person applying for a lifetime handgun license who does not currently possess a valid Indiana handgun license, a fifty dollar ($50) application fee, thirty dollars ($30) of which shall be refunded if the license is not issued.

(3) From a person applying for a lifetime handgun license who currently possesses a valid Indiana handgun license, a forty dollar ($40) application fee, thirty dollars ($30) of which shall be refunded if the license is not issued.

Except as provided in subsection (h), the fee shall be deposited into the law enforcement agency's firearms training fund or other appropriate

training activities fund and used by the agency to train law enforcement officers in the proper use of firearms or in other law enforcement duties, or to purchase firearms, ~~or~~ firearm related equipment, ~~or both~~ **or body armor (as defined in IC 35-47-5-13(a))** for the law enforcement officers employed by the law enforcement agency. The state board of accounts shall establish rules for the proper accounting and expenditure of funds collected under this subsection.

(c) The officer to whom the application is made shall ascertain the applicant's name, full address, length of residence in the community, whether the applicant's residence is located within the limits of any city or town, the applicant's occupation, place of business or employment, criminal record, if any, and convictions (minor traffic offenses excepted), age, race, sex, nationality, date of birth, citizenship, height, weight, build, color of hair, color of eyes, scars and marks, whether the applicant has previously held an Indiana license to carry a handgun and, if so, the serial number of the license and year issued, whether the applicant's license has ever been suspended or revoked, and if so, the year and reason for the suspension or revocation, and the applicant's reason for desiring a license. The officer to whom the application is made shall conduct an investigation into the applicant's official records and verify thereby the applicant's character and reputation, and shall in addition verify for accuracy the information contained in the application, and shall forward this information together with the officer's recommendation for approval or disapproval and one (1) set of legible and classifiable fingerprints of the applicant to the superintendent.

(d) The superintendent may make whatever further investigation the superintendent deems necessary. Whenever disapproval is recommended, the officer to whom the application is made shall provide the superintendent and the applicant with the officer's complete and specific reasons, in writing, for the recommendation of disapproval.

(e) If it appears to the superintendent that the applicant:

(1) has a proper reason for carrying a handgun;

(2) is of good character and reputation;

(3) is a proper person to be licensed; and

(4) is:

(A) a citizen of the United States; or

(B) not a citizen of the United States but is allowed to carry a firearm in the United States under federal law;

the superintendent shall issue to the applicant a qualified or an unlimited license to carry any handgun lawfully possessed by the applicant. The original license shall be delivered to the licensee. A copy shall be delivered to the officer to whom the application for license was made. A copy shall be retained by the superintendent for at least four (4) years in the case of a four (4) year license. The superintendent may adopt guidelines to establish a records retention policy for a lifetime license. A four (4) year license shall be valid for a period of four (4) years from the date of issue. A lifetime license is valid for the life of the individual receiving the license. The license of police officers, sheriffs or their deputies, and law enforcement officers of the United States government who have been honorably retired by a lawfully created pension board or its equivalent after twenty (20) or more years of service, shall be valid for the life of these individuals. However, a lifetime license is automatically revoked if the license holder does not remain a proper person.

(f) At the time a license is issued and delivered to a licensee under subsection (e), the superintendent shall include with the license information concerning handgun safety rules that:

(1) neither opposes nor supports an individual's right to bear arms; and

(2) is:

(A) recommended by a nonprofit educational organization that is dedicated to providing education on safe handling and use of firearms;

(B) prepared by the state police department; and

(C) approved by the superintendent.

The superintendent may not deny a license under this section because the information required under this subsection is unavailable at the time the superintendent would otherwise issue a license. The state police department may accept private donations or grants to defray the cost of printing and mailing the information required under this subsection.

(g) A license to carry a handgun shall not be issued to any person who:

(1) has been convicted of a felony;

(2) has had a license to carry a handgun suspended, unless the person's license has been reinstated;

(3) is under eighteen (18) years of age;

(4) is under twenty-three (23) years of age if the person has been adjudicated a delinquent child for an act that would be a felony if committed by an adult; or

(5) has been arrested for a Class A or Class B felony, or any other felony that was committed while armed with a deadly weapon or that involved the use of violence, if a court has found probable cause to believe that the person committed the offense charged.

In the case of an arrest under subdivision (5), a license to carry a handgun may be issued to a person who has been acquitted of the specific offense charged or if the charges for the specific offense are dismissed. The superintendent shall prescribe all forms to be used in connection with the administration of this chapter.

(h) If the law enforcement agency that charges a fee under subsection (b) is a city or town law enforcement agency, the fee shall be deposited in the law enforcement continuing education fund established under IC 5-2-8-2.

(i) If a person who holds a valid license to carry a handgun issued under this chapter:

(1) changes the person's name;

(2) changes the person's address; or

(3) experiences a change, including an arrest or a conviction, that may affect the person's status as a proper person (as defined in IC 35-47-1-7) or otherwise disqualify the person from holding a license;

the person shall, not later than thirty (30) days after the date of a change described under subdivision (3), and not later than sixty (60) days after the date of the change described under subdivision (1) or (2), notify the superintendent, in writing, of the event described under subdivision (3) or, in the case of a change under subdivision (1) or (2), the person's new name or new address.

(j) The state police shall indicate on the form for a license to carry a handgun the notification requirements of subsection (i).

(k) The state police department shall adopt rules under IC 4-22-2 to implement an electronic application system under subsection (a). Rules adopted under this section must require the superintendent to keep on

file one (1) set of classifiable and legible fingerprints from every person who has received a license to carry a handgun so that a person who applies to renew a license will not be required to submit an additional set of fingerprints.

(l) Except as provided in subsection (m), for purposes of IC 5-14-3-4(a)(1), the following information is confidential, may not be published, and is not open to public inspection:

(1) Information submitted by a person under this section to:

(A) obtain; or

(B) renew;

a license to carry a handgun.

(2) Information obtained by a federal, state, or local government entity in the course of an investigation concerning a person who applies to:

(A) obtain; or

(B) renew;

a license to carry a handgun issued under this chapter.

(3) The name, address, and any other information that may be used to identify a person who holds a license to carry a handgun issued under this chapter.

(m) Notwithstanding subsection (l):

(1) any information concerning an applicant for or a person who holds a license to carry a handgun issued under this chapter may be released to a federal, state, or local government entity:

(A) for law enforcement purposes; or

(B) to determine the validity of a license to carry a handgun; and

(2) general information concerning the issuance of licenses to carry handguns in Indiana may be released to a person conducting journalistic or academic research, but only if all personal information that could disclose the identity of any person who holds a license to carry a handgun issued under this chapter has been removed from the general information.

SECTION 5. IC 36-5-7-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 7. (a) As used in this section, "body armor" has the meaning set forth in IC 35-47-5-13(a).**

(b) After December 31, 2010, a town shall provide the town

marshal and active deputy marshals of the town with body armor for the torso. The town shall replace the body armor for the torso according to the replacement period recommended by the manufacturer of the body armor for the torso.

(c) The town marshal and active deputy marshals of the town may not be required to pay for maintenance of the body armor for the torso furnished under this section.

(d) Body armor for the torso provided by a town under this section remains the property of the town. The town may sell the property when it becomes unfit for use, and all money received shall be paid into the general fund of the town.

SECTION 6. IC 36-8-4-4.5, AS ADDED BY P.L.8-2009, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4.5. (a) As used in this section, "body armor" has the meaning set forth in IC 35-47-5-13(a).

(b) ~~After December 31, 2009,~~ A ~~unit~~ **city** shall provide an active member of the police department of the ~~unit~~ **city** with body armor for the torso. The ~~unit~~ **city** shall replace the body armor for the torso according to the replacement period recommended by the manufacturer of the body armor for the torso.

(c) An active member of the police department of a ~~unit~~ **city** shall not be required to maintain the body armor for the torso furnished under this section from any annual cash allowance paid to the member under section 4(a) of this chapter.

(d) Body armor for the torso provided by a ~~unit~~ **city** under this section remains the property of the ~~unit.~~ **city.** The ~~unit~~ **city** may sell the property when it becomes unfit for use, and all money received shall be paid into the general fund of the ~~unit.~~ **city.**

SECTION 7. IC 36-8-9-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 9. (a) As used in this section, "body armor" has the meaning set forth in IC 35-47-5-13(a).**

(b) After December 31, 2010, a town shall provide an active member of the police department of the town with body armor for the torso. The town shall replace the body armor for the torso according to the replacement period recommended by the manufacturer of the body armor for the torso.

(c) An active member of the police department of a town shall

not be required to pay for maintenance of the body armor for the torso furnished under this section.

(d) Body armor for the torso provided by a town under this section remains the property of the town. The town may sell the property when it becomes unfit for use, and all money received shall be paid into the general fund of the town.

SECTION 8. IC 36-8-10-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 4.5. (a) As used in this section, "body armor" has the meaning set forth in IC 35-47-5-13(a).**

(b) After December 31, 2010, a county shall provide an active member of the department with body armor for the torso. The county shall replace the body armor for the torso according to the replacement period recommended by the manufacturer of the body armor for the torso.

(c) An active member of the department shall not be required to maintain the body armor for the torso furnished under this section from any annual cash allowance paid to the member under section 4(c) of this chapter.

(d) Body armor for the torso provided by a county under this section remains the property of the county. The county may sell the property when it becomes unfit for use, and all money received shall be paid into the general fund of the county.

SECTION 9. IC 36-9-16-2, AS AMENDED BY P.L.8-2009, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) A unit may establish a cumulative building or sinking fund or cumulative capital improvement funds to provide money for one (1) or more of the following purposes:

(1) To purchase, construct, equip, and maintain buildings for public purposes.

(2) To acquire the land, and any improvements on it, that are necessary for the construction of public buildings.

(3) To demolish any improvements on land acquired under this section, and to level, grade, and prepare the land for the construction of a public building.

(4) To acquire land or rights-of-way to be used as a public way or other means of ingress or egress to land acquired for the construction of a public building.

(5) To improve or construct any public way or other means of ingress or egress to land acquired for the construction of a public building.

(b) In addition to the purposes described in subsection (a), a cumulative capital improvement fund may be used to purchase body armor (as defined in ~~IC 36-8-4-4.5(a))~~ **IC 35-47-5-13(a))** for active members of a police department **under:**

(1) IC 36-5-7-7;

(2) IC 36-8-4-4.5;

(3) IC 36-8-9-9; and

(4) IC 36-8-10-4.5.

SECTION 10. IC 36-9-16-3, AS AMENDED BY P.L.8-2009, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. A unit may establish cumulative capital improvement funds to provide money for one (1) or more of the following purposes:

(1) To acquire land or rights-of-way to be used for public ways or sidewalks.

(2) To construct and maintain public ways or sidewalks.

(3) To acquire land or rights-of-way for the construction of sanitary or storm sewers, or both.

(4) To construct and maintain sanitary or storm sewers, or both.

(5) To acquire, by purchase or lease, or to pay all or part of the purchase price of a utility.

(6) To purchase or lease land, buildings, or rights-of-way for the use of any utility that is acquired or operated by the unit.

(7) To purchase or acquire land, with or without buildings, for park or recreation purposes.

(8) To purchase, lease, or pay all or part of the purchase price of motor vehicles for the use of the police or fire department, or both, including ambulances and firefighting vehicles with the necessary equipment, ladders, and hoses.

(9) To retire in whole or in part any general obligation bonds of the unit that were issued for the purpose of acquiring or constructing improvements or properties that would qualify for the use of cumulative capital improvement funds.

(10) To purchase or lease equipment and other nonconsumable personal property needed by the unit for any public transportation

use.

(11) In a county or a consolidated city, to purchase or lease equipment to be used to illuminate a public way or sidewalk.

(12) The fund may be used for any of the following purposes:

(A) To purchase, lease, upgrade, maintain, or repair one (1) or more of the following:

(i) Computer hardware.

(ii) Computer software.

(iii) Wiring and computer networks.

(iv) Communication access systems used to connect with computer networks or electronic gateways.

(B) To pay for the services of full-time or part-time computer maintenance employees.

(C) To conduct nonrecurring inservice technology training of unit employees.

(13) To purchase body armor (as defined in ~~IC 36-8-4-4.5(a))~~ **IC 35-47-5-13(a))** for active members of a police department **under:**

(A) IC 36-5-7-7;

(B) IC 36-8-4-4.5;

(C) IC 36-8-9-9; and

(D) IC 36-8-10-4.5.

P.L.35-2010

[S.328. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning financial institutions.

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

SECTION 1. IC 4-21.5-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) Notice shall be given under this section concerning the following:

(1) A safety order under IC 22-8-1.1.

(2) Any order that:

(A) imposes a sanction on a person or terminates a legal right, duty, privilege, immunity, or other legal interest of a person;

(B) is not described in section 4 or 5 of this chapter or IC 4-21.5-4; and

(C) by statute becomes effective without a proceeding under this chapter if there is no request for a review of the order within a specified period after the order is issued or served.

(3) A notice of program reimbursement or equivalent determination or other notice regarding a hospital's reimbursement issued by the office of Medicaid policy and planning or by a contractor of the office of Medicaid policy and planning regarding a hospital's year end cost settlement.

(4) A determination of audit findings or an equivalent determination by the office of Medicaid policy and planning or by a contractor of the office of Medicaid policy and planning arising from a Medicaid postpayment or concurrent audit of a hospital's Medicaid claims.

(5) A license revocation under:

(A) IC 24-4.4-2;

~~(A)~~ **(B)** IC 24-4.5-3;

~~(B)~~ **(C)** IC 28-1-29;

~~(C)~~ **(D)** IC 28-7-5;

~~(D)~~ **(E)** IC 28-8-4; or

~~(E)~~ **(F)** IC 28-8-5.

(b) When an agency issues an order described by subsection (a), the agency shall give notice to the following persons:

(1) Each person to whom the order is specifically directed.

(2) Each person to whom a law requires notice to be given.

A person who is entitled to notice under this subsection is not a party to any proceeding resulting from the grant of a petition for review under section 7 of this chapter unless the person is designated as a party in the record of the proceeding.

(c) The notice must include the following:

(1) A brief description of the order.

(2) A brief explanation of the available procedures and the time limit for seeking administrative review of the order under section 7 of this chapter.

(3) Any other information required by law.

(d) An order described in subsection (a) is effective fifteen (15) days after the order is served, unless a statute other than this article specifies a different date or the agency specifies a later date in its order. This subsection does not preclude an agency from issuing, under IC 4-21.5-4, an emergency or other temporary order concerning the subject of an order described in subsection (a).

(e) If a petition for review of an order described in subsection (a) is filed within the period set by section 7 of this chapter and a petition for stay of effectiveness of the order is filed by a party or another person who has a pending petition for intervention in the proceeding, an administrative law judge shall, as soon as practicable, conduct a preliminary hearing to determine whether the order should be stayed in whole or in part. The burden of proof in the preliminary hearing is on the person seeking the stay. The administrative law judge may stay the order in whole or in part. The order concerning the stay may be issued after an order described in subsection (a) becomes effective. The resulting order concerning the stay shall be served on the parties and any person who has a pending petition for intervention in the proceeding. It must include a statement of the facts and law on which it is based.

SECTION 2. IC 4-22-2-37.1, AS AMENDED BY P.L.131-2009, SECTION 1, AS AMENDED BY P.L.160-2009, SECTION 1, AND AS AMENDED BY P.L.177-2009, SECTION 1, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 37.1. (a) This section applies to a rulemaking action resulting in any of the following rules:

(1) An order adopted by the commissioner of the Indiana department of transportation under IC 9-20-1-3(d) or IC 9-21-4-7(a) and designated by the commissioner as an emergency rule.

(2) An action taken by the director of the department of natural resources under IC 14-22-2-6(d) or IC 14-22-6-13.

(3) An emergency temporary standard adopted by the occupational safety standards commission under IC 22-8-1.1-16.1.

(4) An emergency rule adopted by the solid waste management board under IC 13-22-2-3 and classifying a waste as hazardous.

(5) A rule, other than a rule described in subdivision (6), adopted by the department of financial institutions under IC 24-4.5-6-107 and declared necessary to meet an emergency.
(6) A rule required under IC 24-4.5-1-106 that is adopted by the department of financial institutions and declared necessary to meet an emergency under IC 24-4.5-6-107.
(7) A rule adopted by the Indiana utility regulatory commission to address an emergency under IC 8-1-2-113.
(8) An emergency rule adopted by the state lottery commission under IC 4-30-3-9.
(9) A rule adopted under IC 16-19-3-5 or IC 16-41-2-1 that the executive board of the state department of health declares is necessary to meet an emergency.
(10) An emergency rule adopted by the Indiana finance authority under IC 8-21-12.
(11) An emergency rule adopted by the insurance commissioner under IC 27-1-23-7.
(12) An emergency rule adopted by the Indiana horse racing commission under IC 4-31-3-9.
(13) An emergency rule adopted by the air pollution control board, the solid waste management board, or the water pollution control board under IC 13-15-4-10(4) or to comply with a deadline required by or other date provided by federal law, provided:

(A) the variance procedures are included in the rules; and
(B) permits or licenses granted during the period the emergency rule is in effect are reviewed after the emergency rule expires.

(14) An emergency rule adopted by the Indiana election commission under IC 3-6-4.1-14.
(15) An emergency rule adopted by the department of natural resources under IC 14-10-2-5.
(16) An emergency rule adopted by the Indiana gaming commission under IC 4-32.2-3-3(b), IC 4-33-4-2, IC 4-33-4-3, IC 4-33-4-14, or IC 4-35-4-2.
(17) An emergency rule adopted by the alcohol and tobacco commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or IC 7.1-3-20-24.4.

(18) An emergency rule adopted by the department of financial institutions under IC 28-15-11.
(19) An emergency rule adopted by the office of the secretary of family and social services under IC 12-8-1-12.
(20) An emergency rule adopted by the office of the children's health insurance program under IC 12-17.6-2-11.
(21) An emergency rule adopted by the office of Medicaid policy and planning under IC 12-15-41-15.
(22) An emergency rule adopted by the Indiana state board of animal health under IC 15-17-10-9.
(23) An emergency rule adopted by the board of directors of the Indiana education savings authority under IC 21-9-4-7.
(24) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-34 (repealed).
(25) An emergency rule adopted by the department of local government finance under IC 6-1.1-4-33 (repealed).
(26) An emergency rule adopted by the boiler and pressure vessel rules board under IC 22-13-2-8(c).
(27) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-37(l) (repealed) or an emergency rule adopted by the department of local government finance under IC 6-1.1-4-36(j) (repealed) or IC 6-1.1-22.5-20.
(28) An emergency rule adopted by the board of the Indiana economic development corporation under IC 5-28-5-8.
(29) A rule adopted by the department of financial institutions under IC 34-55-10-2.5.
(30) A rule adopted by the Indiana finance authority:
(A) under IC 8-15.5-7 approving user fees (as defined in IC 8-15.5-2-10) provided for in a public-private agreement under IC 8-15.5;
(B) under IC 8-15-2-17.2(a)(10):
(i) establishing enforcement procedures; and
(ii) making assessments for failure to pay required tolls;
(C) under IC 8-15-2-14(a)(3) authorizing the use of and establishing procedures for the implementation of the collection of user fees by electronic or other nonmanual means; or
(D) to make other changes to existing rules related to a toll

road project to accommodate the provisions of a public-private agreement under IC 8-15.5.

(31) An emergency rule adopted by the board of the Indiana health informatics corporation under IC 5-31-5-8.

(32) An emergency rule adopted by the **state** *athletic commission under IC 25-9-1-4.5.*

~~*(32)*~~ **(33)** *An emergency rule adopted by the department of child services under IC 31-25-2-21, IC 31-27-2-4, IC 31-27-4-2, or IC 31-27-4-3.*

~~*(32)*~~ **(34)** *An emergency rule adopted by the Indiana real estate commission under IC 25-34.1-2-5(15).*

(35) A rule adopted by the department of financial institutions under IC 24-4.4-1-101 and determined necessary to meet an emergency.

(b) The following do not apply to rules described in subsection (a):

(1) Sections 24 through 36 of this chapter.

(2) IC 13-14-9.

(c) After a rule described in subsection (a) has been adopted by the agency, the agency shall submit the rule to the publisher for the assignment of a document control number. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the format of the rule and other documents to be submitted under this subsection.

(d) After the document control number has been assigned, the agency shall submit the rule to the publisher for filing. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the format of the rule and other documents to be submitted under this subsection.

(e) Subject to section 39 of this chapter, the publisher shall:

(1) accept the rule for filing; and

(2) electronically record the date and time that the rule is accepted.

(f) A rule described in subsection (a) takes effect on the latest of the following dates:

(1) The effective date of the statute delegating authority to the agency to adopt the rule.

(2) The date and time that the rule is accepted for filing under subsection (e).

(3) The effective date stated by the adopting agency in the rule.

(4) The date of compliance with every requirement established by law as a prerequisite to the adoption or effectiveness of the rule.

(g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6, IC 22-8-1.1-16.1, and IC 22-13-2-8(c), and except as provided in subsections (j), (k), and (l), a rule adopted under this section expires not later than ninety (90) days after the rule is accepted for filing under subsection (e). Except for a rule adopted under subsection (a)(13), (a)(24), (a)(25), or (a)(27), the rule may be extended by adopting another rule under this section, but only for one (1) extension period. The extension period for a rule adopted under subsection (a)(28) may not exceed the period for which the original rule was in effect. A rule adopted under subsection (a)(13) may be extended for two (2) extension periods. Subject to subsection (j), a rule adopted under subsection (a)(24), (a)(25), or (a)(27) may be extended for an unlimited number of extension periods. Except for a rule adopted under subsection (a)(13), for a rule adopted under this section to be effective after one (1) extension period, the rule must be adopted under:

(1) sections 24 through 36 of this chapter; or

(2) IC 13-14-9;

as applicable.

(h) A rule described in subsection (a)(8), (a)(12), or (a)(29) expires on the earlier of the following dates:

(1) The expiration date stated by the adopting agency in the rule.

(2) The date that the rule is amended or repealed by a later rule adopted under sections 24 through 36 of this chapter or this section.

(i) This section may not be used to readopt a rule under IC 4-22-2.5.

(j) A rule described in subsection (a)(24) or (a)(25) expires not later than January 1, 2006.

(k) A rule described in subsection (a)(28) expires on the expiration date stated by the board of the Indiana economic development corporation in the rule.

(l) A rule described in subsection (a)(30) expires on the expiration date stated by the Indiana finance authority in the rule.

(m) A rule described in subsection (a)(5) or (a)(6) expires on the

date the department is next required to issue a rule under the statute authorizing or requiring the rule.

SECTION 3. IC 22-9-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. As used in this chapter:

(a) "Person" means one (1) or more individuals, partnerships, associations, organizations, limited liability companies, corporations, labor organizations, cooperatives, legal representatives, trustees, trustees in bankruptcy, receivers, and other organized groups of persons.

(b) "Commission" means the civil rights commission created under section 4 of this chapter.

(c) "Director" means the director of the civil rights commission.

(d) "Deputy director" means the deputy director of the civil rights commission.

(e) "Commission attorney" means the deputy attorney general, such assistants of the attorney general as may be assigned to the commission, or such other attorney as may be engaged by the commission.

(f) "Consent agreement" means a formal agreement entered into in lieu of adjudication.

(g) "Affirmative action" means those acts that the commission determines necessary to assure compliance with the Indiana civil rights law.

(h) "Employer" means the state or any political or civil subdivision thereof and any person employing six (6) or more persons within the state, except that the term "employer" does not include:

(1) any nonprofit corporation or association organized exclusively for fraternal or religious purposes;

(2) any school, educational, or charitable religious institution owned or conducted by or affiliated with a church or religious institution; or

(3) any exclusively social club, corporation, or association that is not organized for profit.

(i) "Employee" means any person employed by another for wages or salary. However, the term does not include any individual employed:

(1) by ~~his~~ **the individual's** parents, spouse, or child; or

(2) in the domestic service of any person.

(j) "Labor organization" means any organization that exists for the

purpose in whole or in part of collective bargaining or of dealing with employers concerning grievances, terms, or conditions of employment or for other mutual aid or protection in relation to employment.

(k) "Employment agency" means any person undertaking with or without compensation to procure, recruit, refer, or place employees.

(l) "Discriminatory practice" means:

(1) the exclusion of a person from equal opportunities because of race, religion, color, sex, disability, national origin, or ancestry;

(2) a system that excludes persons from equal opportunities because of race, religion, color, sex, disability, national origin, or ancestry;

(3) the promotion of racial segregation or separation in any manner, including but not limited to the inducing of or the attempting to induce for profit any person to sell or rent any dwelling by representations regarding the entry or prospective entry in the neighborhood of a person or persons of a particular race, religion, color, sex, disability, national origin, or ancestry; or

(4) a violation of IC 22-9-5 that occurs after July 25, 1992, and is committed by a covered entity (as defined in IC 22-9-5-4).

Every discriminatory practice relating to the acquisition or sale of real estate, education, public accommodations, employment, or the extending of credit (as defined in ~~IC 24-4.5-1-301)~~ **IC 24-4.5-1-301.5)** shall be considered unlawful unless it is specifically exempted by this chapter.

(m) "Public accommodation" means any establishment that caters or offers its services or facilities or goods to the general public.

(n) "Complainant" means:

(1) any individual charging on ~~his~~ **the individual's** own behalf to have been personally aggrieved by a discriminatory practice; or

(2) the director or deputy director of the commission charging that a discriminatory practice was committed against a person other than himself or a class of people, in order to vindicate the public policy of the state (as defined in section 2 of this chapter).

(o) "Complaint" means any written grievance that is:

(1) sufficiently complete and filed by a complainant with the commission; or

(2) filed by a complainant as a civil action in the circuit or

superior court having jurisdiction in the county in which the alleged discriminatory practice occurred.

The original of any complaint filed under subdivision (1) shall be signed and verified by the complainant.

(p) "Sufficiently complete" refers to a complaint that includes:

(1) the full name and address of the complainant;

(2) the name and address of the respondent against whom the complaint is made;

(3) the alleged discriminatory practice and a statement of particulars thereof;

(4) the date or dates and places of the alleged discriminatory practice and if the alleged discriminatory practice is of a continuing nature the dates between which continuing acts of discrimination are alleged to have occurred; and

(5) a statement as to any other action, civil or criminal, instituted in any other form based upon the same grievance alleged in the complaint, together with a statement as to the status or disposition of the other action.

No complaint shall be valid unless filed within one hundred eighty (180) days from the date of the occurrence of the alleged discriminatory practice.

(q) "Sex" as it applies to segregation or separation in this chapter applies to all types of employment, education, public accommodations, and housing. However:

(1) it shall not be a discriminatory practice to maintain separate restrooms;

(2) it shall not be an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify or refer for employment any individual, for a labor organization to classify its membership or to classify or refer for employment any individual, or for an employer, labor organization, or joint labor management committee controlling apprenticeship or other training or retraining programs to admit or employ any other individual in any program on the basis of sex in those certain instances where sex is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise; and

(3) it shall not be a discriminatory practice for a private or

religious educational institution to continue to maintain and enforce a policy of admitting students of one (1) sex only.

(r) "Disabled" or "disability" means the physical or mental condition of a person that constitutes a substantial disability. In reference to employment, under this chapter, "disabled or disability" also means the physical or mental condition of a person that constitutes a substantial disability unrelated to the person's ability to engage in a particular occupation.

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

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

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

(1) any supervised financial organization (as defined in ~~IC 24-4.5-1-301(20)),~~ **IC 26-1-4-102.5),** including a bank, savings bank, trust company, savings association, or credit union;

(2) any other financial institution that is:

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

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

(3) any insurance company;

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

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

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

(e) As used in this chapter, "mortgage loan origination activities" means performing any of the following activities for compensation or

gain in connection with a residential mortgage loan:

(1) Receiving or recording a borrower's or potential borrower's residential mortgage loan application information in any form for use in a credit decision by a creditor.

(2) Offering to negotiate or negotiating terms of a residential mortgage loan.

(f) As used in this chapter, "borrower's residential mortgage loan application information" means the address of the proposed residential real property to be mortgaged and borrower's essential personal and financial information necessary for an informed credit decision to be made on the borrower's mortgage loan application.

(g) As used in this chapter, "mortgage loan originator" means an individual engaged in mortgage loan origination activities. The term does not include a person who:

(1) performs purely administrative or clerical tasks on behalf of a mortgage loan originator or acts as a loan processor or underwriter;

(2) performs only real estate brokerage activities and is licensed in accordance with IC 25-34.1 or the applicable laws of another state, unless the person is compensated by a creditor, a loan broker, a mortgage loan originator, or any agent of a creditor, a loan broker, or a mortgage loan originator; or

(3) is involved only in extensions of credit relating to time share plans (as defined in 11 U.S.C. 101(53D)).

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

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

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

(k) As used in this chapter, "principal manager" means an individual

who:

(1) has at least three (3) years of experience:

(A) as a mortgage loan originator; or

(B) in financial services;

that is acceptable to the commissioner; and

(2) is principally responsible for the supervision and management of the employees and business affairs of a loan broker licensee.

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

(1) a principal manager; and

(2) a mortgage loan originator;

on behalf of a loan broker licensee.

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

(1) Fees for real estate appraisals. However, if the residential mortgage loan is governed by Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act (12 U.S.C. 3331 through 3352), the fee for an appraisal performed in connection with the loan is not a bona fide third party fee unless the appraisal is performed by a person that is licensed or certified under IC 25-34.1-3-8.

(2) Fees for title examination, abstract of title, title insurance, property surveys, or similar purposes.

(3) Notary and credit report fees.

(4) Fees for the services provided by a loan broker in procuring possible business for a creditor if the fees are paid by the creditor.

(n) As used in this chapter, "branch office" means any fixed physical location from which a loan broker licensee holds itself out as engaging in the loan brokerage business.

(o) As used in this chapter, "loan processor or underwriter" means an individual who:

(1) is employed by a loan broker licensee and acts at the direction of, and subject to the supervision of, the loan broker licensee or a licensed principal manager employed by the loan broker licensee; and

(2) performs solely clerical or support duties on behalf of the loan broker licensee, including any of the following activities with respect to a residential mortgage loan application received by the

loan broker licensee:

(A) The receipt, collection, distribution, and analysis of information commonly used in the processing or underwriting of a residential mortgage loan.

(B) Communicating with a borrower or potential borrower to obtain the information necessary for the processing or underwriting of a residential mortgage loan, to the extent that the communication does not include:

(i) offering or negotiating loan rates or terms; or

(ii) counseling borrowers or potential borrowers about residential mortgage loan rates or terms.

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

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

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

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

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

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

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

(1) is an employee of:

(A) a depository institution;

(B) a subsidiary that is:

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

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

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

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

(r) As used in this chapter, "residential mortgage loan" means a loan that is secured by a mortgage, deed of trust, or other consensual security interest on real estate in Indiana on which there is located or intended to be constructed a dwelling (as defined in the federal Truth in Lending Act (15 U.S.C. 1602(v)) that is or will be used primarily for personal, family, or household purposes.

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

(1) An individual's first and last names or first initial and last name.

(2) Any of the following data elements:

(A) A Social Security number.

(B) A driver's license number.

(C) A state identification card number.

(D) A credit card number.

(E) A financial account number or debit card number in combination with a security code, password, or access code that would permit access to the person's account.

(3) With respect to an individual, any of the following:

(A) Address.

(B) Telephone number.

(C) Information concerning the individual's:

(i) income or other compensation;

(ii) credit history;

(iii) credit score;

(iv) assets;

(v) liabilities; or

(vi) employment history.

(t) As used in this chapter, personal information is "encrypted" if the personal information:

(1) has been transformed through the use of an algorithmic process into a form in which there is a low probability of assigning meaning without use of a confidential process or key; or

(2) is secured by another method that renders the personal information unreadable or unusable.

(u) As used in this chapter, personal information is "redacted" if the personal information has been altered or truncated so that not more than the last four (4) digits of:

(1) a Social Security number;

(2) a driver's license number;

(3) a state identification number; or

(4) an account number;

are accessible as part of the personal information.

(v) As used in this chapter, "depository institution" has the meaning set forth in the Federal Deposit Insurance Act (12 U.S.C. 1813(c)) and includes any credit union.

(w) As used in this chapter, "state licensed mortgage loan originator" means any individual who:

(1) is a mortgage loan originator;

(2) is not an employee of:

(A) a depository institution;

(B) a subsidiary that is:

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

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

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

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

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

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

(1) permanently identifies a mortgage loan originator; and

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

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

(B) the uniform identification of, and public access to, the employment history of and the publicly adjudicated disciplinary and enforcement actions against mortgage loan

originators.

SECTION 5. IC 24-4.4-1-102, AS ADDED BY P.L.145-2008, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 102. (1) This article shall be liberally construed and applied to promote its underlying purposes and policies.

(2) The underlying purposes and policies of this article are:

(a) to permit and encourage the development of fair and economically sound first lien mortgage lending practices; and

(b) to conform the regulation of first lien mortgage lending practices to applicable state and federal laws, rules, and regulations.

(3) A reference to a requirement imposed by this article includes reference to a related rule of the department adopted under this article.

(4) A reference to a federal law in this article is a reference to the law in effect December 31, ~~2008.~~ **2009.**

SECTION 6. IC 24-4.4-1-202, AS ADDED BY P.L.145-2008, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 202. This article does not apply to the following:

(1) Extensions of credit to government or governmental agencies or instrumentalities.

(2) A first lien mortgage transaction in which the debt is incurred primarily for a purpose other than a personal, family, or household purpose.

(3) An extension of credit primarily for a business, a commercial, or an agricultural purpose.

(4) **Except for IC 24-4.4-2-401(2), IC 24-4.4-2-402.3, IC 24-4.4-2-405(4), and IC 24-4.4-2-405(5),** a first lien mortgage transaction made:

(a) in compliance with the requirements of; and

(b) by a community development corporation (as defined in IC 4-4-28-2) acting as a subrecipient of funds from;

the Indiana housing and community development authority established by IC 5-20-1-3.

~~(5) A supervised financial organization.~~

~~(6) An operating subsidiary that is majority owned, directly or indirectly, by a supervised financial organization to the extent the operating subsidiary is regulated by the chartering authority of the supervised financial organization.~~

(5) Except for IC 24-4.4-2-401(2), IC 24-4.4-2-402.3, IC 24-4.4-2-405(4), and IC 24-4.4-2-405(5), a first lien mortgage transaction made by an entity that exclusively uses funds provided by the United States Department of Housing and Urban Development under Title 1 of the federal Housing and Community Development Act of 1974, Public Law 93-383, as amended (42 U.S.C. 5301 et seq.).

(6) An extension of credit originated by:

(a) a depository institution;

(b) subsidiaries that are:

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

(ii) regulated by a federal banking agency; or

(c) an institution regulated by the Farm Credit Administration.

(7) **Except for IC 24-4.4-2-401(2), IC 24-4.4-2-402.3, IC 24-4.4-2-405(4), and IC 24-4.4-2-405(5),** a credit union service organization that is majority owned, directly or indirectly, by one (1) or more credit unions.

(8) A first lien mortgage transaction originated by a registered mortgage loan originator, when acting for an entity described in subsection (6). However, a privately insured state chartered credit union shall comply with the system of mortgage loan originator registration developed by the Federal Financial Institutions Examinations Council under Section 1507 of the federal Safe and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE).

(9) An individual who offers or negotiates terms of a mortgage transaction with or on behalf of an immediate family member of the individual.

(10) An individual who offers or negotiates terms of a mortgage transaction secured by a dwelling that served as the individual's residence.

(11) Unless the attorney is compensated by:

(a) a lender;

(b) a mortgage broker;

(c) another mortgage loan originator; or

(d) any agent of the lender, mortgage broker, or other mortgage loan originator described in clauses (a) through (c);

a licensed attorney who negotiates the terms of a mortgage transaction on behalf of a client as an ancillary matter to the attorney's representation of the client.

~~(8)~~ **(12)** Agencies, instrumentalities, and government owned corporations of the United States, including United States government sponsored enterprises.

SECTION 7. IC 24-4.4-1-202.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 202.5. (1) If a person licensed or required to be licensed under this article also engages in the loan brokerage business, the person's loan brokerage business is subject to the following sections of the Indiana Code and any rules adopted to implement these sections:**

(a) IC 23-2-5-9.

(b) IC 23-2-5-9.1.

(c) IC 23-2-5-15.

(d) IC 23-2-5-16.

(e) IC 23-2-5-17.

(f) IC 23-2-5-18.

(g) IC 23-2-5-18.5.

(h) IC 23-2-5-20.

(i) IC 23-2-5-23, except for IC 23-2-5-23(2)(B).

(j) IC 23-2-5-24.

(2) Loan broker business transactions engaged in by persons licensed or required to be licensed under this article are subject to examination by the department and to the examination fees described in IC 24-4.4-2-402(7)(c). The department may cooperate with the securities division of the office of the secretary of state in the department's examination of loan broker business transactions and may use the securities division's examiners to conduct examinations.

SECTION 8. IC 24-4.4-1-204 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 204. In the department's examination and regulatory activities related to licensees under this article, the department may cooperate with the Indiana securities commissioner in the regulation of entities that, in addition to conducting business regulated under this article, also**

conduct a loan brokerage business subject to IC 23-2-5.

SECTION 9. IC 24-4.4-1-301, AS ADDED BY P.L.145-2008, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 301. In addition to definitions appearing in subsequent chapters of this article, the following definitions apply throughout this article:

(1) "Affiliate", with respect to any person subject to this article, means a person that, directly or indirectly, through one (1) or more intermediaries:

(a) controls;

(b) is controlled by; or

(c) is under common control with;

the person subject to this article.

(2) "Agreement" means the bargain of the parties in fact as found in the parties' language or by implication from other circumstances, including course of dealing or usage of trade or course of performance.

(3) "Agricultural products" includes agricultural, horticultural, viticultural, dairy products, livestock, wildlife, poultry, bees, forest products, fish and shellfish, any products raised or produced on farms, and any products processed or manufactured from products raised or produced on farms.

(4) "Agricultural purpose" means a purpose related to the production, harvest, exhibition, marketing, transportation, processing, or manufacture of agricultural products by a natural person who cultivates, plants, propagates, or nurtures the agricultural products.

(5) "Consumer credit sale" is a sale of goods, services, or an interest in land in which:

(a) credit is granted by a person who engages as a seller in credit transactions of the same kind;

(b) the buyer is a person other than an organization;

(c) the goods, services, or interest in land are purchased primarily for a personal, family, or household purpose;

(d) either the debt is payable in installments or a finance charge is made; and

(e) with respect to a sale of goods or services, either the amount financed does not exceed fifty thousand dollars ($50,000) or the debt is secured by personal property used

or expected to be used as the principal dwelling of the buyer.

~~(1)~~ **(6)** "Credit" means the right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment.

~~(2)~~ **(7)** "Creditor" means a person:

(a) that ~~regularly~~ engages in the extension of first lien mortgage transactions that are subject to a credit service charge or loan finance charge, as applicable, or are payable by written agreement in more than four (4) installments (not including a down payment); and

(b) to which the obligation is initially payable, either on the face of the note or contract, or by agreement if there is not a note or contract.

The term does not include a person described in subsection ~~(13)(a)~~ **33(a)** in a tablefunded transaction. **A creditor may be an individual, a limited liability company, a sole proprietorship, a partnership, a trust, a joint venture, a corporation, an unincorporated organization, or other form of entity, however organized.**

~~(3)~~ **(8)** "Department" refers to the members of the department of financial institutions.

(9) "Depository institution" has the meaning set forth in the Federal Deposit Insurance Act (12 U.S.C. 1813(c)) and includes any credit union.

~~(4)~~ **(10)** "Director" refers to the director of the department of financial institutions **or the director's designee.**

~~(5)~~ **(11)** "Dwelling" means a residential structure that contains one (1) to four (4) units, regardless of whether the structure is attached to real property. The term includes an individual:

(a) condominium unit;

(b) cooperative unit;

(c) mobile home; or

(d) trailer;

that is used as a residence.

(12) "Employee" means an individual who is paid wages or other compensation by an employer required under federal income tax law to file Form W-2 on behalf of the individual.

(13) "Federal banking agencies" means the Board of

Governors of the Federal Reserve System, the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration, and the Federal Deposit Insurance Corporation.

~~(6)~~ **(14)** "First lien mortgage transaction" means:

(a) a loan; ~~in which a first~~ **or**

(b) a consumer credit sale;

that is or will be used by the debtor primarily for personal, family, or household purposes and that is secured by a mortgage, ~~or~~ a land contract, **or another equivalent consensual security interest** which constitutes a first lien ~~is created or retained against land upon which there is~~ **on** a dwelling ~~that is or will be used by the debtor primarily for personal, family, or household purposes.~~ **or residential real estate.**

(15) "Immediate family member" means a spouse, child, sibling, parent, grandparent, or grandchild. The term includes stepparents, stepchildren, stepsiblings, and adoptive relationships.

(16) "Individual" means a natural person.

(17) "Licensee" means a person licensed as a creditor under this article.

~~(7)~~ **(18)** "Loan" includes:

(a) the creation of debt by:

(i) the creditor's payment of or agreement to pay money to the debtor or to a third party for the account of the debtor; or

(ii) the extension of credit by a person who ~~regularly~~ engages as a seller in credit transactions primarily secured by an interest in land;

(b) the creation of debt by a credit to an account with the creditor upon which the debtor is entitled to draw immediately; and

(c) the forbearance of debt arising from a loan.

(19) "Loan brokerage business" means any activity in which a person, in return for any consideration from any source, procures, attempts to procure, or assists in procuring, a mortgage transaction from a third party or any other person, whether or not the person seeking the mortgage transaction actually obtains the mortgage transaction.

(20) "Loan processor or underwriter" means an individual who performs clerical or support duties as an employee at the direction of, and subject to the supervision and instruction of, a person licensed or exempt from licensing under this article. For purposes of this subsection, the term "clerical or support duties" may include, after the receipt of an application, the following:

(a) The receipt, collection, distribution, and analysis of information common for the processing or underwriting of a mortgage transaction.

(b) The communication with a consumer to obtain the information necessary for the processing or underwriting of a loan, to the extent that the communication does not include:

(i) offering or negotiating loan rates or terms; or

(ii) counseling consumers about mortgage transaction rates or terms.

An individual engaging solely in loan processor or underwriter activities shall not represent to the public, through advertising or other means of communicating or providing information, including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items, that the individual can or will perform any of the activities of a mortgage loan originator.

(21) "Mortgage loan originator" means an individual who, for compensation or gain, or in the expectation of compensation or gain, engages in taking a mortgage transaction application or in offering or negotiating the terms of a mortgage transaction that either is made under this article or under IC 24-4.5 or is made by an employee of a person licensed or exempt from licensing under this article or under IC 24-4.5, while the employee is engaging in the loan brokerage business. The term does not include the following:

(a) An individual engaged solely as a loan processor or underwriter as long as the individual works exclusively as an employee of a person licensed or exempt from licensing under this article.

(b) Unless the person or entity is compensated by:

(i) a creditor;

(ii) a loan broker;

(iii) another mortgage loan originator; or

(iv) any agent of a creditor, a loan broker, or another mortgage loan originator described in items (i) through (iii);

a person or entity that performs only real estate brokerage activities and is licensed or registered in accordance with applicable state law.

(c) A person solely involved in extensions of credit relating to timeshare plans (as defined in 11 U.S.C. 101(53D)).

(22) "Mortgage servicer" means the last person to whom a mortgagor or the mortgagor's successor in interest has been instructed by a mortgagee to send payments on a loan secured by a mortgage.

(23) "Mortgage transaction" means:

(a) a loan; or

(b) a consumer credit sale;

that is or will be used by the debtor primarily for personal, family, or household purposes and that is secured by a mortgage, a land contract, or another equivalent consensual security interest on a dwelling or residential real estate.

(24) "Nationwide Mortgage Licensing System and Registry" or "NMLSR" means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of creditors and mortgage loan originators.

(25) "Nontraditional mortgage product" means any mortgage product other than a thirty (30) year fixed rate mortgage.

(26) "Organization" means a corporation, a government or government subdivision, an agency, a trust, an estate, a partnership, a limited liability company, a cooperative, an association, a joint venture, an unincorporated organization, or any other entity, however organized.

~~(8)~~ **(27)** "Payable in installments", with respect to a debt or an obligation, means that payment is required or permitted by written agreement to be made in more than four (4) installments not including a down payment.

~~(9)~~ **(28)** "Person" includes an individual or an organization.

~~(10) A person is "regularly engaged" as a creditor in first lien mortgage transactions in Indiana if:~~

~~(a) the person acted as a creditor in first lien mortgage transactions in Indiana more than five (5) times in the preceding calendar year; or~~

~~(b) the person did not meet the numerical standards set forth in subdivision (a) in the preceding calendar year, but has or will meet the numerical standards set forth in subdivision (a) in the current calendar year.~~

(29) "Principal" of a mortgage transaction means the total of:

(a) the net amount paid to, receivable by, or paid or payable for the account of the debtor; and

(b) to the extent that payment is deferred, amounts actually paid or to be paid by the creditor for registration, certificate of title, or license fees if not included in clause (a).

(30) "Real estate brokerage activity" means any activity that involves offering or providing real estate brokerage services to the public, including the following:

(a) Acting as a real estate agent or real estate broker for a buyer, seller, lessor, or lessee of real property.

(b) Bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property.

(c) Negotiating, on behalf of any party, any part of a contract relating to the sale, purchase, lease, rental, or exchange of real property (other than in connection with providing financing with respect to the sale, purchase, lease, rental, or exchange of real property).

(d) Engaging in any activity for which a person engaged in the activity is required to be registered or licensed as a real estate agent or real estate broker under any applicable law.

(e) Offering to engage in any activity, or act in any capacity, described in this subsection.

(31) "Registered mortgage loan originator" means any individual who:

(a) meets the definition of mortgage loan originator and is an employee of:

(i) a depository institution;

(ii) a subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency; or

(iii) an institution regulated by the Farm Credit Administration; and

(b) is registered with, and maintains a unique identifier through, the NMLSR.

(32) "Residential real estate" means any real property that is located in Indiana and on which there is located or intended to be constructed a dwelling.

~~(11)~~ **(33)** "Revolving first lien mortgage transaction" means ~~an arrangement between a creditor and a debtor~~ **a first lien mortgage transaction** in which:

(a) the creditor permits the debtor to obtain advances from time to time;

(b) the unpaid balances of principal, ~~credit service charges, or loan~~ finance charges, and other appropriate charges are debited to an account; and

(c) the debtor has the privilege of paying the balances in installments.

~~(12) "Supervised financial organization" means a person that is:~~

~~(a) organized, chartered, or holding an authorization certificate under the laws of a state or of the United States that authorizes the person to make loans and to receive deposits, including deposits into a savings, share, certificate, or deposit account, and~~

~~(b) subject to supervision by an official or agency of a state or of the United States.~~

~~(13)~~ **(34)** "Tablefunded" means a transaction in which:

(a) a person closes a first lien mortgage transaction in the person's own name as a mortgagee with funds provided by one (1) or more other persons; and

(b) the transaction is assigned simultaneously to the mortgage creditor providing the funding not later than one (1) business day after the funding of the transaction.

(35) "Unique identifier" means a number or other identifier assigned by protocols established by the NMLSR.

SECTION 10. IC 24-4.4-2-201, AS AMENDED BY P.L.52-2009,

SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 201. (1) A creditor or mortgage servicer shall provide an accurate payoff amount for a first lien mortgage transaction to the debtor not later than ten (10) calendar days after the creditor or mortgage servicer receives the debtor's written request for the accurate payoff amount. A creditor or mortgage servicer who fails to provide an accurate payoff amount is liable for:

(a) one hundred dollars ($100) if an accurate payoff amount is not provided by the creditor or mortgage servicer not later than ten (10) calendar days after the creditor or mortgage servicer receives the debtor's first written request; and

(b) the greater of:

(i) one hundred dollars ($100); or

(ii) the loan finance charge that accrues on the first lien mortgage transaction from the date the creditor or mortgage servicer receives the first written request until the date on which the accurate payoff amount is provided;

if an accurate payoff amount is not provided by the creditor or mortgage servicer not later than ten (10) calendar days after the creditor or mortgage servicer receives the debtor's second written request, and the creditor or mortgage servicer fails to comply with subdivision (a).

(2) This subsection applies to a first lien mortgage transaction, or the refinancing or consolidation of a first lien mortgage transaction, that:

(a) is closed after June 30, 2009; and

(b) has an interest rate that is subject to change at one (1) or more times during the term of the first lien mortgage transaction.

A creditor in a transaction to which this subsection applies may not contract for and may not charge the debtor a prepayment fee or penalty.

(3) This subsection applies to a first lien mortgage transaction with respect to which any installment or minimum payment due is delinquent for at least sixty (60) days. The creditor, servicer, or the creditor's agent shall acknowledge a written offer made in connection with a proposed short sale not later than ten (10) business days after the date of the offer if the offer complies with the requirements for a qualified written request set forth in 12 U.S.C. 2605(e)(1)(B). The creditor, servicer, or creditor's agent is required to acknowledge a

written offer made in connection with a proposed short sale from a third party acting on behalf of the debtor only if the debtor has provided written authorization for the creditor, servicer, or creditor's agent to do so. Not later than thirty (30) business days after receipt of an offer under this subsection, the creditor, servicer, or creditor's agent shall respond to the offer with an acceptance or a rejection of the offer. **Payment accepted by a creditor, servicer, or creditor's agent in connection with a short sale constitutes payment in full satisfaction of the first lien mortgage transaction unless the creditor, servicer, or creditor's agent obtains:**

(a) the following statement: "The debtor remains liable for any amount still owed under the first lien mortgage transaction."; or

(b) a statement substantially similar to the statement set forth in subdivision (a);

acknowledged by the initials or signature of the debtor, on or before the date on which the short sale payment is accepted. As used in this subsection, "short sale" means a transaction in which the property that is the subject of a first lien mortgage transaction is sold for an amount that is less than the amount of the debtor's outstanding obligation under the first lien mortgage transaction. A creditor or mortgage servicer that fails to respond to an offer within the time prescribed by this subsection is liable in accordance with 12 U.S.C. 2605(f) in any action brought under that section.

SECTION 11. IC 24-4.4-2-401, AS ADDED BY P.L.145-2008, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 401. **(1)** Unless a person subject to this article has first obtained a license **under this article** from the department **and annually maintains the license,** the person shall not ~~regularly~~ engage in Indiana as a creditor in first lien mortgage transactions. ~~However, this article does not require an employee of a person that is licensed under this article to obtain a license to make a first lien mortgage loan.~~ **A separate license under this article is required for each legal entity that engages in Indiana as a creditor in first lien mortgage transactions. However, a separate license under this article is not required for each branch of a legal entity licensed under this article.**

(2) Each:

(a) creditor licensed under this article; and

(b) entity exempt from licensing under this article that employs a licensed mortgage loan originator;

shall register with and maintain a valid unique identifier issued by the NMLSR. Each licensed mortgage loan originator must be employed by, and associated with, a licensed creditor, or an entity exempt from licensing under this article, in the NMLSR in order to originate loans.

(3) Applicants for a license under this article must apply for the license in the form prescribed by the director. Each form:

(a) must contain content as set forth by rule, instruction, or procedure of the director; and

(b) may be changed or updated as necessary by the director to carry out the purposes of this article.

(4) To fulfill the purposes of this article, the director may establish relationships or contracts with the NMLSR or other entities designated by the NMLSR to:

(a) collect and maintain records; and

(b) process transaction fees or other fees related to licensees or other persons subject to this article.

(5) For the purpose of participating in the NMLSR, the director or the department may:

(a) waive or modify, in whole or in part, by rule or order, any of the requirements of this article; and

(b) establish new requirements as reasonably necessary to participate in the NMLSR.

SECTION 12. IC 24-4.4-2-402, AS ADDED BY P.L.145-2008, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 402. (1) The department shall receive and act on all applications for licenses to engage in first lien mortgage transactions. Applications must be made as prescribed by the director.

(2) A license may not be issued unless the department finds that the **professional training and experience,** financial responsibility, character, and fitness of:

(a) the applicant and any significant affiliate of the applicant;

(b) each executive officer, director, or manager of the applicant, or any other individual having a similar status or performing a similar function for the applicant; and

(c) if known, each person directly or indirectly owning of record or owning beneficially at least ten percent (10%) of the outstanding shares of any class of equity security of the applicant;

are such as to warrant belief that the business will be operated honestly and fairly within the purposes of this article.

(3) The director is entitled to request evidence of compliance with this section at:

(a) the time of application;

(b) the time of renewal of a license; or

(c) any other time considered necessary by the director.

(4) Evidence of compliance with this section ~~may~~ **must** include:

(a) criminal background checks, **as described in section 402.1 of this chapter,** including a national criminal history background check (as defined in IC 10-13-3-12) by the Federal Bureau of Investigation, for any individual described in subsection (2);

(b) credit histories **as described in section 402.2 of this chapter;** ~~and~~

(c) surety bond requirements as described in section 402.3 of this chapter;

(d) a review of licensure actions in Indiana and in other states; and

~~(c)~~ **(e)** other background checks considered necessary by the director.

~~If the director requests a national criminal history background check under subdivision (a) for an individual described in subsection (2), the director shall require the individual to submit fingerprints to the department or to the state police department, as appropriate, at the time evidence of compliance is requested under subsection (3). The individual to whom the request is made shall pay any fees or costs associated with the fingerprints and the national criminal history background check. The national criminal history background check may be used by the director to determine the individual's compliance with this section. The director or the department may not release the results of the national criminal history background check to any private entity.~~

(5) For purposes of this section and in order to reduce the points of contact that the director has to maintain for purposes of this section, the director may use the NMLSR as a channeling agent for

requesting and distributing information to and from any source as directed by the director.

~~(5)~~ **(6)** The department may deny an application under this section if the director of the department determines that the application was submitted for the benefit of, or on behalf of, a person who does not qualify for a license.

~~(6)~~ **(7)** Upon written request, the applicant is entitled to a hearing on the question of the qualifications of the applicant for a license in the manner provided in IC 4-21.5.

~~(7)~~ **(8)** The applicant shall pay the following fees at the time designated by the department:

(a) An initial license fee as established by the department under IC 28-11-3-5.

(b) An annual renewal fee as established by the department under IC 28-11-3-5.

(c) Examination fees as established by the department under IC 28-11-3-5.

~~(8)~~ **(9)** A fee as established by the department under IC 28-11-3-5 may be charged for each day ~~the annual renewal fee~~ **a fee** under subsection ~~(7)(b) is~~ **8(b) or 8(c) is** delinquent.

~~(9)~~ **(10)** A license issued under this section is not assignable or transferable.

~~(10) Subject to subsection (11), the director may designate an automated central licensing system and repository, operated by a third party, to serve as the sole entity responsible for:~~

~~(a) processing applications and renewals for licenses under this section; and~~

~~(b) performing other services that the director determines are necessary for the orderly administration of the department's licensing system under this article.~~

~~(11) The director's authority to designate an automated central licensing system and repository under subsection (10) is subject to the following:~~

~~(a) The director or the director's designee may not require any person exempt from licensure under this article, or any employee or agent of an exempt person, to:~~

~~(i) submit information to; or~~

~~(ii) participate in;~~

~~the automated central licensing system and repository.~~

~~(b) Information stored in the automated central licensing system and repository is subject to the confidentiality provisions of IC 28-1-2-30 and IC 5-14-3. A person may not:~~

~~(i) obtain information from the automated central licensing system and repository, unless the person is authorized to do so by statute;~~

~~(ii) initiate any civil action based on information obtained from the automated central licensing system if the information is not otherwise available to the person under any other state law; or~~

~~(iii) initiate any civil action based on information obtained from the automated central licensing system if the person could not have initiated the action based on information otherwise available to the person under any other state law.~~

~~(c) Documents, materials, and other forms of information in the control or possession of the automated central licensing system and repository that are confidential under IC 28-1-2-30 and that are:~~

~~(i) furnished by the director, the director's designee, or a licensee; or~~

~~(ii) otherwise obtained by the automated central licensing system and repository;~~

~~are confidential and privileged by law and are not subject to inspection under IC 5-14-3, subject to subpoena, subject to discovery, or admissible in evidence in any civil action. However, the director or the director's designee may use the documents, materials, or other information available to the director or the director's designee in furtherance of any action brought in connection with the director's duties under this article.~~

~~(d) Disclosure of documents, materials, and information:~~

~~(i) to the director or the director's designee; or~~

~~(ii) by the director or the director's designee;~~

~~under this subsection does not result in a waiver of any applicable privilege or claim of confidentiality with respect to the documents, materials, or information.~~

~~(e) Information provided to the automated central licensing system and repository is subject to IC 4-1-11.~~

~~(f) This subsection does not limit or impair a person's right to:~~

~~(i) obtain information;~~

~~(ii) use information as evidence in a civil action or proceeding; or~~

~~(iii) use information to initiate a civil action or proceeding;~~

~~if the information may be obtained from the director or the director's designee under any law.~~

~~(g) The director may require a licensee required to submit information to the automated central licensing system and repository to pay a processing fee considered reasonable by the director.~~

SECTION 13. IC 24-4.4-2-402.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 402.1. (1) When the director requests a national criminal history background check under section 402(4)(a) of this chapter for an individual described in section 402(2) of this chapter, the director shall require the individual to submit fingerprints to the department, state police department, or NMLSR, as directed, at the time evidence of compliance is requested under section 402(3) of this chapter. The individual to whom the request is made shall pay any fees or costs associated with processing and evaluating the fingerprints and the national criminal history background check. The national criminal history background check may be used by the director to determine the individual's compliance with this section. The director or the department may not release the results of the national criminal history background check to any private entity.**

(2) For purposes of this section and in order to reduce the points of contact that the Federal Bureau of Investigation may have to maintain for purposes of this section, the director may use the NMLSR as a channeling agent for requesting information from and distributing information to the United States Department of Justice or any governmental agency.

SECTION 14. IC 24-4.4-2-402.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 402.2. (1) If the director requests a credit report for an individual described in section 402(2) of this chapter, the individual to whom the request is made shall pay any**

fees or costs associated with procuring the report.

(2) The individual must submit personal history and experience information in a form prescribed by the NMLSR, including the submission of authorization for the NMLSR or the director to obtain an independent credit report obtained from a consumer reporting agency described in Section 603(p) of the Fair Credit Reporting Act (15 U.S.C. 1681a(p)).

(3) The director may consider one (1) or more of the following when determining if an individual has demonstrated financial responsibility:

(a) Bankruptcies filed within the last ten (10) years.

(b) Current outstanding judgments, except judgments solely as a result of medical expenses.

(c) Current outstanding tax liens or other government liens or filings.

(d) Foreclosures within the past three (3) years.

(e) A pattern of serious delinquent accounts within the past three (3) years.

SECTION 15. IC 24-4.4-2-402.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 402.3. (1) Each:**

(a) creditor; and

(b) entity exempt from licensing under this article that employs a licensed mortgage loan originator;

must be covered by a surety bond in accordance with this section.

(2) A surety bond must:

(a) provide coverage for each creditor and each entity exempt from licensing under this article that employs a mortgage loan originator in an amount as prescribed in subsection (4); and

(b) be in a form prescribed by the director.

(3) The director may adopt rules or guidance documents with respect to the requirements for a surety bond as necessary to accomplish the purposes of this article.

(4) The penal sum of the surety bond shall be maintained in an amount that reflects the dollar amount of mortgage transactions originated as determined by the director.

(5) If an action is commenced on the surety bond of a creditor or an entity exempt from licensing under this article as described in subsection (1), the director may require the filing of a new bond.

(6) A creditor or an entity exempt from licensing under this article as described in subsection (1) shall file a new surety bond immediately upon recovery of any action on the surety bond required under this section.

SECTION 16. IC 24-4.4-2-402.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 402.4. (1) Subject to subsection (6), the director shall designate the NMLSR to serve as the sole entity responsible for:**

(a) processing applications and renewals for licenses under this article;

(b) issuing unique identifiers for licensees and entities exempt from licensing under this article that employ a licensed mortgage loan originator under this article; and

(c) performing other services that the director determines are necessary for the orderly administration of the department's licensing system under this article.

(2) Subject to the confidentiality provisions contained in IC 5-14-3, this section, and IC 28-1-2-30, the director shall regularly report significant or recurring violations of this article to the NMLSR.

(3) Subject to the confidentiality provisions contained in IC 5-14-3, this section, and IC 28-1-2-30, the director may report complaints received regarding licensees under this article to the NMLSR.

(4) The director may report publicly adjudicated licensure actions against a licensee to the NMLSR.

(5) The director shall establish a process in which licensees may challenge information reported to the NMLSR by the department.

(6) The director's authority to designate the NMLSR under subsection (1) is subject to the following:

(a) Information stored in the NMLSR is subject to the confidentiality provisions of IC 5-14-3 and IC 28-1-2-30. A person may not:

(i) obtain information from the NMLSR, unless the person is authorized to do so by statute;

(ii) initiate any civil action based on information obtained from the NMLSR if the information is not otherwise available to the person under any other state law; or

(iii) initiate any civil action based on information obtained from the NMLSR if the person could not have initiated the action based on information otherwise available to the person under any other state law.

(b) Documents, materials, and other forms of information in the control or possession of the NMLSR that are confidential under IC 28-1-2-30 and that are:

(i) furnished by the director, the director's designee, or a licensee; or

(ii) otherwise obtained by the NMLSR;

are confidential and privileged by law and are not subject to inspection under IC 5-14-3, subject to subpoena, subject to discovery, or admissible in evidence in any civil action. However, the director may use the documents, materials, or other information available to the director in furtherance of any action brought in connection with the director's duties under this article.

(c) Disclosure of documents, materials, and information:

(i) to the director; or

(ii) by the director;

under this subsection does not result in a waiver of any applicable privilege or claim of confidentiality with respect to the documents, materials, or information.

(d) Information provided to the NMLSR is subject to IC 4-1-11.

(e) This subsection does not limit or impair a person's right to:

(i) obtain information;

(ii) use information as evidence in a civil action or proceeding; or

(iii) use information to initiate a civil action or proceeding;

if the information may be obtained from the director or the director's designee under any law.

(f) Except as otherwise provided in Public Law 110-289, Section 1512, the requirements under any federal law or IC 5-14-3 regarding the privacy or confidentiality of any information or material provided to the NMLSR, and any privilege arising under federal or state law, including the rules of any federal or state court, with respect to the

information or material, continue to apply to the information or material after the information or material has been disclosed to the NMLSR. The information and material may be shared with all state and federal regulatory officials with mortgage industry oversight authority without the loss of privilege or the loss of confidentiality protections provided by federal law or IC 5-14-3.

(g) For purposes of this section, the director may enter agreements or sharing arrangements with other governmental agencies, the Conference of State Bank Supervisors, the American Association of Residential Mortgage Regulators, or other associations representing governmental agencies, as established by rule or order of the director.

(h) Information or material that is subject to a privilege or confidentiality under subdivision (f) is not subject to:

(i) disclosure under any federal or state law governing the disclosure to the public of information held by an officer or an agency of the federal government or the respective state; or

(ii) subpoena, discovery, or admission into evidence in any private civil action or administrative process, unless with respect to any privilege held by the NMLSR with respect to the information or material, the person to whom the information or material pertains waives, in whole or in part, in the discretion of the person, that privilege.

(i) Any provision of IC 5-14-3 that concerns the disclosure of:

(i) confidential supervisory information; or

(ii) any information or material described in subdivision (f);

and that is inconsistent with subdivision (f) is superseded by this section.

(j) This section does not apply with respect to information or material that concerns the employment history of, and publicly adjudicated disciplinary and enforcement actions against, a person described in section 402(2) of this chapter and that is included in the NMLSR for access by the public.

(k) The director may require a licensee required to submit information to the NMLSR to pay a processing fee considered reasonable by the director. In determining whether an

NMLSR processing fee is reasonable, the director shall:

(i) require review of; and

(ii) make available;

the audited financial statements of the NMLSR.

SECTION 17. IC 24-4.4-2-403, AS ADDED BY P.L.145-2008, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 403. **(1) A license issued under this article must be renewed through the NMLSR not later than December 31 of each calendar year. The minimum standards for license renewal for a creditor include the following:**

(a) The creditor has continued to meet the surety bond requirement under section 402.3 of this chapter.

(b) The creditor has filed the creditor's annual call report in a manner that satisfies section 405(4) of this chapter.

(c) The creditor has paid all required fees for renewal of the license.

(d) The creditor and individuals described in section 402(2) of this chapter continue to meet all the standards for licensing contained in section 402 of this chapter.

~~(1)~~ **(2)** A license issued by the department authorizing a person to engage in first lien mortgage transactions **as a creditor** under this article may be revoked **or suspended** by the department if the person fails to:

(a) file any renewal form required by the department; or

(b) pay any license renewal fee described under section 402 of this chapter;

not later than sixty (60) days after the due date.

~~(2)~~ **(3)** A person whose license is revoked **or suspended** under this section may do either of the following:

(a) Pay all delinquent fees and apply for ~~a new~~ **reinstatement of the** license.

(b) Appeal the revocation **or suspension** to the department for an administrative review under IC 4-21.5-3. Pending the decision resulting from the hearing under IC 4-21.5-3 concerning the license revocation **or suspension,** the license remains in force.

SECTION 18. IC 24-4.4-2-404, AS ADDED BY P.L.145-2008, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 404. (1) The department may issue to a person

licensed to engage in first lien mortgage transactions **as a creditor** an order to show cause why the person's license should not be revoked or suspended for a period determined by the department. The order must state the place and time for a meeting with the department that is not less than ten (10) days from the date of the order. After the meeting, the department shall revoke or suspend the license if the department finds that:

(a) the licensee has repeatedly and willfully violated:

(i) this article or any rule, ~~or~~ order, **or guidance document** lawfully adopted or issued under this article; or

(ii) any other state or federal law, regulation, or rule applicable to first lien mortgage transactions; ~~or~~

(b) the licensee does not meet the licensing qualifications contained in section 402 of this chapter; or

~~(b)~~ **(c)** facts or conditions exist which would clearly have justified the department in refusing to grant a license had the facts or conditions been known to exist at the time the application for the license was made.

(2) Except as provided in section 403 of this chapter, a revocation or suspension of a license is not authorized under this article unless before instituting proceedings to suspend or revoke the license, the department gives notice to the licensee of the conduct or facts that warrant the intended action, and the licensee is given an opportunity to show compliance with all lawful requirements for retention of the license.

(3) If the department finds that probable cause for revocation of a license exists and that enforcement of this article requires immediate suspension of the license pending investigation, the department may, after a hearing with the licensee upon five (5) days written notice to the licensee, enter an order suspending the license for not more than thirty (30) days.

(4) Whenever the department revokes or suspends a license, the department shall enter an order to that effect and notify the licensee of the revocation or suspension. Not later than five (5) days after the entry of the order the department shall deliver to the licensee a copy of the order and the findings supporting the order.

(5) Any person holding a license to engage in first lien mortgage transactions **as a creditor** may relinquish the license by notifying the

department in writing of the relinquishment. However, a relinquishment under this paragraph does not affect the person's liability for acts previously committed and coming within the scope of this article.

(6) If the director determines it to be in the public interest, the director may pursue revocation of a license of a licensee that has relinquished the license under subsection (5).

~~(6)~~ **(7)** A revocation, suspension, or relinquishment of a license does not impair or affect the obligation of any preexisting lawful contract between:

(a) the person whose license has been revoked, suspended, or relinquished; and

(b) any debtor.

~~(7)~~ **(8)** The department may reinstate a license **or** terminate a suspension ~~or grant~~ **of** a ~~new~~ license to a person whose license has been revoked or suspended if the director determines that, at the time the determination is made, there is no fact or condition that exists that clearly would justify the department in refusing to ~~grant~~ **reinstate** a license.

~~(8)~~ **(9)** If the director:

(a) has just cause to believe an emergency exists from which it is necessary to protect the interests of the public; or

(b) determines that a license was obtained for the benefit of, or on behalf of, a person who does not qualify for a license;

the director may proceed with the revocation of the license under IC 4-21.5-3-6.

SECTION 19. IC 24-4.4-2-404.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 404.1. (1) If the director determines that a director, an officer, or an employee of a creditor:**

(a) has committed a violation of a statute, a rule, a final cease and desist order, any condition imposed in writing by the director in connection with the granting of any application or other request by the creditor, or any written agreement between the creditor and the director or the department;

(b) has committed fraudulent or unconscionable conduct; or

(c) has been convicted of or has pleaded guilty or nolo contendere to a felony under the laws of Indiana or any other

jurisdiction;

the director, subject to subsection (2), may issue and serve upon the officer, director, or employee a notice of the director's intent to issue an order removing the person from the person's office or employment, an order prohibiting any participation by the person in the conduct of the affairs of any creditor, or an order both removing the person and prohibiting the person's participation.

(2) A violation, practice, or breach specified in subsection (1) is subject to the authority of the director under subsection (1) if the director finds any of the following:

(a) The interests of the creditor's customers could be seriously prejudiced by reason of the violation or practice.

(b) The violation, practice, or breach involves personal dishonesty on the part of the officer, director, or employee involved.

(c) The violation, practice, or breach demonstrates a willful or continuing disregard by the officer, director, or employee for state and federal laws and regulations, and for the consumer protections contained in this article.

(3) A person who:

(a) has been convicted of; or

(b) has pleaded guilty or nolo contendere to;

a felony under the laws of Indiana or any other jurisdiction may not serve as an officer, a director, or an employee of a creditor, or serve in any similar capacity, unless the person obtains the written consent of the director.

(4) A creditor that willfully permits a person to serve the creditor in violation of subsection (3) is subject to a civil penalty of five hundred dollars ($500) for each day the violation continues.

SECTION 20. IC 24-4.4-2-404.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 404.2. (1) A notice issued under this chapter must:**

(a) be in writing;

(b) contain a statement of the facts constituting the alleged practice, violation, or breach;

(c) state the facts alleged in support of the violation, practice, or breach;

(d) state the director's intention to enter an order under

section 404.4(1) of this chapter;

(e) be delivered to the board of directors of the creditor;

(f) be delivered to the officer, director, or employee concerned;

(g) specify the procedures that must be followed to initiate a hearing to contest the facts alleged; and

(h) if the director suspends or prohibits an officer, a director, or an employee of the creditor from participating in the affairs of the creditor, as described in subsection (5), include a statement of the suspension or prohibition.

(2) If a hearing is requested not later than ten (10) days after service of the written notice, the department shall hold a hearing concerning the alleged practice, violation, or breach. The hearing shall be held not later than forty-five (45) days after receipt of the request. The department, based on the evidence presented at the hearing, shall enter a final order under section 404.4 of this chapter.

(3) If no hearing is requested within the time specified in subsection (2), the director may proceed to issue a final order under section 404.4 of this chapter on the basis of the facts set forth in the written notice.

(4) An officer, director, or employee who is removed from a position under a removal order that has become final may not participate in the conduct of the affairs of any licensee under this article without the approval of the director.

(5) The director may, for the protection of the creditor or the interests of its customers, suspend from office or prohibit from participation in the affairs of the creditor an officer, a director, or an employee of a creditor who is the subject of a written notice served by the director under section 404.1(1) of this chapter. A suspension or prohibition under this subsection becomes effective upon service of the notice under section 404.1(1) of this chapter. Unless stayed by a court in a proceeding authorized by subsection (6), the suspension or prohibition remains in effect pending completion of the proceedings related to the notice served under section 404.1(1) of this chapter and until the effective date of an order entered by the department under subsection (2) or the director under subsection (3). Copies of the notice shall also be served upon the creditor or affiliate of which the person is an

officer, a director, or an employee.

(6) Not more than fifteen (15) days after an officer, a director, or an employee has been suspended from office or prohibited from participation in the conduct of the affairs of the creditor or affiliate under subsection (5), the officer, director, or employee may apply to a court having jurisdiction for a stay of the suspension or prohibition pending completion of the proceedings related to the written notice served under section 404.1(1) of this chapter, and the court may stay the suspension or prohibition.

(7) The department shall maintain an official record of a proceeding under this chapter.

SECTION 21. IC 24-4.4-2-404.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 404.3. If the director enters into a consent to a final order under section 404.4 of this chapter with a creditor, a director, an officer, or an employee, the director is not required to issue and serve a notice of charges upon the creditor, director, or officer under section 404.1 of this chapter. A consent agreement may be negotiated and entered into before or after the issuance of a notice of charges. The director shall provide a copy of the consent order to the board of directors of the creditor.**

SECTION 22. IC 24-4.4-2-404.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 404.4. (1) If, after a hearing described in section 404.2(2) of this chapter, the department finds that the conditions specified in section 404.1 of this chapter have been established, the department may issue a final order. If a hearing is not requested within the time specified in section 404.2(2) of this chapter, the director may issue a final order on the basis of the facts set forth in the written notice served under section 404.1(1) of this chapter.**

(2) Unless the director has entered into a consent agreement described in section 404.3 of this chapter, a final order must include separately stated findings of fact and conclusions of law for all aspects of the order.

(3) In a final order under this section, the department or the director, as appropriate, may order one (1) or more of the following with respect to an officer, a director, or an employee of a creditor:

(a) The removal of the officer, director, or employee from the person's office, position, or employment.

(b) A prohibition against any participation by the officer, director, or employee in the conduct of the affairs of any creditor.

(c) If the subject of the order is an officer or a director of a creditor, and subject to section 404.6 of this chapter, the imposition of a civil penalty not to exceed fifteen thousand dollars ($15,000) for each practice, violation, or act that:

(i) is described in section 404.1 of this chapter; and

(ii) is found to exist by the department or the director.

(4) A final order shall be issued in writing not later than ninety (90) days after conclusion of a hearing held under section 404.2(2) of this chapter, unless this period is waived or extended with the written consent of all parties or for good cause shown.

(5) If the officer, director, or employee does not appear individually or by an authorized representative at a hearing held under section 404.2(2) of this chapter, the officer, director, or employee is considered to have consented to the issuance of a final order.

(6) The remedies provided in this chapter are in addition to other remedies contained in this article.

SECTION 23. IC 24-4.4-2-404.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 404.5. (1) A final order issued under this chapter is effective on the eleventh day after service of the order. However, a final order issued upon consent under section 404.3 of this chapter is effective at the time specified in the order.**

(2) A final order remains effective and enforceable as provided in the order.

(3) The department or a reviewing court may stay, modify, or vacate a final order.

SECTION 24. IC 24-4.4-2-404.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 404.6. (1) The director or the department, as appropriate, shall consider the following factors in determining the amount of a civil penalty that should be assessed against a director or an officer in a final order issued under section**

404.4(3)(c) of this chapter:

(a) The appropriateness of the civil penalty with respect to the financial resources and good faith of the individual charged.

(b) The gravity of the practice, violation, or act.

(c) The history of previous practices, violations, or acts.

(d) The economic benefit derived by the individual from the practice, violation, or act.

(e) Other factors that justice requires.

(2) A creditor may not indemnify a director or an officer for a civil penalty imposed in a final order under section 404.4(3)(c) of this chapter.

(3) Civil penalties shall be deposited in the financial institutions fund established by IC 28-11-2-9.

SECTION 25. IC 24-4.4-2-404.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 404.7. The director may enforce any of the following by applying for appropriate relief to a court having jurisdiction:**

(a) An order issued under this chapter.

(b) A written agreement entered into by the department or the director and any director, officer, or employee of a creditor.

(c) Any condition imposed in writing by the department or the director on any director, officer, or employee of a creditor.

SECTION 26. IC 24-4.4-2-405, AS ADDED BY P.L.145-2008, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 405. (1) Every licensee shall maintain records in a manner that will enable the department to determine whether the licensee is complying with this article. The record keeping system of a licensee is sufficient if the licensee makes the required information reasonably available. The department shall determine the sufficiency of the records and whether the licensee has made the required information reasonably available. The department shall be given free access to the records wherever the records are located. Records concerning any first lien mortgage transaction shall be retained for two (2) years after the making of the final entry relating to the transaction, but in the case of a revolving first lien mortgage transaction, the two (2) years required under this subsection is measured from the date of each entry relating to the transaction.

(2) ~~A licensee~~ **The unique identifier of any person originating a mortgage transaction must be clearly shown on all mortgage transaction application forms and any other documents as required by the director.**

(3) Every licensee shall use automated examination and regulatory software designated by the director, including third party software. Use of the software consistent with guidance and policies issued by the director is not a violation of IC 28-1-2-30.

(4) Each:

(a) creditor licensed by the department under this article; and

(b) entity that is exempt from licensing under this article and that employs one (1) or more licensed mortgage originators;

shall submit to the NMLSR reports of condition, which must be in a form and must contain information as required by the NMLSR.

(5) Each:

(a) creditor licensed by the department under this article; and

(b) entity exempt from licensing under this article that employs licensed mortgage loan originators;

shall file with the department **additional** financial statements relating to all first lien mortgage transactions originated by the ~~licensee. The licensee shall file the financial statements~~ **licensed creditor or the exempt entity** as required by the department, but not more frequently than annually, in the form prescribed by the department.

~~(3)~~ **(6)** A ~~licensee~~ **licensed creditor** shall file notification with the department if the licensee:

(a) has a change in name, address, or any of its principals;

(b) opens a new branch, closes an existing branch, or relocates an existing branch;

(c) files for bankruptcy or reorganization; or

(d) is subject to revocation or suspension proceedings by a state or governmental authority with regard to the ~~licensee's~~ **licensed creditor's** activities;

not later than thirty (30) days after the date of the event described in this subsection.

~~(4)~~ **(7)** A licensee shall file notification with the department if ~~a key~~ **the licensee or any director, executive** officer, or ~~director~~ **manager** of the licensee ~~(a) is under indictment for a felony involving fraud, deceit, or misrepresentation under the laws of Indiana or any other~~

~~jurisdiction; or (b)~~ has been convicted of or pleaded guilty or nolo contendere to a felony ~~involving fraud, deceit, or misrepresentation~~ under the laws of Indiana or any other jurisdiction. **The licensee shall file the notification required by this subsection** not later than thirty (30) days after the date of the event described in this subsection.

(8) A licensee shall file notification with the department if the licensee or any director, executive officer, or manager of the licensee has had the person's authority to do business in the securities, commodities, banking, financial services, insurance, real estate, or real estate appraisal industry revoked or suspended by Indiana or by any other state, federal, or foreign governmental agency or self regulatory organization. The licensee shall file the notification required by this subsection not later than thirty (30) days after the date of the event described in this subsection.

SECTION 27. IC 24-4.4-2-503 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 503. A creditor in a first lien mortgage transaction that:**

(1) qualifies as a home equity conversion mortgage under the Federal Housing Administration's program; or

(2) otherwise constitutes a reverse mortgage;

shall provide the debtor with a pamphlet that is approved by the department and that describes the availability of reverse mortgage counseling services provided by housing counselors approved by the Secretary of the United States Department of Housing and Urban Development, as provided in 24 CFR 206.41(a). The debtor must receive the counseling described in this section and present the creditor with the certificate described in 24 CFR 206.41(c) before the creditor may make a first lien mortgage transaction described in this section to the debtor.

SECTION 28. IC 24-4.4-3-102, AS ADDED BY P.L.145-2008, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 102. This chapter applies to a person that ~~regularly~~ engages as a creditor in first lien mortgage transactions in Indiana. **The authority of this chapter remains in effect, whether a licensee, individual, or person subject to this article acts or claims to act under any licensing or registration law of Indiana or claims to act without such authority.**

SECTION 29. IC 24-4.4-3-104, AS ADDED BY P.L.145-2008, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 104. (1) In administering this article and in order to determine whether the provisions of this article are being complied with by persons engaging in acts subject to this article, the department may examine the records of persons and may make investigations of persons as may be necessary to determine compliance. Records subject to examination under this section include the following:

(a) Training, operating, and policy manuals.

(b) Minutes of:

(i) management meetings; and

(ii) other meetings.

(c) Financial records, credit files, and data bases.

(d) Other records that the department determines are necessary to perform its investigation or examination.

The department may also administer oaths or affirmations, subpoena witnesses, **and** compel the attendance of witnesses, **including officers, principals, mortgage loan originators, employees, independent contractors, agents, and customers of licensees, and other individuals or persons subject to this article. The department may also** adduce evidence and require the production of any matter that is relevant to an investigation. The department shall determine the sufficiency of the records maintained and whether the person has made the required information reasonably available. The records concerning any transaction subject to this article shall be retained for two (2) years after the making of the final entry relating to the first lien mortgage transaction, but in the case of a revolving first lien mortgage transaction the two (2) year period is measured from the date of each entry.

(2) The department's examination and investigatory authority under this article includes the following:

(a) The authority to require a creditor to refund overcharges resulting from the creditor's noncompliance with the terms of a first lien mortgage transaction.

(b) The authority to require a creditor to comply with the penalty provisions set forth in IC 24-4.4-2-201.

(c) The authority to investigate complaints filed with the department by debtors.

(3) The department shall be given free access to the records wherever the records are located. **In making any examination or investigation authorized by this article, the director may control access to any documents and records of the licensee or person under examination or investigation. The director may take possession of the documents and records or place a person in exclusive charge of the documents and records in the place where the documents are usually kept. During the period of control, a licensee or person may not remove or attempt to remove any of the documents and records except under a court order or with the consent of the director. Unless the director has reasonable grounds to believe the documents or records of the licensee or person have been, or are, at risk of being altered or destroyed for purposes of concealing a violation of this article, the licensee or person shall have access to the documents or records as necessary to conduct the licensee's or person's ordinary business affairs.** If the person's records are located outside Indiana, the records shall be made available to the department at a convenient location within Indiana, or the person shall pay the reasonable and necessary expenses for the department or the department's representative to examine the records where they are maintained. The department may designate comparable officials of the state in which the records are located to inspect the records on behalf of the department.

(4) Upon a person's failure without lawful excuse to obey a subpoena or to give testimony and upon reasonable notice by the department to all affected persons, the department may apply to any civil court with jurisdiction for an order compelling compliance.

(5) The department shall not make public:

(a) the name or identity of a person whose acts or conduct the department investigates under this section; or

(b) the facts discovered in the investigation.

However, this subsection does not apply to civil actions or enforcement proceedings under this article.

(6) If a creditor contracts with an outside vendor to provide a service that would otherwise be undertaken internally by the creditor and be subject to the department's routine examination procedures, the person that provides the service to the creditor shall, at the request of the director, submit to an examination by

the department. If the director determines that an examination under this subsection is necessary or desirable, the examination may be made at the expense of the person to be examined. If the person to be examined under this subsection refuses to permit the examination to be made, the director may order any creditor that is licensed under this article and that receives services from the person refusing the examination to:

(a) discontinue receiving one (1) or more services from the person; or

(b) otherwise cease conducting business with the person.

SECTION 30. IC 24-4.4-3-104.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 104.5. To carry out the purposes of this section, the director may:**

(a) retain attorneys, accountants, or other professionals and specialists as examiners, auditors, or investigators to conduct or assist in the conduct of examinations or investigations;

(b) enter into agreements or relationships with other government officials or regulatory associations in order to improve efficiencies and reduce regulatory burden by sharing:

(i) resources;

(ii) standardized or uniform methods or procedures; and

(iii) documents, records, information, or evidence obtained under this section;

(c) use, hire, contract, or employ public or privately available analytical systems, methods, or software to examine or investigate a licensee, an individual, or a person subject to this article;

(d) accept and rely on examination or investigation reports made by other government officials within or outside Indiana; and

(e) accept audit reports made by an independent certified public accountant for the licensee, individual, or person subject to this article in the course of that part of the examination covering the same general subject matter as the audit and may incorporate the audit report in the report of the examination, report of investigation, or other writing of the director.

SECTION 31. IC 24-4.4-3-104.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 104.6. It is a violation of this article for a person or individual subject to this article to:**

(a) directly or indirectly employ any scheme, device, or artifice to defraud or mislead borrowers or lenders or to defraud any person;

(b) engage in any unfair or deceptive practice toward any person;

(c) obtain property by fraud or misrepresentation;

(d) solicit or enter into a contract with a borrower that provides in substance that the person or individual subject to this article may earn a fee or commission through "best efforts" to obtain a loan even though no loan is actually obtained for the borrower;

(e) solicit, advertise, or enter into a contract for specific interest rates, points, or other financing terms unless the terms are actually available at the time of soliciting, advertising, or contracting;

(f) conduct any business covered by this article without holding a valid license as required under this article, or assist or aid and abet any person in the conduct of business under this article without a valid license as required under this article;

(g) fail to make disclosures as required by this article or regulation adopted under this article and any other applicable state or federal law regulation;

(h) fail to comply with this article or rules adopted under this article, or fail to comply with any other state or federal law, rule, or regulation, applicable to any business authorized or conducted under this article;

(i) make, in any manner, any false or deceptive statement or representation, with regard to the rates, points, or other financing terms or conditions for a mortgage transaction, or engage in bait and switch advertising;

(j) negligently make any false statement or knowingly and willfully make any omission of material fact in connection with any information or reports filed with a governmental agency or the NMLSR or in connection with any investigation

conducted by the director or another governmental agency;

(k) make any payment, threat, or promise, directly or indirectly, to any person for the purposes of influencing the independent judgment of the person in connection with a mortgage transaction, or make any payment, threat, or promise, directly or indirectly, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property;

(l) collect, charge, attempt to collect or charge, or use or propose any agreement purporting to collect or charge any fee prohibited by this article;

(m) cause or require a borrower to obtain property insurance coverage in an amount that exceeds the replacement cost of the improvements as established by the property insurer;

(n) fail to account truthfully for money belonging to a party to a mortgage transaction; or

(o) knowingly withhold, abstract, remove, mutilate, destroy, or secrete any books, records, computer records, or other information subject to examination under this article.

SECTION 32. IC 24-4.4-3-105, AS ADDED BY P.L.145-2008, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 105. Except as otherwise provided, IC 4-21.5-3 governs any action taken by the department under this chapter or IC 24-4.4-2-401 through IC 24-4.4-2-405. IC 4-22-2 applies to the adoption of rules by the department under this article. **All proceedings for administrative review under IC 4-21.5-3 or judicial review under IC 4-21.5-5 shall be held in Marion County.** However, if the department determines that an emergency exists, the department may adopt any rules authorized by this article under IC 4-22-2-37.1.

SECTION 33. IC 24-4.4-3-106, AS ADDED BY P.L.145-2008, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 106. (1) After notice and hearing, the department may order a creditor or a person acting on ~~the creditor's behalf~~ **behalf of the creditor** to cease and desist from engaging in violations of this article. In any civil court with jurisdiction:

(a) a respondent aggrieved by an order of the department may obtain judicial review of the order; and

(b) the department may obtain an order of the court for the

enforcement of the department's order.

A proceeding for review or enforcement under this subsection shall be initiated by the filing of a petition in the court. Copies of the petition shall be served upon all parties of record.

(2) Not later than thirty (30) days after service of a petition for review upon the department under subsection (1), or within such further time as the court may allow, the department shall transmit to the court the original or a certified copy of the entire record upon which the order that is the subject of the review is based, including any transcript of testimony, which need not be printed. By stipulation of all parties to the review proceeding, the record may be shortened. After conducting a hearing on the matter, the court may:

(a) reverse or modify the order if the findings of fact of the department are clearly erroneous in view of the reliable, probative, and substantial evidence in the whole record;

(b) grant any temporary relief or restraining order the court considers just; and

(c) enter an order:

(i) enforcing;

(ii) modifying;

(iii) enforcing as modified; or

(iv) setting aside;

in whole or in part, the order of the department; or

(d) enter an order remanding the case to the department for further proceedings.

(3) An objection not urged at the hearing shall not be considered by the court unless the failure to urge the objection is excused for good cause shown. A party may move the court to remand the case to the department in the interest of justice for the purpose of:

(a) adducing additional specified and material evidence; and

(b) seeking a finding upon such evidence;

upon good cause shown for the failure to previously adduce this evidence before the department.

(4) The jurisdiction of the court is exclusive and the court's final judgment or decree is subject to review on appeal in the same manner and form and with the same effect as in appeals from a final judgment or decree. The department's copy of the testimony shall be available at reasonable times to all parties for examination without cost.

(5) A proceeding for review under this section must be initiated not later than thirty (30) days after a copy of the order of the department is received. If a proceeding is not initiated within the time set forth in this subsection, the department may obtain a decree of a civil court with jurisdiction for enforcement of the department's order upon a showing that:

(a) the order was issued in compliance with this section;

(b) a proceeding for review was not initiated within the thirty (30) day period prescribed by this subsection; and

(c) the respondent is subject to the jurisdiction of the court.

(6) With respect to unconscionable agreements or fraudulent or unconscionable conduct by a respondent, the department may not issue an order under this section but may bring a civil action for an injunction under section 111 of this chapter.

SECTION 34. IC 24-4.4-3-108, AS ADDED BY P.L.145-2008, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 108. The department may bring a civil action to restrain a person from violating this article **or other state or federal law, rule, or regulation** and for other appropriate relief.

SECTION 35. IC 24-4.4-3-111, AS ADDED BY P.L.145-2008, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 111. (1) The department may bring a civil action against a creditor or a person acting on ~~the creditor's~~ behalf **of the creditor** to recover a civil penalty for willfully violating this article. If the court finds that the defendant has engaged in a course of repeated and willful violations of this article, the court may assess a civil penalty of not more than five thousand dollars ($5,000). A civil penalty may not be imposed under this subsection:

(a) for violations of this article occurring more than two (2) years before the action is brought; or

(b) for making unconscionable agreements or engaging in a course of fraudulent or unconscionable conduct.

(2) If the department determines, after notice and **an** opportunity ~~for hearing,~~ **to be heard,** that a person has violated this article, the department may, in addition to or instead of all other remedies available under this section, impose upon the person a civil penalty not greater than ten thousand dollars ($10,000) per violation.

(3) If the department determines, after notice and opportunity

to be heard, that a person has willfully violated this article, the department may, in addition to or instead of all other remedies available under this section, order restitution against the person subject to this article for a violation of this article.

SECTION 36. IC 24-4.5-1-102, AS AMENDED BY P.L.182-2009(ss), SECTION 370, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 102. ~~Purposes; Rules of Construction~~ (1) This article shall be liberally construed and applied to promote its underlying purposes and policies.

(2) The underlying purposes and policies of this article are:

(a) to simplify, clarify, and modernize the law governing retail installment sales, consumer credit, small loans, and usury;

(b) to provide rate ceilings to assure an adequate supply of credit to consumers;

(c) to further consumer understanding of the terms of credit transactions and to foster competition among suppliers of consumer credit so that consumers may obtain credit at reasonable cost;

(d) to protect consumer buyers, lessees, and borrowers against unfair practices by some suppliers of consumer credit, having due regard for the interests of legitimate and scrupulous creditors;

(e) to permit and encourage the development of fair and economically sound consumer credit practices;

(f) to conform the regulation of consumer credit transactions to the policies of the Federal Consumer Credit Protection Act; and

(g) to make uniform the law including administrative rules among the various jurisdictions.

(3) A reference to a requirement imposed by this article includes reference to a related rule **or guidance** of the department adopted pursuant to this article.

(4) A reference to a federal law in IC 24-4.5 is a reference to the law in effect December 31, ~~2008.~~ **2009.**

(5) This article applies to a transaction if the director determines that the transaction:

(a) is in substance a disguised consumer credit transaction; or

(b) involves the application of subterfuge for the purpose of avoiding this article.

A determination by the director under this paragraph must be in writing

and shall be delivered to all parties to the transaction. IC 4-21.5-3 applies to a determination made under this paragraph.

(6) The authority of this article remains in effect, whether a licensee, an individual, or a person subject to this article acts or claims to act under any licensing or registration law of this state, or claims to act without such authority.

(7) A violation of a state or federal law, regulation, or rule applicable to consumer credit transactions is a violation of this article.

(8) The department may enforce penalty provisions set forth in 15 U.S.C. 1640 for violations of disclosure requirements applicable to mortgage transactions.

SECTION 37. IC 24-4.5-1-108 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 108. ~~Effect of Article on Powers of Organizations~~ = (1) This article prescribes maximum charges for all creditors, except lessors and those excluded (IC 24-4.5-1-202), extending consumer credit, including consumer credit sales ~~(IC 24-4.5-2-104),~~ **(IC 24-4.5-1-301.5(8)),** consumer loans ~~(IC 24-4.5-3-104),~~ **(IC 24-4.5-1-301.5(9)),** and consumer related sales and loans (IC 24-4.5-2-602 and IC 24-4.5-3-602), and displaces existing limitations on the powers of those creditors based on maximum charges.

(2) With respect to sellers of goods or services, small loan companies, licensed lenders, consumer and sales finance companies, industrial loan and investment companies, and commercial banks and trust companies, this article displaces existing limitations on their powers based solely on amount or duration of credit.

(3) Except as provided in subsection (1) and IC 24-4.6-1, this article does not displace limitations on powers of credit unions, savings banks, savings or building and loan associations, or other thrift institutions whether organized for the profit of shareholders or as mutual organizations.

(4) Except as provided in subsections (1) and (2), this article does not displace:

(a) limitations on powers of ~~supervised financial organizations (IC 24-4.5-1-301)~~ **depository institutions (IC 24-4.5-1-301.5)** with respect to the amount of a loan to a single borrower, the ratio of a loan to the value of collateral, the duration of a loan ~~secured~~

~~by an interest in land,~~ **that is a mortgage transaction,** or other similar restrictions designed to protect deposits; or

(b) limitations on powers an organization is authorized to exercise under the laws of this state or the United States.

SECTION 38. IC 24-4.5-1-109 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 109. All persons licensed on October 1, 1971, under:

(1) IC 24-5-4 (before its repeal on October 1, 1971);

(2) IC 28-7-4 (before its repeal on October 1, 1971);

(3) IC 28-7-2 (before its repeal on October 1, 1971); **or**

(4) IC 28-5-1-4;

are licensed to make supervised loans under this article, **subject to the renewal provisions contained in this article.** All provisions of this article apply to the persons previously licensed or authorized. The department may deliver evidence of licensing to the persons previously licensed or authorized.

SECTION 39. IC 24-4.5-1-202, AS AMENDED BY P.L.181-2006, SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 202. This article does not apply to the following:

(1) Extensions of credit to government or governmental agencies or instrumentalities.

(2) The sale of insurance by an insurer, except as otherwise provided in the chapter on insurance (IC 24-4.5-4).

(3) Transactions under public utility, municipal utility, or common carrier tariffs if a subdivision or agency of this state or of the United States regulates the charges for the services involved, the charges for delayed payment, and any discount allowed for early payment.

(4) The rates and charges and the disclosure of rates and charges of a licensed pawnbroker established in accordance with a statute or ordinance concerning these matters.

(5) A sale of goods, services, or an interest in land in which the goods, services, or interest in land are purchased primarily for a purpose other than a personal, family, or household purpose.

(6) A loan in which the debt is incurred primarily for a purpose other than a personal, family, or household purpose.

(7) An extension of credit primarily for a business, a commercial, or an agricultural purpose.

(8) An installment agreement for the purchase of home fuels in which a finance charge is not imposed.

(9) Loans made, insured, or guaranteed under a program authorized by Title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

(10) Transactions in securities or commodities accounts in which credit is extended by a broker-dealer registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission.

(11) **Except for IC 24-4.5-3-502.1(2), IC 24-4.5-3-503.3, IC 24-4.5-3-505(4), and IC 24-4.5-3-505(5),** a loan made:

(A) in compliance with the requirements of; and

(B) by a community development corporation (as defined in IC 4-4-28-2) acting as a subrecipient of funds from;

the Indiana housing and community development authority established by IC 5-20-1-3.

(12) Except for IC 24-4.5-3-502.1(2), IC 24-4.5-3-503.3, IC 24-4.5-3-505(4), and IC 24-4.5-3-505(5), a subordinate lien mortgage transaction made by an entity that exclusively uses funds provided by the United States Department of Housing and Urban Development under Title 1 of the Housing and Community Development Act of 1974, Public Law 93-383, as amended (42 U.S.C. 5301 et seq).

SECTION 40. IC 24-4.5-1-204 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 204. In examinations or other regulatory activities conducted by the department and related to licensees under this article, the department may cooperate with the Indiana securities commissioner in the regulation of individuals who, in addition to conducting business regulated under this article, also conduct a loan broker business subject to IC 23-2-5.**

SECTION 41. IC 24-4.5-1-301.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 301.5. In addition to definitions appearing in subsequent chapters in this article, the following definitions apply throughout this article:**

(1) "Affiliate", with respect to any person subject to this article, means a person that, directly or indirectly, through one (1) or more

intermediaries:

(a) controls;

(b) is controlled by; or

(c) is under common control with;

the person subject to this article.

(2) "Agreement" means the bargain of the parties in fact as found in their language or by implication from other circumstances, including course of dealing or usage of trade or course of performance.

(3) "Agricultural purpose" means a purpose related to the production, harvest, exhibition, marketing, transportation, processing, or manufacture of agricultural products by a natural person who cultivates, plants, propagates, or nurtures the agricultural products. "Agricultural products" includes agricultural, horticultural, viticultural, and dairy products, livestock, wildlife, poultry, bees, forest products, fish and shellfish, and any and all products raised or produced on farms and any processed or manufactured products thereof.

(4) "Average daily balance" means the sum of each of the daily balances in a billing cycle divided by the number of days in the billing cycle, and if the billing cycle is a month, the creditor may elect to treat the number of days in each billing cycle as thirty (30).

(5) "Closing costs" with respect to a subordinate lien mortgage transaction includes:

(a) fees or premiums for title examination, title insurance, or similar purposes, including surveys;

(b) fees for preparation of a deed, settlement statement, or other documents;

(c) escrows for future payments of taxes and insurance;

(d) fees for notarizing deeds and other documents;

(e) appraisal fees; and

(f) fees for credit reports.

(6) "Conspicuous" refers to a term or clause when it is so written that a reasonable person against whom it is to operate ought to have noticed it.

(7) "Consumer credit" means credit offered or extended to a consumer primarily for a personal, family, or household purpose.

(8) "Consumer credit sale" is a sale of goods, services, or an interest in land in which:

(a) credit is granted by a person who regularly engages as a seller in credit transactions of the same kind;

(b) the buyer is a person other than an organization;

(c) the goods, services, or interest in land are purchased primarily for a personal, family, or household purpose;

(d) either the debt is payable in installments or a finance charge is made; and

(e) with respect to a sale of goods or services, either the amount financed does not exceed fifty thousand dollars ($50,000) or the debt is secured by personal property used or expected to be used as the principal dwelling of the buyer.

Unless the sale is made subject to this article by agreement (IC 24-4.5-2-601), "consumer credit sale" does not include a sale in which the seller allows the buyer to purchase goods or services pursuant to a lender credit card or similar arrangement or except as provided with respect to disclosure (IC 24-4.5-2-301), debtors' remedies (IC 24-4.5-5-201), providing payoff amounts (IC 24-4.5-2-209), and powers and functions of the department (IC 24-4.5-6-101), a sale of an interest in land which is a first lien mortgage transaction.

(9) "Consumer loan" means a loan made by a person regularly engaged in the business of making loans in which:

(a) the debtor is a person other than an organization;

(b) the debt is primarily for a personal, family, or household purpose;

(c) either the debt is payable in installments or a loan finance charge is made; and

(d) either:

(i) the principal does not exceed fifty thousand dollars ($50,000); or

(ii) the debt is secured by an interest in land or by personal property used or expected to be used as the principal dwelling of the debtor.

Except as described in IC 24-4.5-3-105 of this chapter, the term does not include a first lien mortgage transaction.

(10) "Credit" means the right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment.

(11) "Creditor" means a person:

(a) who regularly engages in the extension of consumer credit

that is subject to a credit service charge or loan finance charge, as applicable, or is payable by written agreement in more than four (4) installments (not including a down payment); and

(b) to whom the obligation is initially payable, either on the face of the note or contract, or by agreement when there is not a note or contract.

(12) "Depository institution" has the meaning set forth in the federal Federal Deposit Insurance Act (12 U.S.C. 1813(c)) and includes any credit union.

(13) "Director" means the director of the department of financial institutions or the director's designee.

(14) "Dwelling" means a residential structure that contains one (1) to four (4) units, regardless of whether the structure is attached to real property. The term includes an individual:

(a) condominium unit;

(b) cooperative unit;

(c) mobile home; or

(d) trailer;

that is used as a residence.

(15) "Earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments under a pension or retirement program.

(16) "Employee" means an individual who is paid wages or other compensation by an employer required under federal income tax law to file Form W-2 on behalf of the individual.

(17) "Federal banking agencies" means the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration, and the Federal Deposit Insurance Corporation.

(18) "First lien mortgage transaction" means:

(a) a loan; or

(b) a consumer credit sale;

that is or will be used by the debtor primarily for personal, family, or household purposes and that is secured by a mortgage, a land contract, or another equivalent consensual security interest that constitutes a first lien on a dwelling or residential real estate.

(19) "Immediate family member" means a spouse, child, sibling,

parent, grandparent, or grandchild. The term includes stepparents, stepchildren, stepsiblings, and adoptive relationships.

(20) "Individual" means a natural person.

(21) "Lender credit card or similar arrangement" means an arrangement or loan agreement, other than a seller credit card, pursuant to which a lender gives a debtor the privilege of using a credit card, letter of credit, or other credit confirmation or identification in transactions out of which debt arises:

(a) by the lender's honoring a draft or similar order for the payment of money drawn or accepted by the debtor;

(b) by the lender's payment or agreement to pay the debtor's obligations; or

(c) by the lender's purchase from the obligee of the debtor's obligations.

(22) "Licensee" means a person licensed as a creditor under this article.

(23) "Loan brokerage business" means any activity in which a person, in return for any consideration from any source, procures, attempts to procure, or assists in procuring, a mortgage transaction from a third party or any other person, whether or not the person seeking the mortgage transaction actually obtains the mortgage transaction.

(24) "Loan processor or underwriter" means an individual who performs clerical or support duties as an employee at the direction of, and subject to the supervision and instruction of, a person licensed or exempt from licensing under this article. For purposes of this subsection, the term "clerical or support duties" may include, after the receipt of an application, the following:

(a) The receipt, collection, distribution, and analysis of information common for the processing or underwriting of a mortgage transaction.

(b) The communication with a consumer to obtain the information necessary for the processing or underwriting of a loan, to the extent that the communication does not include:

(i) offering or negotiating loan rates or terms; or

(ii) counseling consumers about mortgage transaction rates or terms.

An individual engaging solely in loan processor or underwriter activities, shall not represent to the public through advertising or

other means of communicating or providing information, including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items, that the individual can or will perform any of the activities of a mortgage loan originator.

(25) "Mortgage loan originator" means an individual who, for compensation or gain, or in the expectation of compensation or gain, engages in taking a mortgage transaction application or in offering or negotiating the terms of a mortgage transaction that either is made under this article or under IC 24-4.5 or is made by an employee of a person licensed or exempt from licensing under this article or under IC 24-4.5, while the employee is engaging in the loan brokerage business. The term does not include the following:

(a) An individual engaged solely as a loan processor or underwriter as long as the individual works exclusively as an employee of a person licensed or exempt from licensing under this article.

(b) Unless the person or entity is compensated by:

(i) a creditor;

(ii) a loan broker;

(iii) other mortgage loan originator; or

(iv) any agent of the creditor, loan broker, or other mortgage loan originator described in items (i) through (iii);

a person or entity that only performs real estate brokerage activities and is licensed or registered in accordance with applicable state law.

(c) A person solely involved in extensions of credit relating to timeshare plans (as defined in 11 U.S.C. 101(53D)).

(26) "Mortgage servicer" means the last person to whom a mortgagor or the mortgagor's successor in interest has been instructed by a mortgagee to send payments on a loan secured by a mortgage.

(27) "Mortgage transaction" means:

(a) a loan; or

(b) a consumer credit sale;

that is or will be used by the debtor primarily for personal, family, or household purposes and that is secured by a mortgage, a land contract, or another equivalent consensual security interest on a

dwelling or residential real estate.

(28) "Nationwide Mortgage Licensing System and Registry" or "NMLSR" means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of creditors and mortgage loan originators.

(29) "Nontraditional mortgage product" means any mortgage product other than a thirty (30) year fixed rate mortgage.

(30) "Official fees" means:

(a) fees and charges prescribed by law which actually are or will be paid to public officials for determining the existence of or for perfecting, releasing, or satisfying a security interest related to a consumer credit sale, consumer lease, or consumer loan; or

(b) premiums payable for insurance in lieu of perfecting a security interest otherwise required by the creditor in connection with the sale, lease, or loan, if the premium does not exceed the fees and charges described in paragraph (a) that would otherwise be payable.

(31) "Organization" means a corporation, a government or governmental subdivision, an agency, a trust, an estate, a partnership, a limited liability company, a cooperative, an association, a joint venture, an unincorporated organization, or any other entity, however organized.

(32) "Payable in installments" means that payment is required or permitted by written agreement to be made in more than four (4) installments not including a down payment.

(33) "Person" includes an individual or an organization.

(34) "Person related to" with respect to an individual means:

(a) the spouse of the individual;

(b) a brother, brother-in-law, sister, or sister-in-law of the individual;

(c) an ancestor or lineal descendants of the individual or the individual's spouse; and

(d) any other relative, by blood or marriage, of the individual or the individual's spouse who shares the same home with the individual.

(35) "Person related to" with respect to an organization means:

(a) a person directly or indirectly controlling, controlled by, or under common control with the organization;

(b) a director, an executive officer, or a manager of the organization or a person performing similar functions with respect to the organization or to a person related to the organization;

(c) the spouse of a person related to the organization; and

(d) a relative by blood or marriage of a person related to the organization who shares the same home with the person.

(36) "Presumed" or "presumption" means that the trier of fact must find the existence of the fact presumed, unless and until evidence is introduced that would support a finding of its nonexistence.

(37) "Real estate brokerage activity" means any activity that involves offering or providing real estate brokerage services to the public, including the following:

(a) Acting as a real estate agent or real estate broker for a buyer, seller, lessor, or lessee of real property.

(b) Bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property.

(c) Negotiating, on behalf of any party, any part of a contract relating to the sale, purchase, lease, rental, or exchange of real property (other than in connection with providing financing with respect to the sale, purchase, lease, rental, or exchange of real property).

(d) Engaging in any activity for which a person is required to be registered or licensed as a real estate agent or real estate broker under any applicable law.

(e) Offering to engage in any activity, or act in any capacity, described in this subsection.

(38) "Registered mortgage loan originator" means any individual who:

(a) meets the definition of mortgage loan originator and is an employee of:

(i) a depository institution;

(ii) a subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency; or

(iii) an institution regulated by the Farm Credit

Administration; and

(b) is registered with, and maintains a unique identifier through, the NMLSR.

(39) "Regularly engaged" means a person who extends consumer credit:

(a) more than twenty-five (25) times; or

(b) at least one (1) time for a mortgage transaction secured by a dwelling;

in the preceding calendar year. If a person did not meet these numerical standards in the preceding calendar year, the numerical standards shall be applied to the current calendar year.

(40) "Residential real estate" means any real property that is located in Indiana and on which there is located or intended to be constructed a dwelling.

(41) "Seller credit card" means an arrangement that gives to a buyer or lessee the privilege of using a credit card, letter of credit, or other credit confirmation or identification for the purpose of purchasing or leasing goods or services from that person, a person related to that person, or from that person and any other person. The term includes a card that is issued by a person, that is in the name of the seller, and that can be used by the buyer or lessee only for purchases or leases at locations of the named seller.

(42) "Subordinate lien mortgage transaction" means:

(a) a loan; or

(b) a consumer credit sale;

that is or will be used by the debtor primarily for personal, family, or household purposes and that is secured by a mortgage, a land contract, or another equivalent consensual security interest that constitutes a subordinate lien on a dwelling or residential real estate.

(43) "Unique identifier" means a number or other identifier assigned by protocols established by the NMLSR.

SECTION 42. IC 24-4.5-2-102 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 102. This chapter applies to consumer credit sales, including home solicitation sales, and consumer leases. In addition, IC 24-4.5-2-601 through IC 24-4.5-2-605 apply to consumer related sales. **Licensing under IC 24-4.5-3-502.1 applies to consumer credit sales that are subordinate lien mortgage transactions.**

SECTION 43. IC 24-4.5-2-202, AS AMENDED BY P.L.217-2007, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 202. (1) In addition to the credit service charge permitted by IC 24-4.5-2-201 through IC 24-4.5-2-210, a seller may contract for and receive any of the following additional charges in connection with a consumer credit sale:

(a) Official fees and taxes.

(b) Charges for insurance as described in subsection (2).

(c) Notwithstanding provisions of the Federal Consumer Credit Protection Act concerning disclosure, charges for other benefits, including insurance, conferred on the buyer, if the benefits are of value to the buyer and if the charges are reasonable in relation to the benefits, and are excluded as permissible additional charges from the credit service charge. With respect to any additional charge not specifically provided for in this section, to be a permitted charge under this subsection the seller must submit a written explanation of the charge to the department indicating how the charge would be assessed and the value or benefit to the buyer. Supporting documents may be required by the department. The department shall determine whether the charge would be of benefit to the buyer and is reasonable in relation to the benefits.

(d) A charge not to exceed twenty-five dollars ($25) for each return by a bank or other depository institution of a dishonored check, negotiable order of withdrawal, or share draft issued by the debtor.

(e) Annual participation fees assessed in connection with a revolving charge account. Annual participation fees must:

(i) be reasonable in amount;

(ii) bear a reasonable relationship to the seller's costs to maintain and monitor the charge account; and

(iii) not be assessed for the purpose of circumvention or evasion of this article, as determined by the department.

(2) An additional charge may be made for insurance written in connection with the sale, other than insurance protecting the seller against the buyer's default or other credit loss:

(a) with respect to insurance against loss of or damage to property, or against liability, if the seller furnishes a clear and specific statement in writing to the buyer, setting forth the cost of

the insurance if obtained from or through the seller and stating that the buyer may choose the person, subject to the seller's reasonable approval, through whom the insurance is to be obtained; and

(b) with respect to consumer credit insurance providing life, accident, unemployment or other loss of income, or health coverage, if the insurance coverage is not a factor in the approval by the seller of the extension of credit and is clearly disclosed in writing to the buyer, and if, in order to obtain the insurance in connection with the extension of credit, the buyer gives specific, affirmative, written indication of the desire to do so after written disclosure of the cost.

(3) With respect to a ~~debt secured by an interest in land,~~ **subordinate lien mortgage transaction,** the following closing costs, if the costs are bona fide, reasonable in amount, and not for the purpose of circumvention or evasion of this article:

(a) fees for title examination, abstract of title, title insurance, property surveys, or similar purposes;

(b) fees for preparing deeds, mortgages, and reconveyance, settlement, and similar documents;

(c) notary and credit report fees;

(d) amounts required to be paid into escrow or trustee accounts if the amounts would not otherwise be included in the loan finance charge; and

(e) appraisal fees.

SECTION 44. IC 24-4.5-2-209, AS AMENDED BY P.L.145-2008, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 209. ~~Right to Prepay~~ - (1) Subject to the provisions on rebate upon prepayment (IC 24-4.5-2-210), the buyer may prepay in full the unpaid balance of a consumer credit sale, refinancing, or consolidation at any time without penalty.

(2) At the time of prepayment of a credit sale not subject to the provisions of rebate upon prepayment (IC 24-4.5-2-210), the total credit service charge, including the prepaid credit service charge, may not exceed the maximum charge allowed under this chapter for the period the credit sale was in effect.

(3) The creditor or mortgage servicer shall provide an accurate payoff of the consumer credit sale to the debtor within ten (10)

calendar days after the creditor or mortgage servicer receives the debtor's written request for the accurate consumer credit sale payoff amount. A creditor or mortgage servicer who fails to provide the accurate consumer credit sale payoff amount is liable for:

(A) one hundred dollars ($100) if an accurate consumer credit sale payoff amount is not provided by the creditor or mortgage servicer within ten (10) calendar days after the creditor or mortgage servicer receives the debtor's first written request; and

(B) the greater of:

(i) one hundred dollars ($100); or

(ii) the credit service charge that accrues on the sale from the date the creditor or mortgage servicer receives the first written request until the date on which the accurate consumer credit sale payoff amount is provided;

if an accurate consumer credit sale payoff amount is not provided by the creditor or mortgage servicer within ten (10) calendar days after the creditor or mortgage servicer receives the debtor's second written request, and the creditor or mortgage servicer failed to comply with clause (A).

A liability under this subsection is an excess charge under IC 24-4.5-5-202.

(4) As used in this subsection, "mortgage transaction" means a consumer credit sale in which a mortgage, deed of trust, or a land contract that constitutes a lien is created or retained against land upon which there is a dwelling that is or will be used by the debtor primarily for personal, family, or household purposes. This subsection applies to a mortgage transaction with respect to which any installment or minimum payment due is delinquent for at least sixty (60) days. The creditor, servicer, or the creditor's agent shall acknowledge a written offer made in connection with a proposed short sale not later than ten (10) business days after the date of the offer if the offer complies with the requirements for a qualified written request set forth in 12 U.S.C. 2605(e)(1)(B). The creditor, servicer, or creditor's agent is required to acknowledge a written offer made in connection with a proposed short sale from a third party acting on behalf of the debtor only if the debtor has provided written authorization for the creditor, servicer, or creditor's agent to do so. Not later than thirty (30) business days after

receipt of an offer under this subsection, the creditor, servicer, or creditor's agent shall respond to the offer with an acceptance or a rejection of the offer. **Payment accepted by a creditor, servicer, or creditor's agent in connection with a short sale constitutes payment in full satisfaction of the mortgage transaction unless the creditor, servicer, or creditor's agent obtains:**

(a) the following statement: "The debtor remains liable for any amount still owed under the mortgage transaction."; or

(b) a statement substantially similar to the statement set forth in subdivision (a);

acknowledged by the initials or signature of the debtor, on or before the date on which the short sale payment is accepted. As used in this subsection, "short sale" means a transaction in which the property that is the subject of a mortgage transaction is sold for an amount that is less than the amount of the debtor's outstanding obligation under the mortgage transaction. A creditor or mortgage servicer that fails to respond to an offer within the time prescribed by this subsection is liable in accordance with 12 U.S.C. 2605(f) in any action brought under that section.

SECTION 45. IC 24-4.5-2-301 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 301. (1) For purposes of this section, "consumer credit sale" includes the sale of an interest in land which is a **first lien** mortgage transaction if the sale is otherwise a consumer credit sale ~~(IC 24-4.5-2-104).~~ **(IC 24-4.5-1-301.5(8)).**

(2) The seller shall disclose to the buyer to whom credit is extended with respect to a consumer credit sale, and the lessor shall disclose to the lessee with respect to a consumer lease, the information required by the Federal Consumer Credit Protection Act.

(3) For purposes of subsection (2), disclosures shall not be required on a consumer credit sale if the transaction is exempt from the Federal Consumer Credit Protection Act.

SECTION 46. IC 24-4.5-2-407 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 407. (1) With respect to a consumer credit sale, a seller may take a security interest in the property sold. In addition, a seller may take a security interest in goods upon which services are performed or in which goods sold are installed or to which they are annexed, or in land to which the goods are affixed

or which is maintained, repaired or improved as a result of the sale of the goods or services, if, in the case of a ~~security interest in land~~ **subordinate lien mortgage transaction,** the debt secured is one thousand dollars ($1,000) or more, or, in the case of a security interest in goods the debt secured is three hundred dollars ($300) or more. Except as provided with respect to cross-collateral (IC 24-4.5-2-408), a seller may not otherwise take a security interest in property of the buyer to secure the debt arising from a consumer credit sale.

(2) With respect to a consumer lease, a lessor may not take a security interest in property of the lessee to secure the debt arising from the lease.

(3) A security interest taken in violation of this section is void.

(4) The amounts of one thousand dollars ($1,000) and three hundred dollars ($300) in subsection (1) are subject to change pursuant to the provisions on adjustment of dollar amounts (IC 24-4.5-1-106).

SECTION 47. IC 24-4.5-3-102 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 102. This chapter applies to consumer loans, including ~~regulated and~~ supervised loans. In addition, IC 24-4.5-3-601 through IC 24-4.5-3-605 apply to consumer related loans. **The licensing provisions of this chapter apply to consumer credit sales under IC 24-4.5-2 that are subordinate lien mortgage transactions.**

SECTION 48. IC 24-4.5-3-105, AS AMENDED BY P.L.90-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 105. Unless the loan is made subject to IC 24-4.5-3 by agreement (IC 24-4.5-3-601), and except with respect to disclosure (IC 24-4.5-3-301), debtors' remedies (IC 24-4.5-5-201), providing payoff amounts (IC 24-4.5-3-209), **providing property tax information (IC 24-4.5-3-701),** and powers and functions of the department (IC 24-4.5-6-104), "consumer loan" does not include a ~~loan primarily secured by an interest in land which is a~~ **first lien** mortgage transaction. ~~(as defined in IC 24-4.5-1-301(17)).~~

SECTION 49. IC 24-4.5-3-209, AS AMENDED BY P.L.145-2008, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 209. Right to Prepay - (1) Subject to the provisions on rebate upon prepayment (IC 24-4.5-3-210), the debtor may prepay in full the unpaid balance of a consumer loan, refinancing, or consolidation at any time without penalty. With respect to a

consumer loan that is primarily secured by an interest in land, a lender may contract for a penalty for prepayment of the loan in full, not to exceed two percent (2%) of any amount prepaid within sixty (60) days of the date of the prepayment in full, after deducting all refunds and rebates as of the date of the prepayment. However, the penalty may not be imposed:

(a) if the loan is refinanced or consolidated with the same creditor;

(b) for prepayment by proceeds of any insurance or acceleration after default; or

(c) after three (3) years from the contract date.

(2) At the time of prepayment of a consumer loan not subject to the provisions of rebate upon prepayment (IC 24-4.5-3-210), the total finance charge, including the prepaid finance charge but excluding the loan origination fee allowed under IC 24-4.5-3-201, may not exceed the maximum charge allowed under this chapter for the period the loan was in effect. For the purposes of determining compliance with this subsection, the total finance charge does not include the following:

(a) The loan origination fee allowed under IC 24-4.5-3-201.

(b) The debtor paid mortgage broker fee, if any, paid to a person who does not control, is not controlled by, or is not under common control with, the creditor holding the loan at the time a consumer loan is prepaid.

(3) The creditor or mortgage servicer shall provide an accurate payoff of the consumer loan to the debtor within ten (10) calendar days after the creditor or mortgage servicer receives the debtor's written request for the accurate consumer loan payoff amount. A creditor or mortgage servicer who fails to provide the accurate consumer loan payoff amount is liable for:

(a) one hundred dollars ($100) if an accurate consumer loan payoff amount is not provided by the creditor or mortgage servicer within ten (10) calendar days after the creditor or mortgage servicer receives the debtor's first written request; and

(b) the greater of:

(i) one hundred dollars ($100); or

(ii) the loan finance charge that accrues on the loan from the date the creditor or mortgage servicer receives the first written request until the date on which the accurate consumer loan

payoff amount is provided;

if an accurate consumer loan payoff amount is not provided by the creditor or mortgage servicer within ten (10) calendar days after the creditor or mortgage servicer receives the debtor's second written request, and the creditor or mortgage servicer failed to comply with subdivision (a).

A liability under this subsection is an excess charge under IC 24-4.5-5-202.

(4) As used in this subsection, "mortgage transaction" means a consumer credit loan in which a mortgage, deed of trust, or a land contract that constitutes a lien is created or retained against land upon which there is a dwelling that is or will be used by the debtor primarily for personal, family, or household purposes. This subsection applies to a mortgage transaction with respect to which any installment or minimum payment due is delinquent for at least sixty (60) days. The creditor, servicer, or the creditor's agent shall acknowledge a written offer made in connection with a proposed short sale not later than ten (10) business days after the date of the offer if the offer complies with the requirements for a qualified written request set forth in 12 U.S.C. 2605(e)(1)(B). The creditor, servicer, or creditor's agent is required to acknowledge a written offer made in connection with a proposed short sale from a third party acting on behalf of the debtor only if the debtor has provided written authorization for the creditor, servicer, or creditor's agent to do so. Not later than thirty (30) business days after receipt of an offer under this subsection, the creditor, servicer, or creditor's agent shall respond to the offer with an acceptance or a rejection of the offer. **Payment accepted by a creditor, servicer, or creditor's agent in connection with a short sale constitutes payment in full satisfaction of the mortgage transaction unless the creditor, servicer, or creditor's agent obtains:**

(a) the following statement: "The debtor remains liable for any amount still owed under the mortgage transaction."; or

(b) a statement substantially similar to the statement set forth in subdivision (a);

acknowledged by the initials or signature of the debtor, on or before the date on which the short sale payment is accepted. As used in this subsection, "short sale" means a transaction in which the property that is the subject of a mortgage transaction is sold for an

amount that is less than the amount of the debtor's outstanding obligation under the mortgage transaction. A creditor or mortgage servicer that fails to respond to an offer within the time prescribed by this subsection is liable in accordance with 12 U.S.C. 2605(f) in any action brought under that section.

SECTION 50. IC 24-4.5-3-301 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 301. (1) For the purposes of this section, "consumer loan" includes a loan ~~secured primarily by an interest in land which is a~~ **that is a first lien** mortgage transaction if the loan is otherwise a consumer loan ~~(IC 24-4.5-3-104).~~ **(IC 24-4.5-1-301.5(9)).**

(2) The lender shall disclose to the debtor to whom credit is extended with respect to a consumer loan the information required by the Federal Consumer Credit Protection Act.

(3) For purposes of subsection (2), disclosures shall not be required on a consumer loan if the transaction is exempt from the Federal Consumer Credit Protection Act.

SECTION 51. IC 24-4.5-3-502, AS AMENDED BY P.L.57-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 502. ~~Authority to Make Consumer Loans - Unless~~ **(1)** A person **that** is a: ~~supervised financial organization or a collection agency licensed under IC 25-11-1 or has first obtained a license from the department, the person shall not regularly engage in this state in any of the following:~~

~~(1) Making consumer loans.~~

~~(2) Taking assignments of consumer loans.~~

~~(3) Undertaking direct collection of payments from or enforcement of rights against debtors arising from consumer loans. However, a person may collect and enforce for three (3) months without a license if the person promptly applies for a license and the person's application has not been denied.~~

(a) depository institution;

(b) subsidiary that is owned and controlled by a depository institution; or

(c) credit union service organization;

may engage in the making of consumer loans that are not mortgage transactions without obtaining a license under this article.

(2) A collection agency licensed under IC 25-11-1 may engage

in:

(a) taking assignments of consumer loans in Indiana; and

(b) undertaking direct collection of payments from or enforcement of rights in Indiana against debtors arising from consumer loans;

without obtaining a license under this article.

(3) A person that does not qualify under subsection (1) or (2) shall acquire and retain a license under this article in order to regularly engage in Indiana in the following actions with respect to consumer loans that are not mortgage transactions:

(a) The making of consumer loans.

(b) Taking assignments of consumer loans.

(c) Undertaking direct collection of payments from or enforcement of rights against debtors arising from consumer loans.

(4) A separate license under this article is required for each legal entity that engages in Indiana in any activity described in subsection (3). However, a separate license under this article is not required for each branch of a legal entity licensed under this article to perform an activity described in subsection (3).

SECTION 52. IC 24-4.5-3-502.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 502.1. (1) Unless a person:**

(a) is a depository institution;

(b) is a subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency;

(c) is an institution regulated by the Farm Credit Administration; or

(d) has first obtained, and subsequently retains, a license from the department under this article;

the person shall not regularly engage in Indiana as a creditor in subordinate lien mortgage transactions, take assignments in Indiana of subordinate lien mortgage transactions, or undertake in the direct collection of payments from or enforcement of rights against debtors in Indiana arising from subordinate lien mortgage transactions.

(2) Each:

(a) creditor licensed by the department under this article; and

(b) entity exempt from licensing under this article that employs a licensed mortgage loan originator;

shall register with and maintain a valid unique identifier issued by the NMLSR. Each licensed mortgage loan originator must be employed by, and associated with, a licensed creditor or an exempt entity described under subdivision (b) in the NMLSR in order to originate loans.

(3) Applicants for a license must apply for a license under this chapter in a form prescribed by the director. Each form:

(a) must contain content as set forth by rule, instruction, or procedure of the director; and

(b) may be changed or updated as necessary by the director to carry out the purposes of this article.

(4) To fulfill the purposes of this article, the director may establish relationships or contracts with the NMLSR or other entities designated by the NMLSR to:

(a) collect and maintain records; and

(b) process transaction fees or other fees;

related to licensees or other persons subject to this article.

(5) For the purpose of participating in the NMLSR, the director or the department may:

(a) waive or modify, in whole or in part, by rule, regulation, or order, any or all of the requirements of this article; and

(b) establish new requirements as reasonably necessary to participate in the NMLSR.

SECTION 53. IC 24-4.5-3-503, AS AMENDED BY P.L.90-2008, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 503. ~~License to Make Consumer Loans—~~ (1) The department shall receive and act on all applications for licenses to make consumer loans. Applications must be as prescribed by the director of the department of financial institutions.

(2) A license shall not be issued unless the department finds that the **professional training and experience,** financial responsibility, character, and fitness of:

(a) the applicant and any significant affiliate of the applicant;

(b) each executive officer, director, or manager of the applicant, or any other individual having a similar status or performing a similar function for the applicant; and

(c) if known, each person directly or indirectly owning of record or owning beneficially at least ten percent (10%) of the outstanding shares of any class of equity security of the applicant;

are such as to warrant belief that the business will be operated honestly and fairly within the purposes of this article.

(3) The director is entitled to request evidence of compliance with this section at:

(a) the time of application;

(b) the time of renewal of a license; or

(c) any other time considered necessary by the director.

(4) Evidence of compliance with this section **concerning a person licensed under section 502 of this chapter** may include **and under section 502.1 of this chapter must include:**

(a) criminal background checks **as described in section 503.1 of this chapter,** including a national criminal history background check (as defined in IC 10-13-3-12) by the Federal Bureau of Investigation, for any individual described in subsection (2);

(b) credit histories **as described in section 503.2 of this chapter;** ~~and~~

(c) surety bond requirements as described in section 503.3 of this chapter;

(d) a review of licensure actions in Indiana and other states; and

~~(c)~~ **(e)** other background checks considered necessary by the director.

~~If the director requests a national criminal history background check under subdivision (a) for an individual described in subsection (2), the director shall require the individual to submit fingerprints to the department or to the state police department, as appropriate, at the time evidence of compliance is requested under subsection (3). The individual to whom the request is made shall pay any fees or costs associated with the fingerprints and the national criminal history background check. The national criminal history background check may be used by the director to determine the individual's compliance with this section. The director or the department may not release the results of the national criminal history background check to any private entity.~~

(5) For purposes of this section and in order to reduce the points

of contact that the director may have to maintain under this section, the director may use the NMLSR as a channeling agent for requesting and distributing information to and from any source as directed by the director.

~~(5)~~ **(6)** The department may deny an application under this section if the director of the department determines that the application was submitted for the benefit of, or on behalf of, a person who does not qualify for a license.

~~(6)~~ **(7)** Upon written request, the applicant is entitled to a hearing on the question of the qualifications of the applicant for a license as provided in IC 4-21.5.

~~(7)~~ **(8)** The applicant shall pay the following fees at the time designated by the department:

(a) An initial license fee as established by the department under IC 28-11-3-5.

(b) ~~An initial investigation fee~~ **Examination fees** as established by the department under IC 28-11-3-5.

(c) An annual renewal fee as established by the department under IC 28-11-3-5.

~~(8)~~ **(9)** A fee as established by the department under IC 28-11-3-5 may be charged for each day ~~the annual renewal fee~~ **a fee** under ~~subsection (7)(c) is~~ **subsection (8)(b) or (8)(c) is** delinquent.

~~(9) The applicant may deduct the fees required under subsection (7)(a) through (7)(c) from the filing fees paid under IC 24-4.5-6-203.~~

(10) The licensee may deduct the fees required under subsection (8)(a) and (8)(c) from the filing fees paid under IC 24-4.5-6-203.

~~(10)~~ **(11)** A ~~loan~~ license issued under this section is not assignable or transferable.

~~(11) Subject to subsection (12), the director may designate an automated central licensing system and repository, operated by a third party, to serve as the sole entity responsible for:~~

~~(a) processing applications and renewals for licenses under this section; and~~

~~(b) performing other services that the director determines are necessary for the orderly administration of the department's licensing system.~~

~~(12) The director's authority to designate an automated central licensing system and repository under subsection (11) is subject to the~~

~~following:~~

~~(a) The director or the director's designee may not require any person exempt from licensure under this article, or any employee or agent of an exempt person, to:~~

~~(i) submit information to; or~~

~~(ii) participate in;~~

~~the automated central licensing system and repository.~~

~~(b) Information stored in the automated central licensing system and repository is subject to the confidentiality provisions of IC 28-1-2-30 and IC 5-14-3. A person may not:~~

~~(i) obtain information from the automated central licensing system and repository, unless the person is authorized to do so by statute;~~

~~(ii) initiate any civil action based on information obtained from the automated central licensing system and repository if the information is not otherwise available to the person under any other state law; or~~

~~(iii) initiate any civil action based on information obtained from the automated central licensing system and repository if the person could not have initiated the action based on information otherwise available to the person under any other state law.~~

~~(c) Documents, materials, and other forms of information in the control or possession of the automated central licensing system and repository that are confidential under IC 28-1-2-30 and that are:~~

~~(i) furnished by the director, the director's designee, or a licensee; or~~

~~(ii) otherwise obtained by the automated central licensing system and repository;~~

~~are confidential and privileged by law and are not subject to inspection under IC 5-14-3, subject to subpoena, subject to discovery, or admissible in evidence in any civil action. However, the director or the director's designee may use the documents, materials, or other information available to the director or the director's designee in furtherance of any action brought in connection with the director's duties under this article.~~

~~(d) Disclosure of documents, materials, and information:~~

~~(i) to the director or the director's designee; or~~

~~(ii) by the director or the director's designee;~~

~~under this subsection does not result in a waiver of any applicable privilege or claim of confidentiality with respect to the documents, materials, or information.~~

~~(e) Information provided to the automated central licensing system and repository is subject to IC 4-1-11.~~

~~(f) This subsection does not limit or impair a person's right to:~~

~~(i) obtain information;~~

~~(ii) use information as evidence in a civil action or proceeding; or~~

~~(iii) use information to initiate a civil action or proceeding;~~

~~if the information may be obtained from the director or the director's designee under any law.~~

~~(g) The director may require a licensee required to submit information to the automated central licensing system and repository to pay a processing fee considered reasonable by the director.~~

SECTION 54. IC 24-4.5-3-503.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 503.1. (1) When the director requests a national criminal history background check under section 503(4)(a) of this chapter for an individual described in section 503(2) of this chapter, the director shall require the individual to submit fingerprints to the department, state police department, or NMLSR, as directed, at the time evidence of compliance is requested under section 503(3) of this chapter. The individual to whom the request is made shall pay any fees or costs associated with processing and evaluating the fingerprints and the national criminal history background check. The national criminal history background check may be used by the director to determine the individual's compliance with this section. The director or the department may not release the results of the national criminal history background check to any private entity.**

(2) For purposes of this section and in order to reduce the points of contact that the Federal Bureau of Investigation may have to maintain for purposes of this section, the director may use the NMLSR as a channeling agent for requesting information from

and distributing information to the United States Department of Justice or any governmental agency.

SECTION 55. IC 24-4.5-3-503.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 503.2. (1) If the director requests a credit report for an individual described in section 503(2) of this chapter, the individual to whom the request is made shall pay any fees or costs associated with procuring the report.**

(2) The individual must submit personal history and experience information in a form prescribed by the NMLSR, including the submission of authorization for the NMLSR or the director to obtain an independent credit report obtained from a consumer reporting agency described in Section 603(p) of the Fair Credit Reporting Act (15 U.S.C. 1681a(p)).

(3) The director may consider one (1) or more of the following when determining if an individual has demonstrated financial responsibility:

(a) Bankruptcies filed within the last ten (10) years.

(b) Current outstanding judgments, except judgments solely as a result of medical expenses.

(c) Current outstanding tax liens or other government liens or filings.

(d) Foreclosures within the past three (3) years.

(e) A pattern of serious delinquent accounts within the past three (3) years.

SECTION 56. IC 24-4.5-3-503.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 503.3. (1) Each:**

(a) creditor licensed by the department under this article; and

(b) entity exempt from licensing under this article that employs a licensed mortgage loan originator;

must be covered by a surety bond in accordance with this section.

(2) A surety bond:

(a) must provide coverage for:

(i) each creditor described in subsection (1)(a); and

(ii) each exempt entity described in subsection (1)(b);

in an amount as prescribed in subsection (4); and

(b) must be in a form as prescribed by the director.

(3) The director may adopt rules or guidance documents with

respect to the requirements for surety bonds as necessary to accomplish the purposes of this article.

(4) The penal sum of the surety bond shall be maintained in an amount that reflects the dollar amount of mortgage transactions originated as determined by the director.

(5) If an action is commenced on the surety bond of a creditor or an entity exempt from licensing under this article as described in subsection (1), the director may require the filing of a new bond.

(6) A creditor or an entity exempt from licensing under this article as described in subsection (1) shall file a new surety bond immediately upon recovery of any action on the surety bond required under this section.

SECTION 57. IC 24-4.5-3-503.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 503.4. (1) Subject to subsection (6), the director shall designate the NMLSR to serve as the sole entity responsible for:**

(a) processing applications and renewals for licenses under section 502.1 of this chapter;

(b) issuing unique identifiers for licensees under section 502.1 of this chapter and for entities exempt from licensing under this article that employ licensed mortgage loan originators; and

(c) performing other services that the director determines necessary for the orderly administration of the department's licensing system under section 502.1 of this chapter.

(2) Subject to the confidentiality provisions contained in IC 5-14-3, this section, and IC 28-1-2-30, the director shall regularly report significant or recurring violations of this article related to subordinate lien mortgage transactions to the NMLSR.

(3) Subject to the confidentiality provisions contained in IC 5-14-3, this section, and IC 28-1-2-30, the director may report complaints received regarding licensees under this article related to subordinate lien mortgage transactions to the NMLSR.

(4) The director may report publicly adjudicated licensure actions against licensees under section 502.1 of this chapter to the NMLSR.

(5) The director shall establish a process in which persons licensed in accordance with section 502.1 of this chapter may

challenge information reported to the NMLSR by the department.

(6) The director's authority to designate the NMLSR under subsection (1) is subject to the following:

(a) Information stored in the NMLSR is subject to the confidentiality provisions of IC 28-1-2-30 and IC 5-14-3. A person may not:

(i) obtain information from the NMLSR unless the person is authorized to do so by statute;

(ii) initiate any civil action based on information obtained from the NMLSR if the information is not otherwise available to the person under any other state law; or

(iii) initiate any civil action based on information obtained from the NMLSR if the person could not have initiated the action based on information otherwise available to the person under any other state law.

(b) Documents, materials, and other forms of information in the control or possession of the NMLSR that are confidential under IC 28-1-2-30 and that are:

(i) furnished by the director, the director's designee, or a licensee; or

(ii) otherwise obtained by the NMLSR;

are confidential and privileged by law and are not subject to inspection under IC 5-14-3, subject to subpoena, subject to discovery, or admissible in evidence in any civil action. However, the director may use the documents, materials, or other information available to the director in furtherance of any action brought in connection with the director's duties under this article.

(c) Disclosure of documents, materials, and information:

(i) to the director; or

(ii) by the director;

under this subsection does not result in a waiver of any applicable privilege or claim of confidentiality with respect to the documents, materials, or information.

(d) Information provided to the NMLSR is subject to IC 4-1-11.

(e) This subsection does not limit or impair a person's right to:

(i) obtain information;

(ii) use information as evidence in a civil action or proceeding; or

(iii) use information to initiate a civil action or proceeding;

if the information may be obtained from the director or the director's designee under any law.

(f) Except as otherwise provided in the federal Housing and Economic Recovery Act of 2008, Public Law 110-289, Section 1512, the requirements under any federal law or IC 5-14-3 regarding the privacy or confidentiality of any information or material provided to the NMLSR, and any privilege arising under federal or state law, including the rules of any federal or state court, with respect to the information or material, continue to apply to the information or material after the information or material has been disclosed to the NMLSR. The information and material may be shared with all state and federal regulatory officials with mortgage industry oversight authority without the loss of privilege or the loss of confidentiality protections provided by federal law or IC 5-14-3.

(g) For purposes of this section, the director may enter agreements or sharing arrangements with other governmental agencies, the Conference of State Bank Supervisors, the American Association of Residential Mortgage Regulators, or other associations representing governmental agencies as established by rule or order of the director.

(h) Information or material that is subject to a privilege or confidentiality under subdivision (f) is not subject to:

(i) disclosure under any federal or state law governing the disclosure to the public of information held by an officer or an agency of the federal government or the respective state; or

(ii) subpoena, discovery, or admission into evidence, in any private civil action or administrative process, unless with respect to any privilege held by the NMLSR with respect to the information or material, the person to whom the information or material pertains waives, in whole or in part, in the discretion of the person, that privilege.

(i) Any provision of IC 5-14-3 that concerns the disclosure of:

(i) confidential supervisory information; or

(ii) any information or material described in subdivision (f);

and that is inconsistent with subdivision (f) is superseded by this section.

(j) This section does not apply with respect to information or material that concerns the employment history of, and publicly adjudicated disciplinary and enforcement actions against, a person licensed in accordance with section 502.1 of this chapter and described in section 503(2) of this chapter and that is included in the NMLSR for access by the public.

(k) The director may require a licensee required to submit information to the NMLSR to pay a processing fee considered reasonable by the director. In determining whether an NMLSR processing fee is reasonable, the director shall:

(i) require review of; and

(ii) make available;

the audited financial statements of the NMLSR.

SECTION 58. IC 24-4.5-3-503.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 503.6. (1) A license issued under this article must be renewed not later than December 31 of each calendar year. A license issued under section 502.1 of this chapter must be renewed through the NMLSR. The minimum standards for license renewal for a creditor include the following:**

(a) If the creditor is licensed in accordance with section 502 of this chapter, the creditor has:

(i) paid all required fees for renewal of the license; and

(ii) filed all reports and information required by the director.

(b) If the creditor is licensed under section 502.1 of this chapter, the following:

(i) The creditor has continued to meet the surety bond requirement under section 503.3 of this chapter.

(ii) The creditor has filed the creditor's annual call report in a manner that satisfies section 505(4) of this chapter.

(iii) The creditor has paid all required fees for renewal of the license.

(iv) The creditor and individuals described in section 503(2) of this chapter continue to meet all the standards

for licensing established under section 503 of this chapter.

(v) The creditor has filed all reports and information required by the director.

(2) A license issued by the department authorizing a person to engage as a creditor in consumer loans or consumer credit sales under this article may be suspended by the department if the person fails to:

(a) file any renewal form required by the department; or

(b) pay any license renewal fee described under section 503(8)(c) of this chapter;

not later than sixty (60) days after the due date.

(3) A person whose license is suspended under this section may do either of the following:

(a) Pay all delinquent fees and apply for reinstatement of the license.

(b) Appeal the suspension to the department for an administrative review under IC 4-21.5-3. The license remains in force pending the decision resulting from the hearing under IC 4-21.5-3.

SECTION 59. IC 24-4.5-3-504, AS AMENDED BY P.L.90-2008, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 504. ~~Revocation or Suspension of License—~~ (1) The department may issue to a person licensed to make consumer loans **or engage in consumer credit sales that are mortgage transactions** an order to show cause why the license should not be revoked or suspended for a period determined by the department. The order shall state the place and time for a meeting with the department that is no less than ten (10) days from the date of the order. After the meeting, the department shall revoke or suspend the license if the department finds that:

(a) the licensee has repeatedly and willfully violated this article or any rule, ~~or~~ order, **or guidance document** lawfully made pursuant to this article;

(b) the licensee has repeatedly and willfully violated **any other state or** federal consumer credit laws, ~~or~~ **rules, or regulations;**

(c) the licensee does not meet the licensing qualifications under section 503 of this chapter; or

~~(c)~~ **(d)** facts or conditions exist which would clearly have justified

the department in refusing to grant a license had these facts or conditions been known to exist at the time the application for the license was made.

(2) Except as provided in ~~section 503.5~~ **section 503.6(2) and 503.6(3)** of this chapter, no revocation or suspension of a license is lawful unless prior to institution of proceedings by the department notice is given to the licensee of the facts or conduct which warrant the intended action, and the licensee is given an opportunity to show compliance with all lawful requirements for retention of the license.

(3) If the department finds that probable cause for revocation of a license exists and that enforcement of this article requires immediate suspension of the license pending investigation, the department may, after a hearing upon five (5) days written notice to the licensee, enter an order suspending the license for not more than thirty (30) days.

(4) Whenever the department revokes or suspends a license, the department shall enter an order to that effect and forthwith notify the licensee of the revocation or suspension. Within five (5) days after the entry of the order the department shall deliver to the licensee a copy of the order and the findings supporting the order.

(5) Any person holding a license to make consumer loans may relinquish the license by notifying the department in writing of its relinquishment, but this relinquishment shall not affect the person's liability for acts previously committed.

(6) If the director determines it is in the public interest, the director may pursue revocation of a license of a licensee that has relinquished the license under subsection (5).

~~(6)~~ **(7)** No revocation, suspension, or relinquishment of a license shall impair or affect the obligation of any preexisting lawful contract between the licensee and any debtor.

~~(7)~~ **(8)** The department may reinstate a license **or** terminate a suspension ~~or grant a new~~ **of a** license to a person whose license has been revoked or suspended if **the director determines that, at the time the determination is made,** no fact or condition then exists which clearly would have justified the department in refusing to ~~grant~~ **reinstate** a license.

~~(8)~~ **(9)** If the director:

(a) has just cause to believe an emergency exists from which it is necessary to protect the interests of the public; or

(b) determines that the license was obtained for the benefit of, or on behalf of, a person who does not qualify for a license;

the director may proceed with the revocation of the license under IC 4-21.5-3-6.

SECTION 60. IC 24-4.5-3-505, AS AMENDED BY P.L.90-2008, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 505. ~~Records; Annual Reports—~~(1) Every ~~licensee~~ **creditor required to be licensed under this article** shall maintain records in conformity with generally accepted accounting principles and practices in a manner that will enable the department to determine whether the licensee is complying with the provisions of this article. The record keeping system of a licensee shall be sufficient if the licensee makes the required information reasonably available. The department shall determine the sufficiency of the records and whether the licensee has made the required information reasonably available. The department shall be given free access to the records wherever located. The records pertaining to any loan shall be retained for two (2) years after making the final entry relating to the loan, but in the case of a revolving loan account the two (2) years is measured from the date of each entry. A person licensed or required to be licensed under this chapter is subject to IC 28-1-2-30.5 with respect to any records maintained by the person.

(2) The unique identifier of any person originating a mortgage transaction must be clearly shown on all mortgage transaction application forms and any other documents as required by the director.

(3) Every licensee that engages in mortgage transactions shall use automated examination and regulatory software designated by the director, including third party software. Use of the software consistent with guidance documents and policies issued by the director is not a violation of IC 28-1-2-30.

(4) Each:

(a) creditor that is licensed by the department under this article and that engages in mortgage transactions; and

(b) entity that is exempt from licensing under this article and that employs one (1) or more licensed mortgage loan originators;

shall submit to the NMLSR a call report, which must be in the

form and contain information the NMLSR requires.

~~(2)~~ **(5)** Every ~~licensee~~ **creditor required to be licensed under this article** shall file with the department a composite report as required by the department, but not more frequently than annually, in the form prescribed by the department relating to all consumer loans made by the licensee. The department shall consult with comparable officials in other states for the purpose of making the kinds of information required in the reports uniform among the states. Information contained in the reports shall be confidential and may be published only in composite form. The department may impose a fee in an amount fixed by the department under IC 28-11-3-5 for each day that a ~~licensee~~ **creditor** fails to file the report required by this subsection.

~~(3)~~ **(6)** ~~Every licensee~~ **A creditor required to be licensed under this article** shall file notification with the department if the licensee:

(a) has a change in name, address, or principals;

(b) opens a new branch, closes an existing branch, or relocates an existing branch;

(c) files for bankruptcy or reorganization; or

(d) is subject to revocation or suspension proceedings by a state or governmental authority with regard to the licensee's activities;

not later than thirty (30) days after the date of the event described in this subsection.

~~(4)~~ **(7)** Every licensee shall file notification with the department if ~~an individual described in section 503(2)(b) or 503(2)(c) of this chapter:~~ **the licensee or any director, executive officer, or manager of the licensee** ~~(a) is under indictment for a felony involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction; or (b)~~ has been convicted of or pleaded guilty or nolo contendere to a felony ~~involving fraud, deceit, or misrepresentation~~ under the laws of Indiana or any other jurisdiction. **The licensee shall file the notification required by this subsection** not later than thirty (30) days after the date of the event described in this subsection.

SECTION 61. IC 24-4.5-4-102 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 102. (1) Except as provided in subsection (2), this chapter applies to insurance provided or to be provided in relation to a consumer credit sale ~~(IC 24-4.5-2-104),~~ **(IC 24-4.5-1-301.5(8)),** a consumer lease (IC 24-4.5-2-106), or a consumer loan ~~(IC 24-4.5-3-104).~~

(IC 24-4.5-1-301.5(9)).

(2) The provision on cancellation by a creditor (IC 24-4.5-4-304) applies to loans the primary purpose of which is the financing of insurance. No other provision of this chapter applies to insurance so financed.

(3) This chapter supplements and does not repeal IC 27-8-4 (the credit insurance act). The provisions of this article concerning administrative controls, liabilities, and penalties do not apply to persons acting as insurers, and the similar provisions of IC 27-8-4 do not apply to creditors and debtors.

SECTION 62. IC 24-4.5-5-201 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 201. For purposes of the provisions on civil liability for violation of disclosure provisions (IC 24-4.5-5-203) and on debtor's right to rescind certain transactions (IC 24-4.5-5-204):

(1) consumer credit sale includes a sale ~~of an interest in land which is a mortgage transaction~~ **that is a first lien mortgage transaction** if the sale is otherwise a consumer credit sale; ~~(IC 24-4.5-2-104),~~ and

(2) consumer loan includes a loan ~~primarily secured by an interest in land which is a mortgage transaction~~ **that is a first lien mortgage transaction** if the loan is otherwise a consumer loan. ~~(IC 24-4.5-3-105).~~

SECTION 63. IC 24-4.5-5-301 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 301. (1) A lender who knowingly makes charges in excess of those permitted by the provisions of this article commits a Class A misdemeanor.

(2) A person ~~other than a supervised financial organization,~~ who knowingly engages in the business of making consumer loans without a license in violation of the provisions of this article applying to authority to make consumer loans (IC 24-4.5-3-502 **and IC 24-4.5-3-502.1)** commits a Class A misdemeanor.

(3) A person who knowingly:

(a) engages in the business of making consumer credit sales, consumer leases, or consumer loans, or of taking assignments of rights against debtors; and

(b) undertakes direct collection of payments or enforcement of these rights, without complying with the provisions of this article

concerning notification (IC 24-4.5-6-202) or payment of fees (IC 24-4.5-6-203);

commits a Class A infraction.

SECTION 64. IC 24-4.5-6-102 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 102. (a) IC 24-4.5-6-101 through IC 24-4.5-6-117 apply to persons who in this state:

(1) make or solicit consumer credit sales, consumer leases, consumer loans, consumer related sales (IC 24-4.5-2-602) and consumer related loans (IC 24-4.5-3-602); or

(2) directly collect payments from or enforce rights against debtors arising from sales, leases, or loans specified in subsection (1), wherever they are made.

(b) For purposes of IC 24-4.5-6-101 through IC 24-4.5-6-117:

(1) "Consumer credit sale" includes a sale ~~of an interest in land which is a mortgage transaction~~ **that is a first lien mortgage transaction** if the sale is otherwise a consumer credit sale.

(2) "Consumer loan" includes a loan ~~secured by an interest in land which is a mortgage transaction~~ **that is a first lien mortgage transaction** if the loan is otherwise a consumer loan.

SECTION 65. IC 24-4.5-6-105 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 105. ~~Administrative Powers with Respect to Supervised Financial Organizations —~~ (1) With respect to ~~supervised financial organizations,~~ **depository institutions,** the powers of examination and investigation ~~(IC 24-4.5-3-506 and~~ (IC 24-4.5-6-106) and administrative enforcement (IC 24-4.5-6-108) shall be exercised by the department. The department may, at its discretion, accept any examination of any financial institution made by a federal authority in lieu of the examination made under the provisions of this article. All other powers of the department under this article may be exercised by ~~him~~ **the director** with respect to a ~~supervised financial organization.~~ **depository institution.**

(2) If the department receives a complaint or other information concerning noncompliance with this article by a ~~supervised financial organization, he~~ **depository institution, the director** shall inform the official or agency having supervisory authority over the organization concerned. The department may request information about ~~supervised~~

~~financial organizations~~ **depository institutions** from the officials or agencies supervising them.

(3) The department and any official or agency of this state having supervisory authority over a ~~supervised financial organization~~ **depository institution** are authorized and directed to consult and assist one another in maintaining compliance with this article. They may jointly pursue investigations, prosecute suits, and take other official action, as they deem appropriate, if either of them otherwise is empowered to take the action.

SECTION 66. IC 24-4.5-6-106, AS AMENDED BY P.L.217-2007, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 106. ~~Examinations —~~ (1) In administering this article and in order to determine whether the provisions of this article are being complied with by persons engaging in acts subject to this article, the department may examine the records of persons and may make investigations of persons as may be necessary to determine compliance. Records subject to examination under this section include the following:

(a) Training, operating, and policy manuals.

(b) Minutes of:

(i) management meetings; and

(ii) other meetings.

(c) Other records that the department determines are necessary to perform its investigation or examination.

The department may also administer oaths or affirmations, subpoena witnesses, **and** compel ~~their~~ **the** attendance **of witnesses, including directors, executive officers, managers, principals, mortgage loan originators, employees, independent contractors, agents, and customers of the licensee, individual, or person subject to this article. The department may also** adduce evidence, and require the production of any matter which is relevant to the investigation. The department shall determine the sufficiency of the records maintained and whether the person has made the required information reasonably available. The records pertaining to any transaction subject to this article shall be retained for two (2) years after making the final entry relating to the consumer credit transaction, but in the case of a revolving loan account or revolving charge account, the two (2) years is measured from the date of each entry.

(2) The department's examination and investigatory authority under this article includes the following:

(a) The authority to require a creditor to refund overcharges resulting from the creditor's noncompliance with the terms of a subordinate lien mortgage transaction.

(b) The authority to require a creditor to comply with the penalty provisions set forth in IC 24-4.5-3-209.

(c) The authority to investigate complaints filed with the department by debtors.

~~(2)~~ **(3)** If the department:

(a) investigates; or

(b) examines the books and records of;

a person that is subject to IC 24-4.5-6-201, IC 24-4.5-6-202, and IC 24-4.5-6-203, the person shall pay all reasonably incurred costs of the investigation or examination in accordance with the fee schedule adopted by the department under IC 28-11-3-5. However, the person is liable for the costs of an investigation or examination under this subsection only to the extent that the costs exceed the amount of the filing fees paid most recently under IC 24-4.5-6-203. Any costs required to be paid under this subsection shall be paid not later than sixty (60) days after the person receives a notice from the department of the costs being assessed. The department may impose a fee, in an amount fixed by the department under IC 28-11-3-5, for each day that the assessed costs are not paid, beginning on the first day after the sixty (60) day period described in this subsection.

~~(3)~~ **(4)** The department shall be given free access to the records wherever located. **In making any examination or investigation authorized by this article, the director may control access to any documents and records of the licensee or person under examination or investigation. The director may take possession of the documents and records or place a person in exclusive charge of the documents and records in the place where the documents are usually kept. During the period of control, the licensee or person may not remove or attempt to remove any of the documents and records except under a court order or with the consent of the director. Unless the director has reasonable grounds to believe the documents or records of the licensee or person have been, or are, at risk of being altered or destroyed for purposes of concealing a**

violation of this article, the licensee or person being examined or investigated is entitled to access to the documents or records as necessary to conduct the licensee's or person's ordinary business affairs. If the person's records are located outside Indiana, the records shall be made available to the department at a convenient location within Indiana, or the person shall pay the reasonable and necessary expenses for the department or its representative to examine them where they are maintained. The department may designate comparable officials of the state in which the records are located to inspect them on behalf of the department.

~~(4)~~ **(5)** Upon **a person's** failure without lawful excuse to obey a subpoena or to give testimony and upon reasonable notice to all **affected** persons, ~~affected thereby,~~ the department may apply to any civil court **with jurisdiction** for an order compelling compliance.

~~(5)~~ **(6)** The department shall not make public the name or identity of a person whose acts or conduct the department investigates pursuant to this section or the facts disclosed in the investigation, but this subsection does not apply to disclosures in actions or enforcement proceedings pursuant to this article.

(7) If a creditor contracts with an outside vendor to provide a service that would otherwise be undertaken internally by the creditor and be subject to the department's routine examination procedures, the person that provides the service to the creditor shall, at the request of the director, submit to an examination by the department. If the director determines that an examination under this subsection is necessary or desirable, the examination may be made at the expense of the person to be examined. If the person to be examined under this subsection refuses to permit the examination to be made, the director may order any creditor that is licensed under this article and that receives services from the person refusing the examination to:

(a) discontinue receiving one (1) or more services from the person; or

(b) otherwise cease conducting business with the person.

SECTION 67. IC 24-4.5-6-106.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 106.5. To carry out the purposes of this section, the director may:**

(a) retain attorneys, accountants, or other professionals and specialists as examiners, auditors, or investigators to conduct or assist in the conduct of examinations or investigations;

(b) enter into agreements or relationships with other government officials or regulatory associations to improve efficiencies and reduce regulatory burden by sharing:

(i) resources;

(ii) standardized or uniform methods or procedures; and

(iii) documents, records, information, or evidence obtained under this section;

(c) use, hire, contract, or employ public or privately available analytical systems, methods, or software to examine or investigate a licensee, an individual, or a person subject to this article;

(d) accept and rely on examination or investigation reports made by other government officials, in or outside Indiana; or

(e) accept audit reports made by an independent certified public accountant for the licensee, individual, or person subject to this article in the course of that part of the examination covering the same general subject matter as the audit and may incorporate the audit report in the report of the examination, report of investigation, or other writing of the director.

SECTION 68. IC 24-4.5-6-107 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 107. Except as otherwise provided, IC 4-21.5-3 governs all agency action taken by the department under ~~IC 24-4.5-6~~ **this chapter** or IC 24-4.5-3-501 through IC 24-4.5-3-513. **All proceedings for administrative review under IC 4-21.5-3 or judicial review under IC 4-21.5-5 shall be held in Marion County.** The provisions of IC 4-22-2 prescribing procedures for the adoption of rules by agencies shall apply to the adoption of rules by the department of financial institutions under this article. However, if the department declares an emergency in the document containing the rule, it may adopt rules permitted by ~~IC 24-4.5-6~~ **this chapter** under IC 4-22-2-37.1.

SECTION 69. IC 24-4.5-6-107.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 107.5. It is a violation of this**

article for a person or individual subject to this article to:

(a) directly or indirectly employ any scheme, device, or artifice to defraud or mislead borrowers or lenders or to defraud any person;

(b) engage in any unfair or deceptive practice toward any person;

(c) obtain property by fraud or misrepresentation;

(d) solicit or enter into a contract with a borrower that provides in substance that the person or individual subject to this article may earn a fee or commission through "best efforts" to obtain a loan even though no loan is actually obtained for the borrower;

(e) solicit, advertise, or enter into a contract for specific interest rates, points, or other financing terms unless the terms are actually available at the time of soliciting, advertising, or contracting;

(f) conduct any business covered by this article without holding a valid license as required under this article, or assist or aid and abet any person in the conduct of business under this article without a valid license as required under this article;

(g) fail to make disclosures as required by this article and any other applicable state or federal law, including regulations under that law;

(h) fail to comply with this article or rules adopted under this article, or fail to comply with any other state or federal law, rule, or regulation, applicable to any business authorized or conducted under this article;

(i) make, in any manner, any false or deceptive statement or representation, including, with regard to the rates, points, or other financing terms or conditions for a mortgage transaction, or engage in bait and switch advertising;

(j) negligently make any false statement or knowingly and willfully make any omission of material fact in connection with any information or reports filed with a governmental agency or the NMLSR or in connection with any investigation conducted by the director or another governmental agency;

(k) make any payment, threat, or promise, directly or indirectly, to any person for the purposes of influencing the

independent judgment of the person in connection with a mortgage transaction, or make any payment, threat, or promise, directly or indirectly, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property;

(l) collect, charge, attempt to collect or charge, or use or propose any agreement purporting to collect or charge any fee prohibited by this article;

(m) cause or require a borrower to obtain property insurance coverage in an amount that exceeds the replacement cost of the improvements as established by the property insurer;

(n) fail to account truthfully for money belonging to a party to a mortgage transaction; or

(o) knowingly withhold, abstract, remove, mutilate, destroy, or secrete any books, records, computer records, or other information subject to examination under this article.

SECTION 70. IC 24-4.5-6-108 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 108. ~~Administrative Enforcement orders.~~ — (1) After notice and ~~hearing~~ **an opportunity to be heard,** the department may order a creditor, or ~~a person acting in his behalf~~ **a person acting on behalf of the creditor,** to cease and desist from engaging in violations of this article. A respondent aggrieved by an order of the department may obtain judicial review of the order and the department may obtain an order of the court for enforcement of its order in any civil court. The proceeding for review or enforcement is initiated by filing a petition in the court. Copies of the petition shall be served upon all parties of record.

(2) Within thirty (30) days after service of the petition for review upon the department, or within any further time the court may allow, the department shall transmit to the court the original or a certified copy of the entire record upon which the order is based, including any transcript of testimony, which need not be printed. By stipulation of all parties to the review proceeding, the record may be shortened. After hearing the court may (a) reverse or modify the order if the findings of fact of the department are clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record, (b) grant any temporary relief or restraining order it deems just, and (c) enter an order enforcing, modifying, and enforcing as modified, or setting aside

in whole or in part the order of the department, or remanding the case to the department for further proceedings.

(3) An objection not urged at the hearing shall not be considered by the court unless the failure to urge the objection is excused for good cause shown. A party may move the court to remand the case to the department in the interest of justice for the purpose of adducing additional specified and material evidence and seeking finding thereon upon good cause shown for the failure to adduce this evidence before the department.

(4) The jurisdiction of the court shall be exclusive and its final judgment or decree shall be subject to review by the court on appeal in the same manner and form and with the same effect as in appeals from a final judgment or decree. The department's copy of the testimony shall be available at reasonable times to all parties for examination without cost.

(5) A proceeding for review under this section must be initiated within thirty (30) days after a copy of the order of the department is received. If no proceeding is so initiated, the department may obtain a decree of the civil court for enforcement of its order upon a showing that an order was issued in compliance with this section, that no proceeding for review was initiated within thirty (30) days after copy of the order was received, and that the respondent is subject to the jurisdiction of the court.

(6) With respect to unconscionable agreements or fraudulent or unconscionable conduct by the respondent, the department may not issue an order pursuant to this section but may bring a civil action for an injunction (IC 24-4.5-6-111).

SECTION 71. IC 24-4.5-6-110 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 110. ~~Injunctions Against Violation of Article~~ — The department may bring a civil action to restrain a person from violating this article **or another state or federal law or regulation,** and for other appropriate relief.

SECTION 72. IC 24-4.5-6-113, AS AMENDED BY P.L.217-2007, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 113. ~~Civil Actions by Department~~ — (1) After demand, the department may bring a civil action against a creditor for making or collecting charges in excess of those permitted by this article. An action may relate to transactions with more than one debtor.

If it is found that an excess charge has been made, the court shall order the respondent to refund to the debtor or debtors the amount of the excess charge. If a creditor has made an excess charge in deliberate violation of or in reckless disregard for this article, or if a creditor has refused to refund an excess charge within a reasonable time after demand by the debtor or the department, the court may also order the respondent to pay to the debtor or debtors a civil penalty in an amount determined by the court not in excess of the greater of either the amount of the credit service or loan finance charge or ten (10) times the amount of the charge. Refunds and penalties to which the debtor is entitled pursuant to this subsection may be set off against the debtor's obligation. If a debtor brings an action against a creditor to recover an excess charge or civil penalty, an action by the department to recover for the same excess charge or civil penalty shall be stayed while the debtor's action is pending and shall be dismissed if the debtor's action is dismissed with prejudice or results in a final judgment granting or denying the debtor's claim. With respect to excess charges arising from sales made pursuant to revolving charge accounts or from loans made pursuant to revolving loan accounts, no action pursuant to this subsection may be brought more than two (2) years after the time the excess charge was made. With respect to excess charges arising from other consumer credit sales or consumer loans, no action pursuant to this subsection may be brought more than one (1) year after the due date of the last scheduled payment of the agreement pursuant to which the charge was made. If the creditor establishes by a preponderance of evidence that a violation is unintentional or the result of a bona fide error, no liability to pay a penalty shall be imposed under this subsection.

(2) The department may bring a civil action against a creditor or a person acting in his behalf to recover a civil penalty for willfully violating this article, and if the court finds that the defendant has engaged in a course of repeated and willful violations of this article, it may assess a civil penalty of no more than five thousand dollars ($5,000). No civil penalty pursuant to this subsection may be imposed for violations of this article occurring more than two (2) years before the action is brought or for making unconscionable agreements or engaging in a course of fraudulent or unconscionable conduct.

(3) If the department determines, after notice and opportunity for

~~hearing,~~ **the person to be heard,** that a person has violated this article, the department may, in addition to or instead of all other remedies available under this section, impose upon the person a civil penalty not greater than ten thousand dollars ($10,000) per violation.

SECTION 73. IC 24-4.5-6-119 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 119. (a) Subject to subsection (b), if the director determines that a director, an officer, or an employee of a creditor:**

(1) has committed a violation of a statute, a rule, a final cease and desist order, a condition imposed in writing by the director in connection with the grant of an application or other request by the creditor, or a written agreement between the creditor and the director or the department;

(2) has committed fraudulent or unconscionable conduct; or

(3) has been convicted of or has pleaded guilty or nolo contendere to a felony under the laws of Indiana or any other jurisdiction;

the director may issue and serve upon the person a notice of charges and of the director's intent to issue an order removing the person from the person's office or employment, an order prohibiting participation by the person in the conduct of the affairs of any creditor, or an order both removing the person and prohibiting the person's participation.

(b) A violation, practice, or breach described in subsection (a) is subject to the authority of the director under subsection (a) if the director finds any of the following:

(1) The interests of the creditor's customers could be seriously prejudiced by reason of the violation, practice, or breach.

(2) The violation, practice, or breach involves personal dishonesty on the part of the officer, director, or employee involved.

(3) The violation, practice, or breach demonstrates a willful or continuing disregard by the officer, director, or employee for state or federal law and regulations, and for the consumer protections contained in this article.

(c) A person who:

(1) has been convicted of; or

(2) has pleaded guilty or nolo contendere to;

a felony under the laws of Indiana or any other jurisdiction may not serve as an officer, a director, or an employee of a creditor, or serve in any similar capacity, unless the person obtains the written consent of the director.

(d) A creditor that willfully permits a person to serve the creditor in violation of subsection (c) is subject to a civil penalty of five hundred dollars ($500) for each day the violation occurs.

SECTION 74. IC 24-4.5-6-120 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 120. (a) A notice issued under section 119 of this chapter must:**

(1) be in writing;

(2) contain a statement of:

(A) the facts constituting the alleged violation, practice, or breach;

(B) the facts alleged in support of the violation, practice, or breach; and

(C) the director's intention to issue an order under section 122(a) of this chapter;

(3) be delivered to the board of directors of the creditor;

(4) be delivered to the officer, director, or employee to which the notice applies;

(5) specify the procedures that must be followed to initiate a hearing to contest the alleged violation, practice, or breach; and

(6) if the director suspends or prohibits the officer, director, or employee from participation in the affairs of the creditor as described under subsection (e), a statement of the suspension or prohibition.

(b) If a hearing is requested not later than ten (10) days after service of the notice described under subsection (a), the department shall hold a hearing concerning the alleged violation, practice, or breach. The hearing shall be held not later than forty-five (45) days after receipt of the request. The department, based on the evidence presented at the hearing, shall enter a final order in accordance with section 122 of this chapter.

(c) If no hearing is requested within the period of time specified in subsection (b), the director may proceed to issue a final order under section 122 of this chapter on the basis of the facts set forth

in the notice described under subsection (a).

(d) An officer, director, or employee of a creditor who is removed from a position under a removal order under section 122 of this chapter that has become final may not, without the approval of the director, participate in the conduct of the affairs of a licensee described under IC 24-4.5-3.

(e) The director may, for the protection of the creditor or the interests of the creditor's customers, suspend from office or prohibit from participation in the affairs of the creditor an officer, a director, or an employee of a creditor who is the subject of a written notice served by the director under section 119(a) of this chapter. A suspension or prohibition under this subsection becomes effective upon service of the notice under section 119(a) of this chapter. Unless stayed by a court in a proceeding authorized by subsection (f), the suspension or prohibition remains in effect pending completion of the proceedings related to the notice served under section 119(a) of this chapter and until the effective date of an order entered by the department under subsection (b) or the director under subsection (c). If the director suspends or prohibits participation of an officer, a director, or an employee under this subsection, copies of the notice shall also be served upon the creditor or affiliate of which the person is an officer, a director, or an employee.

(f) Not more than fifteen (15) days after an officer, a director, or an employee has been suspended from office or prohibited from participation in the conduct of the affairs of the creditor or affiliate under subsection (e), the officer, director, or employee may apply to a court having jurisdiction for a stay of the suspension or prohibition pending completion of the proceedings related to the notice served under section 119(a) of this chapter. The court may stay a suspension of prohibition of the officer, director, or employee.

(g) The department shall maintain an official record of a proceeding under this chapter.

SECTION 75. IC 24-4.5-6-121 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 121. If the director enters into a consent to a final order with a director, an officer, or an employee, the director is not required to issue and serve a notice of charges**

upon the director, officer, or employee under section 119 of this chapter. A consent agreement may be negotiated and entered into before or after the issuance of a notice of charges. The director shall provide a copy of the consent order to the board of directors of the creditor.

SECTION 76. IC 24-4.5-6-122 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 122. (a) Subject to section 120 of this chapter, if, after a hearing described in section 120(b) of this chapter, the department determines that a director, an officer, or an employee of a creditor has committed an act described in section 119 of this chapter, the department may issue a final order. If a hearing is not requested within the time specified in section 120(b) of this chapter, the director may issue a final order on the basis of the facts set forth in the written notice served under section 119(a) of this chapter.**

(b) Unless the director has entered into a consent agreement described in section 121 of this chapter, a final order must include separately stated findings of fact and conclusions of law for all aspects of the order.

(c) In a final order under this section, the department or the director, as appropriate, may order one (1) or more of the following with respect to an officer, a director, or an employee of a creditor:

(1) The removal of the officer, director, or employee from the person's office, position, or employment.

(2) A prohibition against any participation by the officer, director, or employee in the conduct of the affairs of any creditor.

(3) If the subject of the order is an officer or a director of a creditor, and subject to section 124 of this chapter, the imposition of a civil penalty not to exceed fifteen thousand dollars ($15,000) for each practice, violation, or act that:

(A) is described in section 119 of this chapter; and

(B) found to exist by the department or the director.

(d) A final order shall be issued in writing not later than ninety (90) days after conclusion of a hearing held under section 120(b) of this chapter, unless this period is waived or extended with the written consent of all parties or for good cause shown.

(e) If the officer, director, or employee does not appear individually or by an authorized representative at a hearing held under section 120(b) of this chapter, the officer, director, or employee is considered to have consented to the issuance of a final order.

(f) The director may keep a final order confidential if the director determines that the immediate release of the order would endanger the stability of the creditor. However, after two (2) years following the date that an order is issued, a final order is no longer confidential.

(g) The remedies provided in this chapter are in addition to other remedies contained in this article.

SECTION 77. IC 24-4.5-6-123 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 123. (a) A final order issued under section 122 of this chapter is effective the eleventh day after the date the order is served. However, a final order issued upon consent under section 121 of this chapter is effective at the time specified in the order.**

(b) A final order remains effective and enforceable as provided in the order.

(c) The department or a reviewing court may stay, modify, or vacate a final order.

SECTION 78. IC 24-4.5-6-124 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 124. (a) The director or the department, as appropriate, shall consider the following factors in determining the amount of a civil penalty that should be assessed against a director or an officer under section 122(c)(3) of this chapter:**

(1) The appropriateness of the civil penalty with respect to the financial resources and good faith of the individual charged.

(2) The gravity of the practice, violation, or breach.

(3) The history of previous practices, violations, or breaches.

(4) The economic benefit derived by the individual from the practice, violation, or breach.

(5) Other factors that justice requires.

(b) A creditor may not indemnify a director or an officer for a civil penalty imposed against the director or officer under this

section.

(c) Civil penalties shall be deposited in the financial institutions fund established by IC 28-11-2-9.

SECTION 79. IC 24-4.5-6-125 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 125. The director may enforce any of the following by applying for appropriate relief to a court having jurisdiction:**

(1) An order issued under section 121 or 122 of this chapter.

(2) A written agreement entered into by the director or the department and a director, an officer, or an employee of a creditor.

(3) Any condition imposed in writing by the director or the department on a director, an officer, or an employee of a creditor.

SECTION 80. IC 24-4.5-6-201, AS AMENDED BY P.L.217-2007, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 201. (1) This section ~~IC 24-4.5-6-202,~~ and ~~IC 24-4.5-6-203~~ **sections 202 and 203 of this chapter** apply to a person, including a ~~supervised financial organization,~~ **depository institution,** but not including a collection agency licensed under IC 25-11-1, engaged in Indiana in any of the following:

(a) Making consumer credit sales, consumer leases, or consumer loans.

(b) Taking assignments of rights against debtors that arise from sales, leases, or loans by a person having an office or a place of business in Indiana.

(c) Undertaking direct collection of payments from the debtors or enforcement of rights against the debtors.

(d) Placing consumer credit insurance, receiving commissions for consumer credit insurance, or acting as a limited line credit insurance producer in the sale of consumer credit insurance.

(e) Selling insurance or other benefits, the charges for which are approved by the department as additional charges under IC 24-4.5-2-202 or IC 24-4.5-3-202.

(2) This section ~~IC 24-4.5-6-202, and IC 24-4.5-6-203~~ **and sections 202 and 203 of this chapter** are not applicable to a seller whose credit sales consist entirely of sales made pursuant to a seller credit card

issued by a person other than the seller if the issuer of the card has complied with the provisions of this section ~~IC 24-4.5-6-202, and IC 24-4.5-6-203.~~ **and sections 202 and 203 of this chapter.**

(3) This section ~~IC 24-4.5-6-202, and IC 24-4.5-6-203~~ **and sections 202 and 203 of this chapter** apply to a seller whose credit sales are made using credit cards that:

(a) are issued by a lender;

(b) are in the name of the seller; and

(c) can be used by the buyer or lessee only for purchases or leases at locations of the named seller.

SECTION 81. IC 24-4.5-6-202, AS AMENDED BY P.L.217-2007, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 202. (1) Persons ~~other than applicants for a license under IC 24-4.5-3-502(3),~~ that are subject to ~~IC 24-4.5-6-201,~~ this section and ~~IC 24-4.5-6-203~~ **sections 201 and 203 of this chapter** shall file notification with the department within thirty (30) days after commencing business in Indiana and thereafter on an annual basis, on the date set forth in subsection (2). The notification shall state the:

(a) name of the person;

(b) name in which business is transacted if different from subdivision (a);

(c) address of principal office, which may be outside Indiana; and

(d) address of all offices or retail stores, if any, in Indiana at which consumer credit sales, consumer leases, or consumer loans are made, or in the case of a person taking assignments of obligations, the offices or places of business within Indiana at which business is transacted.

(2) A person required to be licensed under this article shall file the notification required by subsection (1) not later than December 31 of each year. All other persons subject to this section shall file the notification required by subsection (1) not later than January 31 of each year.

(3) Persons subject to ~~IC 24-4.5-6-201, IC 24-4.5-6-203,~~ **sections 201 and 203 of this chapter** and this section shall notify the department not later than thirty (30) days after the person:

(a) has a change in name, address, or principals;

(b) opens a new branch, closes an existing branch, or relocates an existing branch;

(c) files for bankruptcy or reorganization;

(d) is notified that the person is subject to revocation or suspension proceedings by a state or governmental authority with regard to the person's activities; **or**

~~(e) is under indictment for a felony involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction; or~~

~~(f)~~ **(e)** has been convicted of or pleaded guilty or nolo contendere to a felony involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction.

SECTION 82. IC 24-4.5-7-102, AS AMENDED BY P.L.217-2007, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 102. (1) Except as otherwise provided, all provisions of this article applying to consumer loans apply to small loans, as defined in this chapter.

(2) This chapter applies to:

(a) a lender or to any person who facilitates, enables, or acts as a conduit for any person who is or may be exempt from licensing under IC 24-4.5-3-502;

(b) a bank, savings association, credit union, or other state or federally regulated financial institution except those that are specifically exempt regarding limitations on interest rates and fees; or

(c) a person, if the department determines that a transaction is:

(i) in substance a disguised loan; or

(ii) the application of subterfuge for the purpose of avoiding this chapter.

(3) A loan that:

(a) does not qualify as a small loan under ~~IC 24-4.5-7-104,~~ **section 104 of this chapter;**

(b) is for a term shorter than that specified in ~~IC 24-4.5-7-401(1),~~ **section 401(1) of this chapter;** or

(c) is made in violation of ~~IC 24-4.5-7-402,~~ **section 201, 401, 402, 404, or 410 of this chapter;**

is subject to this article. The department may conform the finance charge for a loan described in this subsection to the limitations set forth in IC 24-4.5-3-508.

SECTION 83. IC 24-4.5-7-301 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 301. (1) For purposes of this section, the lender shall disclose to the borrower to whom credit is extended with respect to a small loan the information required by the Federal Consumer Credit Protection Act.

(2) In addition to the requirements of subsection (1), the lender must conspicuously display in bold type a notice to the public both in the lending area of each business location and in the loan documents the following statement:

"WARNING: A small loan is not intended to meet long term financial needs. A small loan should be used only to meet short term cash needs. The cost of your small loan may be higher than loans offered by other lending institutions. Small loans are regulated by the State of Indiana Department of Financial Institutions.

A borrower may rescind a small loan without cost ~~not later than the end of the business day immediately following the day on which the small loan was made. To rescind a small loan, a borrower must inform the lender that the borrower wants to rescind the small loan, and the borrower must return~~ **by paying** the cash amount of the principal of the small loan to the lender **not later than the end of the business day immediately following the day on which the small loan was made.".**

(3) The statement required in subsection (2) must be in:

(a) 14 point bold face type in the loan documents; and

(b) not less than one (1) inch bold print in the lending area of the business location.

(4) When a borrower enters into a small loan, the lender shall provide the borrower with a pamphlet approved by the department that describes:

(a) the availability of debt management and credit counseling services; and

(b) the borrower's rights and responsibilities in the transaction.

SECTION 84. IC 24-4.5-7-402, AS AMENDED BY P.L.217-2007, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 402. (1) A lender is prohibited from making a small loan to a borrower if the total of:

(a) the principal amount and finance charges of the small loan to be issued; plus

(b) any other small loan balances that the borrower has outstanding with any lender;

exceeds twenty percent (20%) of the borrower's monthly gross income.

(2) A small loan may be secured by only one (1) check or authorization to debit the borrower's account per small loan. The check or electronic debit may not exceed the amount advanced to or on behalf of the borrower plus loan finance charges contracted for and permitted.

(3) A borrower may make partial payments in any amount on the small loan without charge at any time before the due date of the small loan. After each payment is made on a small loan, whether the payment is in part or in full, the lender shall give a signed and dated receipt to the borrower making a payment showing the amount paid and the balance due on the small loan.

(4) The lender shall provide to each borrower a copy of the required loan documents before the disbursement of the loan proceeds.

(5) A borrower may rescind a small loan without cost ~~not later than the end of the business day immediately following the day on which the small loan was made. To rescind a small loan, a borrower must: (a) inform the lender that the borrower wants to rescind the small loan; and (b) return~~ **by paying** the cash amount of the principal of the small loan to the lender **not later than the end of the business day immediately following the day on which the small loan was made.**

(6) A lender shall not enter into a renewal with a borrower. If a loan is paid in full, a subsequent loan is not a renewal.

SECTION 85. IC 24-4.5-7-404, AS AMENDED BY P.L.90-2008, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 404. (1) As used in this section, "commercially reasonable method of verification" means a private consumer credit reporting service that the department determines to be capable of providing a lender with adequate verification information necessary to ensure compliance with subsection (4).

(2) With respect to a small loan, no lender may permit a person to become obligated under more than one (1) loan agreement with the lender at any time.

(3) A lender shall not make a small loan that, when combined with the outstanding balance on another outstanding small loan owed to another lender, exceeds a total of five hundred fifty dollars ($550), excluding finance charges. A lender shall not make a small loan to a

borrower who has two (2) or more small loans outstanding, regardless of the total value of the small loans. The amount of five hundred fifty dollars ($550) in this subsection is subject to change under the provisions on adjustment of dollar amounts (IC 24-4.5-1-106). However, notwithstanding IC 24-4.5-1-106(1), the Reference Base Index to be used under this subsection is the Index for October 2006.

(4) A lender complies with subsection (3) if ~~the borrower represents in writing that the borrower does not have any outstanding small loans with the lender, another lender, an affiliate of the lender or another lender, or a separate entity involved in a business association with the lender or another lender in making small loans, and~~ the lender independently verifies the ~~accuracy of the borrower's written representation~~ **total number of outstanding small loans and the total outstanding balance of those small loans for a customer** through a commercially reasonable method of verification. A lender's method of verifying whether a borrower has any outstanding small loans **and the total outstanding balance of any loans** will be considered commercially reasonable if the method includes a manual investigation or an electronic query of:

(a) the lender's own records, including both records maintained at the location where the borrower is applying for the transaction and records maintained at other locations within the state that are owned and operated by the lender; and

(b) an available third party data base provided by a private consumer reporting service, **subject to the identification verification requirements set forth in subsection (12).**

(5) The department shall monitor the effectiveness of private consumer credit reporting services in providing the verification information required under subsection (4). If the department determines that a commercially reasonable method of verification is available, the department shall:

(a) provide reasonable notice to all lenders identifying the commercially reasonable method of verification that is available; and

(b) require each lender to use, consistent with the policies of the department, the identified commercially reasonable method of verification as a means of complying with subsection (4).

(6) If a borrower presents evidence to a lender that a loan has been

discharged in bankruptcy, the lender shall cause the record of the borrower's loan to be updated in the data base described in subsection (4)(b) to reflect the bankruptcy discharge.

(7) A lender shall cause the record of a borrower's loan to be updated in the data base described in subsection (4)(b) to reflect:

(a) presentment of the borrower's check for payment; or

(b) exercise of the borrower's authorization to debit the borrower's account.

If a check is returned or an authorization is dishonored because of insufficient funds in the borrower's account, the lender shall reenter the record of the loan in the data base.

(8) A lender shall update information in a data base described in subsection (4)(b) to reflect partial payments made on an outstanding loan, the record of which is maintained in the data base.

(9) If a lender ceases doing business in Indiana, the director may require the operator of the data base described in subsection (4)(b) to remove records of the lender's loans from the operator's data base.

(10) The director may impose a civil penalty not to exceed one hundred dollars ($100) for each violation of:

(a) this section; or

(b) any rule or policy adopted by the director to implement this section.

(11) The excess amount of loan finance charge provided for in agreements in violation of this section is an excess charge for purposes of the provisions concerning effect of violations on rights of parties (IC 24-4.5-5-202) and the provisions concerning civil actions by the department (IC 24-4.5-6-113).

(12) If a borrower provides the borrower's Social Security number to a lender in connection with any transaction or proposed transaction under this chapter, the lender shall:

(a) maintain procedures to verify that the Social Security number provided is legitimate and belongs to the borrower; and

(b) retain copies of any documents used to verify the borrower's Social Security number. Documentation under this subdivision may be in electronic form and the numbers may be truncated.

If a borrower does not have a Social Security number, the lender

may require and accept another valid form of government issued identification, subject to the requirements of subdivisions (a) and (b) with respect to the government issued identification accepted.

SECTION 86. IC 24-4.5-7-412 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 412. Upon the receipt of a check from a borrower for a small loan, **unless the check is marked as void at the time of acceptance by the lender,** the lender shall immediately stamp the back of the check with an endorsement that states:

"This check is being negotiated as part of a small loan under IC 24-4.5, and any holder of this check takes it subject to the claims and defenses of the maker.".

SECTION 87. IC 24-4.5-7-413 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 413. (1) A person engaged in making small loans under this chapter shall post a bond to the department in the amount of fifty thousand dollars ($50,000) for each location where small loans will be made, up to a maximum bond **in an** amount ~~of five hundred thousand dollars ($500,000).~~ **determined by the department.**

(2) A bond posted under subsection (1) must continue in effect for two (2) years after the lender ceases operation in Indiana. The bond must be available to pay damages and penalties to a consumer harmed by a violation of this chapter.

SECTION 88. IC 24-5-23.5-4, AS ADDED BY P.L.52-2009, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) As used in this chapter, "mortgage loan" means a loan in which a mortgage, deed of trust, or land contract that constitutes a lien is created or retained against an interest in real property in Indiana.

(b) The term includes the following:

(1) A home loan subject to IC 24-9.

(2) A loan described in IC 24-9-1-1, to the extent allowed under federal law.

(3) A first lien mortgage transaction (as defined in ~~IC 24-4.4-1-301(6))~~ **IC 24-4.4-1-301)** subject to IC 24-4.4.

(4) A consumer credit sale subject to IC 24-4.5-2 in which a mortgage, deed of trust, or land contract that constitutes a lien is created or retained against an interest in real property in Indiana.

(5) A consumer credit loan subject to IC 24-4.5-3 in which a mortgage, deed of trust, or land contract that constitutes a lien is created or retained against an interest in real property in Indiana.

(6) A loan in which a mortgage, deed of trust, or land contract that constitutes a lien is created or retained against land:

(A) that is located in Indiana;

(B) upon which there is a dwelling that is not or will not be used by the borrower primarily for personal, family, or household purposes; and

(C) that is classified as residential for property tax purposes.

The term includes a loan that is secured by land in Indiana upon which there is a dwelling that is purchased by or through the borrower for investment or other business purposes.

SECTION 89. IC 24-7-1-6, AS ADDED BY P.L.90-2008, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. This article does not apply to the rental of a musical instrument through **a program offered at** an elementary or a secondary school **with the approval of the school.**

SECTION 90. IC 24-7-4-13 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 13. (a) Except as provided in subsection (b), a lessor may not accept payment from a lessee and hold the amount of the payment in a reserve account for future payments. Any amounts paid by a lessee must be applied as a rental payment or to an accrued permissible additional charge.**

(b) If a lessee makes a payment that exceeds the sum of the scheduled rental payment and any permitted additional charges that are due, the lessor may hold the excess funds in a reserve account subject to the following conditions:

(1) The balance of the lessee's reserve account may not exceed the amount of the next scheduled rental payment.

(2) If the balance in the lessee's reserve account reaches the limit specified in subdivision (1), the lessor shall apply the funds to the lessee's next scheduled rental payment.

(c) This section may not be construed to preclude a lessor from accepting and applying multiple rental payments before the rental payments' scheduled due dates.

SECTION 91. IC 24-7-7-1 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. The department shall enforce this article. To carry out this responsibility, the department may do the following:

(1) Receive and act on complaints, take action designed to obtain voluntary compliance with this article, or commence proceedings on the department's own initiative.

(2) Issue and enforce administrative orders under IC 4-21.5.

(3) Counsel persons and groups on their rights and duties under this article.

(4) Establish programs for the education of consumers with respect to rental purchase agreement practices and problems.

(5) Make studies appropriate to effectuate the purposes and policies of this article and make the results available to the public.

(6) Adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, to carry out this article.

(7) Maintain more than one (1) office within Indiana.

(8) Bring a civil action to restrain a person from violating this article and for other appropriate relief.

(9) Impose a civil penalty under IC 4-21.5 of not more than ~~one thousand dollars ($1,000)~~ **ten thousand dollars ($10,000)** for a violation of this article or a rule adopted under this article.

SECTION 92. IC 24-7-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) A person subject to this article shall make the books and records of the person reasonably available for inspection by the department or the department's representative. **At a minimum, every lessor shall keep a record of all payments remitted by the lessee on a rental purchase agreement, including the following:**

(1) The name of the lessee.

(2) The date of each transaction.

(3) The total amount of each payment.

(4) A breakdown of each payment reflecting:

(A) each type of charge; and

(B) the amount of each type of charge.

The method of maintaining this data is at the discretion of the lessor, if hard copies of the required data are readily available. The record keeping system of the lessor shall be made available in Indiana for examination. The director shall determine the

sufficiency of the records and whether the lessor has made the required information reasonably available.

(b) In administering this article and in order to determine compliance with this article, the department or the department's representative may examine the books and records of persons subject to the article and may make investigations of persons necessary to determine compliance. For this purpose, the department may administer oaths or affirmations, and, upon the department's own motion or upon request of any party, may subpoena witnesses, compel their attendance, compel testimony, and require the production of any matter that is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts, or any other matter reasonably calculated to lead to the discovery of admissible evidence.

(c) If the person's records are located outside Indiana, the person shall, at the person's option, either make them available to the department at a convenient location in Indiana, or pay the reasonable and necessary expenses for the department or the department's representative to examine them at the place where they are maintained. The department may designate representatives, including comparable officials of the state in which the records are located, to inspect them on the department's behalf.

(d) Upon failure without lawful excuse to obey a subpoena or to give testimony and upon reasonable notice to all persons affected thereby, the department may apply to a court for an order compelling compliance.

(e) The department may not make public the name or identity of a person whose acts or conduct the department investigates under this section or the facts disclosed in the investigation, but this subsection does not apply to disclosures in actions or enforcement proceedings under this article.

(f) A lessor shall use generally accepted accounting principles and practices in keeping books and records so that the department or the department's representative may determine if the lessor is in compliance with this article or a rule adopted under this article.

(g) A lessor shall keep the lessor's books and records that pertain to a rental purchase agreement for at least two (2) years after the rental

purchase agreement has terminated.

(h) If a lessor contracts with an outside vendor to provide a service that would otherwise be undertaken internally by the lessor and be subject to the department's routine examination procedures, the person that provides the service to the lessor shall, at the request of the director, submit to an examination by the department. If the director determines that an examination under this subsection is necessary or desirable, the examination may be made at the expense of the person to be examined. If the person to be examined under this subsection refuses to permit the examination to be made, the director may order any lessor that receives services from the person refusing the examination to:

(1) discontinue receiving one (1) or more services from the person; or

(2) otherwise cease conducting business with the person.

SECTION 93. IC 24-7-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. The notification required under section 1 of this chapter must ~~state~~ **include** the following:

(1) The name of the lessor.

(2) The name in which business is transacted if different from subdivision (1).

(3) The address of the principal office, which may be outside Indiana.

(4) The address of all offices or stores, if any, in Indiana at which rental purchase agreements are made.

(5) If rental purchase agreements are made in a place other than an office or retail store in Indiana, a brief description of the manner in which they are made.

(6) The address of the designated agent upon whom service of process may be made in Indiana.

(7) Other information required by the director of the department.

SECTION 94. IC 24-7-8-4, AS AMENDED BY P.L.57-2006, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) A lessor required to file a notification with the department under section 1 of this chapter shall pay to the department the following fees:

(1) A fee fixed by the department under IC 28-11-3-5 with the initial notification filed with the department.

(2) A fee fixed by the department under IC 28-11-3-5 for each place of business operated by the lessor on December 31 of the preceding year with each annual notification subsequently filed with the department.

(b) In addition to the fee required under subsection (a)(2), if the department examines the books and records of the lessor, the lessor shall pay to the department all reasonably incurred costs of the examination in accordance with the fee schedule adopted by the department under IC 28-11-3-5.

(c) The department may impose a fee ~~of five dollars ($5)~~ **fixed by the department under IC 28-11-3-5** for each day a lessor is late in:

(1) submitting the information required under IC 24-7-8-2; or

(2) paying a fee under subsection (a).

~~Notwithstanding the total number of places of business operated by a lessor, the department may not impose a late fee of more than five dollars ($5) for each day a lessor is late in paying a fee described under subsection (a)(2).~~

SECTION 95. IC 26-1-4-102.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 102.5. **(a) As used in this section, "supervised financial organization" means a person, other than an insurance company or other organization primarily engaged in an insurance business, that is:**

(1) organized, chartered, or holding an authorization certificate under the laws of a state or of the United States that authorizes the person to make loans and to receive deposits, including a savings, share, certificate, or deposit account; and

(2) subject to supervision by an official or agency of a state or of the United States.

(b) The provisions of IC 26-1-4 which apply to a bank apply equally to any supervised financial organization ~~as defined in IC 24-4.5-1-301,~~ which is authorized by state or federal law to permit persons to make withdrawals or payments from accounts by negotiable instruments.

SECTION 96. IC 27-7-3-15.5, AS AMENDED BY P.L.105-2009, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15.5. (a) This section applies to a transaction

that:

(1) is a single family residential:

(A) first lien purchase money mortgage transaction; or

(B) refinancing transaction; and

(2) is closed after December 31, 2009.

(b) Not later than September 1, 2009, the department shall establish and maintain an electronic system for the collection and storage of the following information concerning any of the following persons that have participated in or assisted with a transaction to which this section applies, or that will participate in or assist with a transaction to which this section applies:

(1) The name and license number (under IC 23-2-5) of each loan brokerage business involved in the transaction.

(2) The name and **license or** registration number ~~(under IC 23-2-5)~~ of ~~each~~ **any mortgage loan** originator **who is:**

(A) either licensed or registered under state or federal law as a mortgage loan originator consistent with the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (H.R. 3221 Title V); and

(B) involved in the transaction.

(3) The name and license number (under IC 25-34.1) of each:

(A) principal broker; and

(B) salesperson or broker-salesperson, if any;

involved in the transaction.

(4) The:

(A) name of; and

(B) code assigned by the National Association of Insurance Commissioners (NAIC) to;

each title insurance underwriter involved in the transaction.

(5) The name and license number (under IC 27-1-15.6) of each title insurance agency and agent involved in the transaction as a closing agent (as defined in IC 6-1.1-12-43(a)(2)).

(6) The name and:

(A) license or certificate number (under IC 25-34.1-3-8) of each licensed or certified real estate appraiser; or

(B) license number (under IC 25-34.1) of each broker;

who appraises the property that is the subject of the transaction.

(7) The name of the mortgagee and, if the mortgagee is required

to be licensed under ~~(A)~~ IC 24-4.4, ~~or~~ ~~(B)~~ ~~IC~~ ~~24-4.5-3-502;~~ the license number of the mortgagee.

(8) In the case of a first lien purchase money mortgage transaction, the name of the seller of the property that is the subject of the transaction.

(9) In the case of a first lien purchase money mortgage transaction, the name of the buyer of the property that is the subject of the transaction.

(10) The:

(A) name; and

(B) license number, certificate number, registration number, or other code, as appropriate;

of any other person that participates in or assists with a transaction to which this section applies, as the department may prescribe.

(c) The system established by the department under this section must include a form that:

(1) is uniformly accessible in an electronic format to the closing agent (as defined in IC 6-1.1-12-43(a)(2)) in the transaction; and

(2) allows the closing agent to do the following:

(A) Input information identifying the property that is the subject of the transaction by lot or parcel number, street address, or some other means of identification that the department determines:

(i) is sufficient to identify the property; and

(ii) is determinable by the closing agent.

(B) Subject to subsection (d) and to the extent determinable, input the information described in subsection (b) with respect to each person described in subsection (b) that participates in or assists with the transaction.

(C) Respond to the following questions:

(i) "On what date did you receive the closing instructions from the creditor in the transaction?".

(ii) "On what date did the transaction close?".

(D) Submit the form electronically to a data base maintained by the department.

(d) Not later than the time of the closing, each person described in subsection (b), other than a person described in subsection (b)(8) or

(b)(9), shall provide to the closing agent in the transaction the person's:

(1) legal name; and

(2) license number, certificate number, registration number, or NAIC code, as appropriate;

to allow the closing agent to comply with subsection (c)(2)(B). A person described in subsection (b)(7) shall provide the information required by this subsection for any person described in subsection (b)(6) that appraises the property that is the subject of the transaction on behalf of the person described in subsection (b)(7). A person described in subsection (b)(3)(B) who is involved in the transaction may provide the information required by this subsection for a person described in subsection (b)(3)(A) that serves as the principal broker for the person described in subsection (b)(3)(B). In the case of a first lien purchase money mortgage transaction, the closing agent shall determine the information described in subsection (b)(8) and (b)(9) from the HUD-1 settlement statement.

(e) Except for a person described in subsection (b)(8) or (b)(9), a person described in subsection (b) who fails to comply with subsection (d) is subject to a civil penalty of one hundred dollars ($100) for each closing with respect to which the person fails to comply with subsection (d). The penalty:

(1) may be enforced by the state agency that has administrative jurisdiction over the person in the same manner that the agency enforces the payment of fees or other penalties payable to the agency; and

(2) shall be paid into the home ownership education account established by IC 5-20-1-27.

(f) Subject to subsection (g), the department shall make the information stored in the data base described in subsection (c)(2)(D) accessible to:

(1) each entity described in IC 4-6-12-4; and

(2) the homeowner protection unit established under IC 4-6-12-2.

(g) The department, a closing agent who submits a form under subsection (c), each entity described in IC 4-6-12-4, and the homeowner protection unit established under IC 4-6-12-2 shall exercise all necessary caution to avoid disclosure of any information:

(1) concerning a person described in subsection (b), including the person's license, registration, or certificate number; and

(2) contained in the data base described in subsection (c)(2)(D); except to the extent required or authorized by state or federal law.

(h) The department may adopt rules under IC 4-22-2 to implement this section. Rules adopted by the department under this subsection may establish procedures for the department to:

(1) establish;

(2) collect; and

(3) change as necessary;

an administrative fee to cover the department's expenses in establishing and maintaining the electronic system required by this section.

(i) If the department adopts a rule under IC 4-22-2 to establish an administrative fee to cover the department's expenses in establishing and maintaining the electronic system required by this section, as allowed under subsection (h), the department may:

(1) require the fee to be paid:

(A) to the closing agent responsible for inputting the information and submitting the form described in subsection (c)(2); and

(B) by the borrower in the transaction;

(2) allow the closing agent described in subdivision (1)(A) to retain a part of the fee collected to cover the closing agent's costs in inputting the information and submitting the form described in subsection (c)(2); and

(3) require the closing agent to pay the remainder of the fee collected to the department for deposit in the title insurance enforcement fund established by IC 27-7-3.6-1, for the department's use in establishing and maintaining the electronic system required by this section.

SECTION 97. IC 28-1-2-23, AS AMENDED BY P.L.217-2007, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 23. (a) A corporation or an individual acting directly, indirectly, or through or in concert with one (1) or more other corporations or individuals may not acquire control of any bank, trust company, stock savings bank, holding company, corporate fiduciary, or industrial loan and investment company unless the department has received **and approved** an application for change in control. ~~by which~~ The department ~~is given~~ **has not more than** one hundred twenty (120) days ~~prior written notice of the proposed change in control and within~~

~~that time the department has issued~~ **following receipt of an application to issue** a notice approving the proposed change in control. The application shall contain the name and address of the corporation, individual, or individuals who propose to acquire control.

(b) The period for approval under subsection (a) may be extended:

(1) in the discretion of the director for an additional thirty (30) days; and

(2) not to exceed two (2) additional times for not more than forty-five (45) days each time if:

(A) the department determines that the corporation, individual, or individuals who propose to acquire control have not submitted substantial evidence of the qualifications described in subsection (c);

(B) the department determines that any material information submitted is substantially inaccurate; or

(C) the department has been unable to complete the investigation of the corporation, individual, or individuals who propose to acquire control because of any delay caused by or the inadequate cooperation of the corporation, individual, or individuals.

(c) The department shall issue a notice approving the application only after it has become satisfied that both of the following apply:

(1) The corporation, individual, or individuals who propose to acquire control are qualified by competence, experience, character, and financial responsibility to control and operate the bank, trust company, stock savings bank, bank holding company, corporate fiduciary, or industrial loan and investment company in a legal and proper manner.

(2) The interests of the stockholders, depositors, and creditors of the bank, trust company, stock savings bank, bank holding company, corporate fiduciary, or industrial loan and investment company and the interests of the public generally will not be jeopardized by the proposed change in control.

(d) As used in this section, "holding company" means any company (as defined in IC 28-2-15-5 before July 1, 1992, and as defined in IC 28-2-16-5 beginning July 1, 1992) that directly or indirectly controls one (1) or more state chartered financial institutions.

(e) As used in this section, "control", "controlling", "controlled by",

or "under common control with" means possession of the power directly or indirectly to:

(1) direct or cause the direction of the management or policies of a bank, a trust company, a holding company, a corporate fiduciary, or an industrial loan and investment company, whether through the beneficial ownership of voting securities, by contract, or otherwise; or

(2) vote at least twenty-five percent (25%) ~~of any class~~ of voting securities of a bank, a trust company, a holding company, a corporate fiduciary, or an industrial loan and investment company, whether the voting rights are derived through the beneficial ownership of voting securities, by contract, or otherwise.

(f) **The director may determine, in the director's discretion, that** subsection (a) does not apply to ~~any~~ **a** transaction ~~in which~~ **if** the director determines that the ~~relative~~ direct or beneficial ownership of the bank, trust company, stock savings bank, holding company, corporate fiduciary, or industrial loan and investment company ~~does~~ **will** not change **as a result of the transaction.**

(g) The president or other chief executive officer of a financial institution or holding company shall report to the director ~~of the department~~ any transfer or sale of shares of stock of the financial institution or holding company that results in direct or indirect ownership by a stockholder or an affiliated group of stockholders of at least ten percent (10%) of the outstanding stock of the financial institution or holding company. The report required by this section must be made not later than ten (10) days after the transfer of the shares of stock on the books of the financial institution or holding company.

SECTION 98. IC 28-1-2-30.5, AS AMENDED BY P.L.1-2009, SECTION 147, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 30.5. (a) This section applies to the following:

(1) Any:

(A) financial institution;

(B) person required to file notification with the department under IC 24-4.5-6-202;

(C) person subject to IC 24-7; or

(D) other person subject to regulation by the department.

~~under this title.~~

(2) Any person licensed or required to be licensed under **IC 24-4.4 or** IC 24-4.5.

(b) As used in this section, "customer", with respect to a person described in subsection (a), means an individual consumer, or the individual's legal representative, who obtains or has obtained from the person a financial:

(1) product; or

(2) service;

that is to be used primarily for personal, family, or household purposes. The term does not include an affiliate of the person.

(c) As used in this section, "personal information" includes any of the following:

(1) An individual's first and last names or first initial and last name.

(2) Any of the following data elements:

(A) A Social Security number.

(B) A driver's license number.

(C) A state identification card number.

(D) A credit card number.

(E) A financial account number or debit card number.

(3) With respect to an individual, any of the following:

(A) Address.

(B) Telephone number.

(C) Information concerning the individual's:

(i) income or other compensation;

(ii) credit history;

(iii) credit score;

(iv) assets;

(v) liabilities; or

(vi) employment history.

(d) As used in this section, personal information is "encrypted" if the personal information:

(1) has been transformed through the use of an algorithmic process into a form in which there is a low probability of assigning meaning without use of a confidential process or key; or

(2) is secured by another method that renders the personal

information unreadable or unusable.

(e) As used in this section, personal information is "redacted" if the personal information has been altered or truncated so that not more than the last four (4) digits of:

(1) a Social Security number;

(2) a driver's license number;

(3) a state identification number; or

(4) an account number;

are accessible as part of the personal information.

(f) As used in this section, "personal records" means any records that:

(1) are maintained, whether as a paper record or in an electronic or a computerized form, by a person to whom this section applies; and

(2) contain the unencrypted, unredacted personal information of one (1) or more customers or potential customers.

(g) A person to whom this section applies shall keep and handle personal records in a manner that:

(1) reasonably safeguards the personal records from destruction, theft, or other loss; and

(2) protects the personal records from misuse.

(h) If a breach of the security of any personal records occurs, the person maintaining the records is subject to the disclosure requirements under IC 24-4.9-3, unless the person is exempt from the disclosure requirements under IC 24-4.9-3-4.

(i) A person to whom this section applies may not dispose of personal records without first:

(1) shredding, incinerating, or mutilating the personal records; or

(2) erasing or otherwise rendering illegible or unusable the personal information contained in the records.

(j) If a person to whom this section applies ceases doing business, the person shall, as part of the winding up of the business, safeguard any personal records maintained by the person in accordance with this section until such time as the person is entitled or required to destroy the records under:

(1) applicable law; or

(2) the person's own records maintenance policies.

(k) A person to whom this section applies shall provide at the

person's cost any records that the director considers relevant or material to an examination, investigation, or other matter under consideration by the department.

SECTION 99. IC 28-1-3.1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) Immediately upon the taking possession of the business and property of any financial institution under section 2 of this chapter, the department shall give notice by:

(1) posting the notice at the main entrance of the principal office of the financial institution;

(2) causing the notice to be served upon the president or other executive officer actively in charge of the business of the financial institution; and

(3) filing the notice in the office of the circuit court in the county where the principal office of the financial institution is located.

(b) Upon the filing of the notice under subsection (a), the clerk shall:

(1) note the filing of the notice upon the records of the receivership court; and

(2) enter the cause as a civil action upon the dockets of the court under the name and style of "In the matter of the liquidation of _____" (inserting the name of the financial institution).

(c) The receivership court may hear and determine all issues and matters pertaining to or connected with the liquidation of the financial institution, including:

(1) the amount of the compensation and necessary expenses of any special representative, assistant, accountant, agent, or attorney employed by the department, or the receiver appointed by the department, as set forth in this chapter; and

(2) all papers and pleadings pertaining to the liquidation proceedings.

(d) All entries, orders, judgments, and decrees of the receivership court in connection with the liquidation proceedings shall be filed and entered of record in the cause of action.

(e) The rights and liabilities of a financial institution and of its creditors, depositors, shareholders, and all other persons interested in its estate shall, unless otherwise directed by the court, be fixed as of the date of the filing of the notice of possession with the receivership court.

In the case of mutual debts or mutual credits of equal priority between the financial institution and another person, the credits and debts shall be set off and the balance only shall be allowed or paid. The right to set off shall be determined as of the date of the filing of the notice of possession of the financial institution under subsection (a).

(f) Notwithstanding this section, if the Federal Deposit Insurance Corporation is appointed receiver of a financial institution, subsections (a)(3), (b), (c), and (d) do not apply, and applicable federal law governs the receivership.

SECTION 100. IC 28-1-3.1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) The department may appoint the receiver of the closed financial institution. ~~If the proposed receiver accepts the appointment,~~ **Unless the receiver is the Federal Deposit Insurance Corporation,** the department, **upon acceptance of the appointment of a receiver,** shall make immediate application to the receivership court for confirmation of the receiver. The receivership court shall approve the department's application if it finds that to do so would be in the public interest. The application may be acted on by the receivership court without any notice except that provided in section 4 of this chapter. The receiver shall give a bond the director considers appropriate. However, a ~~Federal Deposit Insurance Agency~~ **federal deposit insurance agency** shall not be required to post any bond. If the receiver is not a ~~Federal Deposit Insurance Agency,~~ **federal deposit insurance agency,** the director may agree to reasonable compensation for the receiver.

(b) Upon appointment as receiver, title to all assets of the financial institution vest in the receiver without the execution of any instruments of conveyance, assignment, transfer, or endorsement. If no other receiver is appointed as provided in this chapter, the department shall act as receiver and has all of the powers and duties of a receiver as provided in this chapter.

(c) Except as otherwise provided, the sole and exclusive right to liquidate and terminate the affairs of any financial institution is vested in the receiver appointed under this section, and **except as otherwise provided by law,** no other receiver, assignee, trustee, or liquidating agent shall be appointed by any court or any other person.

(d) After the department has taken possession of the business and property for any financial institution, no suit, action, or other

proceeding at law or in equity shall be commenced or prosecuted against the financial institution upon any debt, obligation, claim, or demand.

(e) No person, firm, limited liability company, ~~or~~ corporation, **or other entity** holding any of the property or credits of the financial institution shall have any lien or charge against the property or credits for any payment, advance, or clearance made after the department has taken possession. A lien shall not attach to any of the assets or property of the financial institution by reason of the entry of any judgment recovered against the institution after the department has taken possession of its business and property and while the possession continues.

(f) A receiver appointed to liquidate a corporate fiduciary must have sufficient experience in fiduciary matters.

SECTION 101. IC 28-1-3.1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. The receiver of a closed financial institution may do the following:

(1) Take possession of all books, records, and assets of the financial institution.

(2) Collect all debts, claims, and judgments belonging to the financial institution and do such other acts as are necessary to preserve and liquidate its assets.

(3) Execute in the name of the financial institution any instrument necessary or proper to effectuate its powers or perform its duties as receiver.

(4) Initiate, pursue, and defend litigation involving any right, claim, interest, or liability of the financial institution.

(5) Exercise any and all fiduciary functions of the financial institution as of the date of appointment as receiver.

(6) Borrow money as necessary in the liquidation of the financial institution and secure the borrowings by the pledge or mortgage of assets.

(7) Abandon or convey title to any holder of a mortgage, security deed, security interest, or lien against property in which the financial institution has an interest whenever the receiver determines that to continue to claim that interest is burdensome and of no advantage to the financial institution, its depositors, creditors, or shareholders.

(8) Subject to the approval of the receivership court:

(A) sell any and all real and personal property to compromise any debt, claim, or judgment due to the financial institution and discontinue any action or other proceeding pending; or

(B) pay off all mortgages, securities deeds, security agreements, and liens upon any real or personal property belonging to the financial institution and purchase at a judicial sale or at a sale authorized by court order, any real or personal property in order to protect the financial institution's equity in that property.

(9) If, at the time of liquidation, a closed financial institution holds property in trust for an individual or a corporation under or by virtue of a trust instrument, the administration of the property must be handled in the manner set forth in IC 28-1-9-7.

Notwithstanding this section, when the Federal Deposit Insurance Corporation is appointed receiver of a financial institution, subdivision (8) does not apply.

SECTION 102. IC 28-1-3.1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. The receiver may, with ex parte approval of the receivership court, sell all or any part of the financial institution's assets to another state or federally chartered financial institution or to a federal deposit insurance agency acting in its corporate capacity. **The Federal Deposit Insurance Corporation is not required to seek ex parte approval of the receivership court.** The receiver may also borrow from a federal deposit insurance agency any amount necessary to facilitate the assumption of deposit liabilities by a newly chartered or existing state or federally chartered financial institution, assigning any part or all of the assets of the financial institution as security for the loan.

SECTION 103. IC 28-1-3.1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8. (a) All parties having claims against the closed financial institution shall present their claims supported by proof to the receiver within one hundred eighty (180) days after the department has taken possession.

(b) The receiver shall cause notice of the claims procedure prescribed by this section to be:

(1) published once a week for twelve (12) consecutive weeks in a newspaper of general circulation published in the county in

which the receivership court is located; and

(2) mailed to each person whose name appears as a creditor upon books of the financial institution at the person's last address of record.

(c) Within one hundred eighty (180) days following receipt of claim, the receiver shall notify in writing any claimant whose claim has been rejected. Notice is effective when mailed. Any claimant whose claim has been rejected by the receiver may petition the receivership court for a hearing on the claim within sixty (60) days from the date the claim is rejected.

(d) If the Federal Deposit Insurance Corporation is the receiver, compliance with this section is not required.

SECTION 104. IC 28-1-3.1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9. Any claims filed after the one hundred eighty (180) day claim period prescribed by section 8 of this chapter and subsequently accepted by the receiver or allowed by the receivership court shall be entitled to share in the distribution of assets only to the extent of the undistributed assets in the hands of the receiver on the date the claims are accepted or allowed. **If the Federal Deposit Insurance Corporation is the receiver, compliance with this section is not required.**

SECTION 105. IC 28-1-3.1-10.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10.1. (a) All claims against the financial institution that are proved to the satisfaction of the receiver or approved by the receivership court shall be paid in the following order:

(1) Claims of persons referred to in IC 28-1-12-6 as having preference and priority.

(2) Administration expenses of the liquidation, including the following:

(A) Court costs.

(B) Compensation and actual expenses incurred by the department or the receiver in order to facilitate the liquidation.

(C) Compensation of each regular officer or employee of the receiver for the time actually devoted by the officer or employee to the liquidation of the financial institution at an amount not to exceed the compensation paid to the officer or employee for the performance of the regular duties of the

officer or employee.

(D) Actual expenses of each regular officer or employee of the receiver that are necessarily incurred in the performance of the duties of the officer or employee in the liquidation.

(E) Compensation and expenses of any special representative, assistant, accountant, agent, or attorney employed by the receiver.

(F) The reasonable general overhead expenses that are incurred by the department or the receiver in the liquidation of the affairs of the financial institution.

(3) Claims given priority under other provisions of state or federal law.

(4) Deposit obligations.

(5) Other general liabilities.

(6) Debt subordinated to the claims of general creditors.

(7) Equity capital securities.

(b) Interest may not be paid on any claim until the full principal amount of every claim within the same class has been paid.

(c) If the Federal Deposit Insurance Corporation is the receiver, compliance with this section is not required.

SECTION 106. IC 28-1-3.1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 11. **(a)** Within one hundred eighty (180) days of the date that the department has taken possession, the receiver may, at his election, reject:

(1) any executory contract to which the closed financial institution is a party without any further liability to the closed financial institution or the receiver; or

(2) any obligation of the financial institution as a lessee of real or personal property.

The receiver's election to reject a lease shall create no claim for rent other than rent accrued to the date of termination or for actual damages, if any, for the termination not to exceed the equivalent of payment of rent for six (6) months.

(b) If the Federal Deposit Insurance Corporation is the receiver, compliance with this section is not required.

SECTION 107. IC 28-1-3.1-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 13. (a) The receiver, with the approval of the receivership court, may appoint a successor to

all rights, obligations, assets, deposits, agreements, and trusts held by the closed financial institution as trustee, administrator, executor, guardian, agent, and all other fiduciary or representative capacities. The successor's duties and obligations begin upon appointment to the same extent binding upon the closed financial institution and as though the successor had originally assumed the duties and obligations. Specifically, the successor shall succeed to and be entitled to administer all trusteeships, administrations, executorships, guardianships, agencies, and all other fiduciary or representative proceedings to which the closed financial institution is named or appointed in wills, whenever probated, or to which it is appointed by any other instrument, court order, or by operation of law.

(b) This section shall not impair any right of the grantor or beneficiaries of trust assets to secure the appointment of a substituted trustee or manager.

(c) Within thirty (30) days after appointment, the successor shall give written notice, insofar as practical, to all interested parties named in:

(1) the books and records of the closed financial institution; or

(2) trust documents held by it;

that the successor has been appointed in accordance with applicable law.

(d) If the Federal Deposit Insurance Corporation is the receiver, compliance with this section is not required.

SECTION 108. IC 28-1-3.1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 14. **(a)** The receiver shall cause notice to be mailed to:

(1) the owners of any personal property left in the possession of a closed financial institution for safekeeping or as bailee or depository for hire;

(2) all lessees; and

(3) other persons in possession of any safe deposit box, vault, or locker;

requiring those persons to appear and assert their claims to the property within sixty (60) days from the date of the notice. Within that time, the owner or owners of the property may appear and assert their claims to the property. Subject to approval of the receivership court, the receiver shall make the agreements or arrangements as may be necessary for the

disposition of the property and the contents of the safe deposit boxes, vaults, or lockers and the termination of any leases or other contracts relating to the property.

(b) If the Federal Deposit Insurance Corporation is the receiver, compliance with this section is not required.

SECTION 109. IC 28-1-3.1-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 16. **(a)** When the proceedings described in this chapter have been completed, the receiver shall execute and file, in the manner provided in this section, articles of dissolution, setting forth the following information:

(1) The name of the financial institution.

(2) The place where its principal office is located.

(3) The names and addresses of the directors and officers of the financial institution at the time when the liquidation proceedings were begun.

(4) A brief summary of the aggregate amount of general claims finally allowed against the financial institution, the aggregate amount of claims allowed as preferred, and the aggregate amount of all other claims against the financial institution, together with a statement of the aggregate payments made on each of the groups of claims and with a reference to:

(A) the orders of the receiver or the receivership court authorizing those payments; and

(B) the current reports wherein a report of the payments so ordered is made;

as of the date of the taking possession of the financial institution by the department.

(5) A brief summary of the aggregate amount of payments made to the shareholders of the financial institution, whether of money or other property, and a reference to the orders of the receiver or the receivership court authorizing the payments and to the current reports wherein the report of the payment is made.

(b) If the Federal Deposit Insurance Corporation is the receiver, the following apply:

(1) Compliance with this section is not required.

(2) The department:

(A) may file the articles of dissolution; and

(B) may take all actions necessary to complete the

dissolution of the financial institution.

SECTION 110. IC 28-1-3.1-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 21. Whenever ~~the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, the Resolution Trust Corporation, or~~ a federal supervisory agency is bidding, consolidating, merging, selling, or otherwise resolving or disposing of a troubled, an insolvent, or an imminently insolvent financial institution, the director of the department may approve any transaction, including the purchase of assets, the assumption of liabilities, a merger, or the formation of a new financial institution, if the transaction requires the approval of the department.

SECTION 111. IC 28-1-5-2, AS AMENDED BY P.L.57-2006, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) Every corporation has the capacity to act that is possessed by a natural person, but has the authority to perform only those acts that are necessary, convenient, or expedient to accomplish the purposes for which it is formed and that are not repugnant to law.

(b) Subject to any limitations or restrictions imposed by law or by the articles of incorporation, each corporation has the following general rights, powers, and privileges:

(1) To continue as a corporation, under its corporate name, for the period limited in its articles of incorporation, or, if the period is not so limited, then perpetually.

(2) To sue and be sued in its corporate name.

(3) To have a corporate seal and to alter such seal at its pleasure.

(4) To acquire, own, hold, use, lease, mortgage, pledge, sell, convey, or otherwise dispose of property, real and personal, tangible and intangible, in the manner and to the extent hereinafter provided.

(5) To borrow money and to mortgage or pledge its property to secure the payment thereof, in the manner and to the extent hereinafter provided; but no financial institution having power to accept deposits of money shall pledge any of the assets of such financial institution as security for the safekeeping and prompt payment of any money so deposited, except that any such financial institution may, for the safekeeping and prompt payment of any money so deposited, give security of the kind authorized by

any statute of this state or by the Congress of the United States. **Notwithstanding this subdivision, a financial institution may receive deposits of state and federal public funds and may pledge securities or other assets for the repayment of deposits if the pledge is permitted by applicable law or regulation.**

(6) To conduct business in this state and elsewhere.

(7) To appoint such officers and agents as the business of the corporation may require and to do the following with respect to any officers or agents appointed:

(A) Define their duties.

(B) Fix their compensation, which may include compensation paid pursuant to any plan of deferred compensation approved by the corporation's board of directors.

(C) Enter into employment contracts with the corporation's officers and agents which set forth terms and conditions of employment.

(D) Provide the corporation's officers, agents, and employees with individual or group life insurance.

(E) Procure and maintain in effect for the benefit of the bank, insurance on the life or lives of designated officers or directors.

(8) To make bylaws for the government and regulation of its affairs.

(9) To cease doing business and to dissolve and surrender its corporate franchise.

(10) To do all acts and things necessary, convenient, or expedient to carry out the purposes for which it is formed.

(c) Subject to any limitations or restrictions that the department may impose by rule or policy, each corporation may purchase and hold life insurance as follows:

(1) Life insurance purchased or held in connection with employee compensation or benefit plans approved by the corporation's board of directors.

(2) Life insurance purchased or held to recover the cost of providing preretirement or postretirement employee benefits approved by the corporation's board of directors.

(3) Life insurance on the lives of borrowers.

(4) Life insurance held as security for a loan.

(5) Life insurance that a national bank may purchase or hold under 12 U.S.C. 24 (Seventh).

SECTION 112. IC 28-1-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) As used in this chapter, "corporation" means:

(1) a bank;

(2) a trust company;

(3) a corporate fiduciary;

(4) a savings bank organized, reorganized, or formed as a result of a conversion after December 31, 1992;

(5) a savings association; or

(6) an industrial loan and investment company that maintains federal deposit insurance.

(b) Any two (2) or more corporations that are organized or reorganized under the laws of any state (as defined in IC 28-2-17-19) or of the United States may merge into one (1) of such corporations, or may consolidate into a new corporation, to be organized under IC 28-12, by complying with the provisions of this chapter.

(c) A savings bank organized before January 1, 1993, may under section 25 of this chapter merge, consolidate, or join together with a bank or trust company. Except as provided in section 25 of this chapter, all other provisions of this chapter apply to the merger, consolidation, or joining together.

(d) A corporation organized or reorganized under the laws of a state (as defined in IC 28-2-17-19) or of the United States may merge or consolidate with one (1) or more of its affiliates (as defined in IC 28-1-18.2-1) by complying with all the provisions of this chapter. In effecting a merger or consolidation between a corporation and an affiliate, this chapter applies as if the affiliate were a corporation except that a noncorporation survivor of a merger or consolidation does not retain powers of the corporation.

SECTION 113. IC 28-1-7-4, AS AMENDED BY P.L.90-2008, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) After the resolutions approving a joint agreement of merger have been adopted by the board of directors of each of the corporations, such resolutions and joint agreement shall be submitted for approval by the department. The department may, in its discretion, approve or disapprove the resolution and joint agreement.

(b) In deciding whether to approve or disapprove a resolution and joint agreement under this section, the department shall consider the following factors:

(1) Whether the institutions subject to the proposed transaction are operated in a safe, sound, and prudent manner.

(2) Whether the financial condition of any institution subject to the proposed transaction will jeopardize the financial stability of any other institutions subject to the proposed transaction.

(3) Whether the proposed transaction under this chapter will result in an institution that has inadequate capital, unsatisfactory management, or poor earnings prospects.

(4) Whether the proposed transaction, in the department's judgment and considering the available information under the prevailing circumstances, will result in an institution that is more favorable to the stakeholders than if the entities were to remain separate.

~~(4)~~ **(5)** Whether the management or other principals of the institution that will result from the proposed transaction under this chapter are qualified by character and financial responsibility to control and operate in a legal and proper manner the resulting institution.

~~(5) Whether the public convenience and advantage will be served by the resulting institution after the proposed transaction.~~

(6) Whether the institutions subject to the proposed transaction under this chapter furnish all the information the department requires in reaching the department's decision.

SECTION 114. IC 28-1-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Before a proposed disposition described in section 1 of this chapter is submitted to a vote of the shareholders, the resolution proposing the disposition shall be submitted for the approval of the department.

(b) The department may approve a resolution if the corporation ~~(1)~~ has and will have assets in excess of the corporation's liabilities and **either of the following applies:**

(1) The corporation intends to merge out of existence under IC 28-1-7-1.

(2) **The corporation** intends to voluntarily dissolve under IC 28-1-9.

(c) If the department approves a resolution submitted under this section, the department shall:

(1) write or stamp on the resolution:

(A) the words "Approved by the Department of Financial Institutions of the State of Indiana"; and

(B) the date of the approval; and

(2) place the impression of the seal of the department and the signature of the director or the director's authorized designee beneath the approval stamp.

SECTION 115. IC 28-1-9-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 11. In case depositors or other creditors or the holders of shares of any such corporation are unknown or shall fail or refuse to accept their distributive shares in the property and assets of such corporation, or are under any disability, or ~~can not~~ **cannot** be found after diligent inquiry, ~~the board of directors shall make a charge of not to exceed one dollar ($1.00) against each account or claim for which no demand has been made. Proceeds arising from such charges shall be merged into the general assets of the corporation.~~ upon the final settlement of the liquidation, the ~~board of directors shall file at the office of the department in the state capitol building, a complete list of all distributive portions owing to depositors, creditors or owners of shares of stock, after deducting the charge above referred to, and deposit at the office of the department cash to cover such unpaid balances. Such deposit shall have the same force and effect as if payment had been made directly to and accepted by the persons lawfully entitled thereto. The distributive portions so deposited shall be paid over by the department to such depositors, creditors or shareholders respectively, or to the lawful owners of such distributable portions, or to their respective legal representatives upon satisfactory proof being made to the department of their respective rights thereto. If any of the distributive portions so deposited with the department shall not have been claimed within a period of three (3) years after the date of such deposit, after the expiration of said period the department shall make a charge of not to exceed one dollar ($1.00) against each of said claims remaining unpaid, as reimbursement for all costs arising in connection with the trust. The proceeds arising from such charges shall be paid into the state treasury and shall be credited to the financial institutions fund. Any balances remaining shall be paid to the general~~

~~fund of the state treasury.~~ **liquidating agent shall treat the property as unclaimed property and comply with IC 32-34-1.**

SECTION 116. IC 28-1-11-3.1, AS AMENDED BY P.L.217-2007, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3.1. (a) Any bank or trust company shall have the power to discount, negotiate, sell and guarantee promissory notes, bonds, drafts, acceptances, bills of exchange, and other evidences of debt; to buy and sell, exchange, coin and bullion; to loan money; to borrow money and to issue its notes, bonds, or debentures to evidence any such borrowing and to mortgage, pledge, or hypothecate any of its assets to secure the repayment thereof; to receive savings deposits and deposits of money subject to check, and deposits of securities or other personal property from any person or corporation, upon such terms as may be agreed upon by the parties; to contract for and receive on loans and discounts the highest rate of interest allowed by the laws of this state to be contracted for and received by individuals; to accept, for payment at a future date, drafts drawn upon it by its customers and to issue letters of credit authorizing the holders thereof to draw drafts upon it or its correspondents at sight or on time, however, the letter of credit must state a specific expiration date; and to exercise all the powers incidental and proper or which may be necessary and usual in carrying on a general banking business, but it shall have no right to issue bills to circulate as money.

(b) Subject to such regulations as the department finds to be necessary and proper, any bank or trust company shall have the following powers:

(1) To make such loans and advances of credit and purchases of obligations representing loans and advances of credit as are eligible for insurance by the federal housing administrator, and to obtain such insurance.

(2) To make such loans secured by mortgages on real property or leasehold, as the federal housing administrator insures or makes a commitment to insure, and to obtain such insurance.

(3) To purchase, invest in, and dispose of notes or bonds secured by mortgage or trust deed insured by the federal housing administrator or debentures issued by the federal housing administrator, or bonds or other securities issued by national mortgage associations.

(4) To extend credit to any state agency, with the approval of the department, notwithstanding any other provisions or limitations of IC 28-1. No law of this state prescribing the nature, amount, or form of security or requiring security upon which loans or advances of credit may be made, or prescribing or limiting interest rates upon loans or advances of credit, or prescribing or limiting the period for which loans or advances of credit may be made, shall be deemed to apply to loans, advances of credit, or purchases made pursuant to subdivisions (1), (2), and (3) and this subdivision.

(5) To purchase, take, hold, and dispose of notes, and mortgages securing such notes, made to any joint stock land bank heretofore incorporated, in any case in which not less than ninety-nine percent (99%) of the stock of said joint stock land bank is owned by the bank or trust company at the time such notes or mortgages be acquired by the bank or trust company; and upon dissolution of any such joint stock land bank, or at any stage in the process of such dissolution, any bank or trust company then owning not less than ninety-nine percent (99%) of the stock of such joint stock land bank may take, hold, and dispose of any notes, mortgages, or other assets of such joint stock land bank of whatsoever nature, including real estate, wheresoever situated, which such joint stock land bank shall assign, transfer, convey, or otherwise make over to such bank or trust company by way of final or partial distribution of its assets to its stockholders upon such dissolution or in connection with the process of such dissolution. No law of this state prescribing the nature, amount, location, or form of security, or requiring security upon which loans or advances of credit may be made, or prescribing or limiting interest rates upon loans or advances of credit, or prescribing or limiting the period for which loan or advances of credit may be made, or prescribing any ratio between the amount of any loan and the appraised value of the security for such loan, or requiring periodical reductions of the principal of any loan, shall be deemed to apply to loans, notes, mortgages, real estate, or other assets mentioned in this subdivision.

(6) To adopt stock purchase programs for employees and to grant options to purchase, and to issue and sell, shares of its capital

stock to its employees, or to a trustee on their behalf (which may be the bank or trust company issuing such capital stock), without first offering the same to its shareholders, for such consideration, not less than par value, and upon such terms and conditions as shall be approved by its board of directors and by the holders of a majority of its shares entitled to vote with respect thereto, and by the department. In the absence of actual fraud in the transaction, the judgment of the directors as to the consideration for the issuances of such options and the sufficiency thereof shall be conclusive. Any bank or trust company exercising the powers granted in this subsection may, to the extent approved by the department, have authorized and unissued stock required to fulfill any stock option or other arrangement authorized herein.

(7) Subject to such restrictions as the department may impose, to become the owner or lessor of personal or real property acquired upon the request and for the use of a customer and to incur such additional obligations as may be incident to becoming an owner or lessor of such property.

(8) To purchase or construct buildings and hold legal title thereto to be leased to municipal corporations or other public authorities, for public purposes, having resources sufficient to make payment of all rentals as they become due. Each lease agreement shall provide that upon expiration, the lessee will become the owner of the building.

(8.1) Subject to the prior written approval of the department, and notwithstanding section 5 of this chapter, to purchase, hold, and convey real estate which is:

(A) improved or to be improved by a single, freestanding building; and

(B) to be used, in part, as a branch or the principal office of that bank or trust company and, in part, as rental property for one (1) or more lessees.

Unless a written extension of time is given by the department, the bank or trust company shall open the branch or principal office within two (2) years from the acquisition date of the real estate. If the bank or trust company does not open a branch or its principal office on the real estate in that time period or if the bank or trust company removes its branch or principal office from the

real estate, the bank or trust company shall divest itself of all interest in the real estate within five (5) years from the acquisition date of the real estate, if a branch was not opened, or five (5) years from the removal date of the branch office, whichever applies. Except with the written approval of the department, the sum invested in real estate and buildings used for the convenient transaction of its business as provided in this subdivision shall not exceed fifty percent (50%) of the capital and surplus of the bank or trust company as provided in section 5 of this chapter.

(9) Except as provided in subsections (c) and (d), and subject to subsection (e), to invest **directly or indirectly** in community development corporations and projects of a predominantly civic, community, or public nature, including equity investments in corporations, ~~or~~ **limited partnerships,** limited liability companies, **or other entities** organized for such purposes. Investments by a bank or trust company under this subdivision may not exceed:

(A) in any one (1) project, two percent (2%); and

(B) in the aggregate, five percent (5%);

of the capital and surplus of the bank or trust company. As used in this subdivision and in subsection (c), "capital and surplus" has the meaning set forth in IC 28-1-1-3(10).

(10) Subject to section 3.2 of this chapter, to exercise the rights and privileges (as defined in section 3.2(a) of this chapter) that are or may be granted to national banks domiciled in Indiana.

(c) Investments by a bank or trust company under subsection (b)(9) may exceed the limit set forth in subsection (b)(9)(B) if the director determines that:

(1) the aggregate investments by the bank or trust company under subsection (b)(9) in excess of five percent (5%) of the capital and surplus of the bank or trust company will not pose a significant risk to the affected deposit insurance fund; and

(2) the bank or trust company is adequately capitalized.

However, in no case shall the aggregate investments by a bank or trust company under subsection (b)(9) exceed ten percent (10%) of the capital and surplus of the bank or trust company.

(d) Investments by a bank or trust company under subsection (b)(9) in equity investments qualifying for the new markets tax credits under

26 U.S.C. 45D **or other programs approved by the director:**

(1) are not subject to the limit set forth in subsection (b)(9)(A); and

(2) may exceed the limit set forth in subsection (b)(9)(B) if the director determines that:

(A) the aggregate equity investments qualifying for the new markets tax credit **or other programs** that are:

(i) made by the bank or trust company under subsection (b)(9); and

(ii) in excess of five percent (5%) of the capital and surplus of the bank or trust company;

will not pose a significant risk to the affected deposit insurance fund; and

(B) the bank or trust company is adequately capitalized.

However, in no case shall the aggregate equity investments qualifying for the new markets tax credit **or other programs** and made by a bank or trust company exceed ~~ten~~ **fifteen** percent ~~(10%)~~ **(15%)** of the capital and surplus of the bank or trust company.

(e) A bank or trust company shall not make any investment under subsection (b)(9) if the investment would expose the bank or trust company to unlimited liability.

(f) Any rule made and promulgated under and pursuant to this section may apply to one (1) or more banks or trust companies or to one (1) or more localities in the state as the department, in its discretion, may determine.

SECTION 117. IC 28-1-11-3.2, AS AMENDED BY P.L.217-2007, SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3.2. (a) As used in this section, "rights and privileges" means the power:

(1) to:

(A) create;

(B) deliver;

(C) acquire; or

(D) sell;

a product, a service, or an investment that is available to or offered by; or

(2) to engage in **mergers, consolidations, reorganizations, or**

other activities **or to exercise other powers** authorized for; national banks domiciled in Indiana.

(b) A bank that intends to exercise any rights and privileges that are:

(1) granted to national banks; but

(2) not authorized for banks under the Indiana Code (except for this section) or any rule adopted under the Indiana Code;

shall submit a letter to the department describing in detail the requested rights and privileges granted to national banks that the bank intends to exercise. If available, copies of relevant federal law, regulations, and interpretive letters must be attached to the letter submitted by the bank.

(c) The department shall promptly notify the requesting bank of the department's receipt of the letter submitted under subsection (b). Except as provided in subsection (e), the bank may exercise the requested rights and privileges sixty (60) days after the date on which the department receives the letter unless otherwise notified by the department.

(d) The department may deny the requested rights and privileges if the department finds that:

(1) national banks domiciled in Indiana do not possess the requested rights and privileges;

(2) the exercise of the requested rights and privileges by the bank would adversely affect the safety and soundness of the bank;

(3) the exercise of the requested rights and privileges by the bank would result in an unacceptable curtailment of consumer protection; or

(4) the failure of the department to approve the requested rights and privileges will not result in a competitive disadvantage to the bank.

(e) The sixty (60) day period referred to in subsection (c) may be extended by the department based on a determination that the bank's letter raised issues requiring additional information or additional time for analysis. If the sixty (60) day period is extended under this subsection, the bank may exercise the requested rights and privileges only if the bank receives prior written approval from the department. However:

(1) the department must:

(A) approve or deny the requested rights and privileges; or

(B) convene a hearing;

not later than sixty (60) days after the department receives the bank's letter; and

(2) if a hearing is convened, the department must approve or deny the requested rights and privileges not later than sixty (60) days after the hearing is concluded.

(f) The exercise of rights and privileges by a bank in compliance with and in the manner authorized by this section is not a violation of any provision of the Indiana Code or rules adopted under IC 4-22-2.

(g) If a bank receives approval to exercise the requested rights and privileges granted to national banks domiciled in Indiana, the department shall determine by order whether all banks may exercise the same rights and privileges. In making the determination required by this subsection, the department must ensure that the exercise of the rights and privileges by all banks will not:

(1) adversely affect their safety and soundness; or

(2) unduly constrain Indiana consumer protection provisions.

(h) If the department denies the request of a bank under this section to exercise any rights and privileges that are granted to national banks, the bank may appeal the decision of the department to the circuit court with jurisdiction in the county in which the principal office of the bank is located. In an appeal under this section, the court shall determine the matter de novo.

SECTION 118. IC 28-1-29-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 0.5. (a) This chapter does not apply to an attorney at law authorized to practice in Indiana or to a depository financial institution (as defined in IC 28-1-1-6).**

(b) This chapter does not apply to a third-party bill paying service with which the customer contracts solely for the customer's convenience of paying routine bills, in an arrangement in which the customer retains full control over all funds deposited. The types of payments made by a bill paying service are exempt from this chapter as long as the company's actions are not an attempt, as determined by the director, to circumvent limitations under this chapter.

SECTION 119. IC 28-1-29-1, AS AMENDED BY P.L.90-2008, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. The following words, when used in this chapter,

shall have the meaning ascribed to them unless the context clearly requires a different meaning:

(1) "Person" includes individuals, sole proprietorships, partnerships, limited liability companies, trusts, joint ventures, corporations, unincorporated organizations, ~~and~~ other entities, **and their affiliates,** however organized.

(2) "Debt management company" is any person doing business as a budget counseling, credit counseling, debt management, or debt pooling service or holding the person out, by words of similar import, as providing services to debtors in the management of their finances and debts, and ~~contracting~~ **having a written agreement** with the debtor ~~for a fee~~ to ~~receive from the debtor and~~ disburse money or anything of value. The term includes the following:

(A) ~~An entity~~ **A person** that simply holds any **money, funds,** check, personal check, money order, personal money order, draft, or any other instrument for the transmission of money.

(B) A person or an entity known as a "budget service company".

(3) "License" means a license issued under the provisions of this chapter.

(4) "Licensee" means any person to whom a license has been issued pursuant to the provisions of this chapter.

(5) "Contract debtor" means a debtor who has entered into a ~~contract~~ **written agreement** with a licensee.

(6) "Debt" means an obligation arising out of personal, family, or household use.

(7) "Debtor" means an individual whose principal debts and obligations arise out of personal, family, or household use and shall not apply to persons whose principal indebtedness arises out of business purpose transactions.

(8) "Department" means the members of the department of financial institutions.

(9) "Finances" means a savings deposit that is:

(A) made on behalf of a contract debtor;

(B) owned and controlled exclusively by the contract debtor and not a licensee who has a power of attorney of the contract debtor; and

(C) placed in a bank or savings institution chartered by the state or federal government.

(10) "Affiliate" means a person that, directly or indirectly, through one (1) or more intermediaries:

(A) controls;

(B) is controlled by; or

(C) is under common control with;

a person subject to this chapter.

(11) "Fee" means the total amount of money charged to a contract debtor by a debt management company for the administration of a debt management plan.

(12) "Plan" means a written debt repayment program in which a debt management company furnishes debt management services to a contract debtor and that includes a schedule of payments to be made by or on behalf of the contract debtor and used to pay debts owed by the contract debtor.

(13) "Principal amount of the debt" means the total amount of a debt at the time the contract debtor enters into an agreement.

(14) "Agreement" means an agreement between a debt management company and a debtor for the performance of debt management services.

(15) "Trust account" means an account held by a licensee that is:

(A) established in a bank insured by the Federal Deposit Insurance Corporation;

(B) separate from other accounts held by the licensee;

(C) designated as a trust account or other account designated to indicate that the money in the account is not the money of the licensee; and

(D) used to hold money of one (1) or more contract debtors for disbursement to creditors of the contract debtors.

(16) "Month" means a calendar month.

(17) "Day" means a calendar day.

(18) "Concessions" means assent to repayment of a debt on terms more favorable to a contract debtor than the terms of the contract between the debtor and a creditor.

(19) "Good faith" means honesty in fact and the observance

of reasonable standards of fair dealing.

(20) "Control of a related interest" refers to a situation in which a person, directly or indirectly, or through or in concert with one (1) or more other persons, possesses any of the following:

(A) The ownership of, control of, or power to vote at least twenty-five percent (25%) of the voting securities of a related interest.

(B) The control in any manner of the election of a majority of the directors of a related interest.

(C) The power to exercise a controlling influence over the management or policies of a related interest. For purposes of this clause, a person is presumed to have control, including the power to exercise a controlling influence over the management or policies of the related interest, if the person:

(i) is an executive officer or a director of the related interest and directly or indirectly owns, controls, or has the power to vote more than ten percent (10%) of any class of voting securities of the related interest; or

(ii) directly or indirectly owns, controls, or has the power to vote more than ten percent (10%) of any class of voting securities of the related interest and no other person owns, controls, or has the power to vote a greater percentage of that class of voting securities.

SECTION 120. IC 28-1-29-3, AS AMENDED BY P.L.90-2008, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) No person shall operate a debt management company in Indiana without having obtained a license from the department. For purposes of this section, a person is operating in Indiana if:

(1) the person or any of the person's employees or agents are located in Indiana; or

(2) the person:

(A) contracts with debtors who are residents of Indiana; or

(B) solicits business from residents of Indiana by advertisements or other communications sent or delivered through any of the following means:

(i) Mail.
(ii) Personal delivery.
(iii) Telephone.
(iv) Radio.
(v) Television.
(vi) The Internet or other electronic communications.
(vii) Any other means of communication.

(b) The director may request evidence of compliance with this section at:

(1) the time of application;
(2) the time of renewal of a license; or
(3) any other time considered necessary by the director.

(c) For purposes of subsection (b), evidence of compliance with this section may include:

(1) criminal background checks, including a national criminal history background check (as defined in IC 10-13-3-12) by the Federal Bureau of Investigation for any individual described in section 5(b)(2) or 5(b)(3) of this chapter;
(2) credit histories; and
(3) other background checks considered necessary by the director.

If the director requests a national criminal history background check under subdivision (1) for an individual described in that subdivision, the director shall require the individual to submit fingerprints to the department or to the state police department, as appropriate, at the time evidence of compliance is requested under subsection (b). The individual to whom the request is made shall pay any fees or costs associated with the fingerprints and the national criminal history background check. The national criminal history background check may be used by the director to determine the individual's compliance with this section. The director or the department may not release the results of the national criminal history background check to any private entity.

(d) The fee for a license or renewal shall be fixed by the department under IC 28-11-3-5 and shall be nonrefundable. The department may impose a fee under IC 28-11-3-5 for each day that a renewal fee ~~due and payable under this subsection is~~ **and any related documents that are required to be submitted with the renewal are** delinquent.

(e) If a person knowingly acts as a debt management company in

violation of this chapter, any agreement the person has made under this chapter is void and the debtor under the agreement is not obligated to pay any fees. If the debtor has paid any amounts to the person, the debtor, or the department on behalf of the debtor, may recover the payment from the person that violated this section.

(f) A license issued under this section:

(1) is not assignable or transferable; **and**

(2) must be renewed every year in the manner prescribed by the director of the department.

The director of the department shall prescribe the form of the renewal application. In order to be accepted for processing, a renewal application must be accompanied by the license renewal fee imposed under subsection (d) and all information and documents requested by the director of the department.

SECTION 121. IC 28-1-29-4, AS AMENDED BY P.L.217-2007, SECTION 43, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) The department may revoke or suspend any license issued under this chapter for the following causes:

(1) ~~Indictment for,~~ Conviction of or a plea of guilty or nolo contendere to a felony ~~involving fraud, deceit, or misrepresentation~~ under the laws of Indiana or any other jurisdiction.

(2) Violation of any of the provisions of this chapter.

(3) Fraud or deceit in procuring the issuance of a license or renewal under this chapter.

(4) Indulging in a continuous course of unfair conduct.

(5) Insolvency, bankruptcy, receivership, or assignment for the benefit of creditors by a licensee.

(6) Licensee lending money to any **contract** debtor that has subscribed to the licensee's services.

(7) Except as provided in subsection (c), offering to pay or give any cash, ~~fee,~~ gift, bonus, premiums, reward, or other compensation to any person for referring any prospective customer to the licensee.

(8) Except as provided in subsection (d), receiving any cash, ~~fee,~~ gift, bonus, premium, reward, or other compensation from any person other than the contract debtor in connection with ~~his~~ **the licensee's** activities as a licensee.

(9) Licensee requiring a debtor to purchase or agree to purchase a policy of insurance from which licensee receives a fee or other remuneration.

(10) If the licensee violates any reasonable rule or regulation made by the department under and within the authority of this chapter.

(11) Misleading advertising or representing that the licensee can provide protection from legal recourse or suits of creditors.

(12) Engaging in an unfair, unconscionable, or deceptive act or practice, including the knowing omission of any material information.

(13) Providing a contract debtor less than the full benefit of a compromise of a debt arranged by the licensee.

(14) Furnishing legal advice or performing legal services, unless the person furnishing the advice or performing the services:

(A) is licensed to practice law; and

(B) has been engaged by a debtor to provide legal services to the debtor.

(15) A fact or condition exists that, if the fact or condition had existed when the licensee applied for licensure as a debt management company, would have been a reason for denying the license.

(b) Except as provided in section 4.1 of this chapter, the denial, revocation, or suspension shall be made only after specific charges have been filed in writing, under oath, with the department or by the department, whereupon a hearing shall be had as to the reasons for such denial, revocation, or suspension and a certified copy of the charges shall be served on the licensee or the applicant for license not less than ten (10) days prior to the hearing.

(c) Notwithstanding subsection (a)(7), a licensee may reduce the fees of a contract debtor who is a client of the licensee if the contract debtor refers a prospective customer to the licensee.

(d) Notwithstanding subsection (a)(8), a licensee may receive a fair share creditor fee, based on disbursements made to the creditor, from a **contract** debtor's creditors. If any creditor refuses to pay the fair share creditor fee, the creditor must still be included in the contract debtor's payment plan.

(e) If the director of the department:

(1) has just cause to believe an emergency exists from which it is necessary to protect the interests of the public; or

(2) determines that the license was obtained for the benefit of, or on behalf of, a person who does not qualify for a license;

the director may proceed with the revocation of the license under IC 4-21.5-3-6.

SECTION 122. IC 28-1-29-4.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4.1. (a) A license issued by the department under this chapter shall be revoked by the department if the person fails to:

(1) file any renewal ~~form required~~ **application prescribed** by the ~~department,~~ **director;** or

(2) pay any license renewal fee described under section 3 of this chapter;

~~for a period of at least two (2) years.~~ **within sixty (60) days after the date the renewal is due.**

(b) A person whose license is revoked under this section may:

(1) pay all delinquent fees and apply for a new license; or

(2) appeal the revocation to the department for an administrative review under IC 4-21.5-3. Pending the decision resulting from the hearing under IC 4-21.5-3 concerning the license revocation, the license remains in force.

SECTION 123. IC 28-1-29-5, AS AMENDED BY P.L.90-2008, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) Every person doing business as a debt management company shall make application to the department for a license to engage in such business. Such application shall be in the form prescribed by the department and shall contain such information as the department may require.

(b) The department may not issue a license unless the department finds that the financial responsibility, character, and fitness of:

(1) the applicant and any significant affiliate of the applicant;

(2) each executive officer, director, or manager of the applicant, or any other individual having a similar status or performing a similar function for the applicant; and

(3) if known, each person directly or indirectly owning of record or owning beneficially at least ten percent (10%) of the

outstanding shares of any class of equity security of the applicant; warrant belief that the business will be operated honestly and fairly under this ~~article.~~ **chapter.** The department is entitled to request evidence of an applicant's financial responsibility, character, and fitness.

(c) An application submitted under this section must indicate whether any individuals described in subsection (b)(2) or (b)(3):

(1) are, at the time of the application, under indictment for a felony ~~involving fraud, deceit, or misrepresentation~~ under the laws of Indiana or any other jurisdiction; or

(2) have been convicted of or pleaded guilty or nolo contendere to a felony ~~involving fraud, deceit, or misrepresentation~~ under the laws of Indiana or any other jurisdiction.

(d) The department may deny an application under this section if the director of the department determines that the application was submitted for the benefit of, or on behalf of, a person who does not qualify for a license.

(e) Upon written request, an applicant is entitled to a hearing under IC 4-21.5 on the question of the qualifications of the applicant for a license.

SECTION 124. IC 28-1-29-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. Each application for a license shall be accompanied by **proof that the applicant has executed** a bond, **payable** to ~~the state of Indiana, in the sum of twenty-five thousand dollars ($25,000) with surety to the satisfaction of the department and be approved as to form by the state's attorney general, conditioned upon the faithful performance of the rules and regulations of~~ the department, ~~and in compliance with the laws of the state of Indiana.~~ **in an amount determined by the director and in accordance with the standards adopted by the director.** Said bond shall also indemnify any person damaged by failure on the part of the licensee to conduct the business in accordance with the provisions of this chapter.

SECTION 125. IC 28-1-29-7.5, AS AMENDED BY P.L.90-2008, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7.5. (a) This section applies if, after a person has been issued a license or renewal license under this chapter, any ~~of the following apply:~~

~~(1) Any individuals described in section 5(b)(2) or 5(b)(3) of this chapter are under indictment for a felony involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction.~~

~~(2) Any~~ individuals described in section 5(b)(2) or 5(b)(3) of this chapter have been convicted of or pleaded guilty or nolo contendere to a felony ~~involving fraud, deceit, or misrepresentation~~ under the laws of Indiana or any other jurisdiction.

(b) If this section applies, the licensee shall provide to the department the information required under section 5(c) of this chapter:

(1) not later than thirty (30) days after any person described in subsection (a)

~~(A) has been put on notice of the indictment; or~~

~~(B)~~ has been convicted of or pleaded guilty or nolo contendere to the felony; **or**

~~whichever applies; or~~

(2) if the licensee's next license renewal fee under section 3(c) of this chapter is due before the date described in subdivision (1), along with the licensee's next license renewal fee under section 3(d) of this chapter.

(c) Not later than thirty (30) days after a licensee has been served with notice of a civil action for violation of this chapter by or on behalf of a debtor who resides or resided in Indiana on:

(1) the date an agreement that is the subject of the civil action was entered into; or

(2) the date the civil action is filed;

the licensee shall provide written notice of the civil action to the department.

SECTION 126. IC 28-1-29-7.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 7.7. (a) A licensee may not furnish debt management services to a debtor unless:**

(1) the licensee has prepared a budget analysis; and

(2) if the debtor is to make regular, periodic payments, the licensee:

(A) has prepared a plan for the debtor;

(B) has made a determination, based on the licensee's

analysis of the information provided by the debtor and otherwise available to the licensee, that the plan is suitable for the debtor and the debtor will be able to meet the payment obligations under the plan; and

(C) believes that each creditor of the debtor listed as a participating creditor in the plan will accept payment of the debtor's debts as provided in the plan.

(b) Before a debtor enters into an agreement with a licensee to engage in a plan, the licensee shall:

(1) provide the debtor with a copy of the budget analysis and plan required by subsection (a) in a form that identifies the licensee and that the debtor may keep whether or not the debtor enters into the agreement;

(2) inform the debtor of the availability, at the debtor's option, of assistance provided through a toll free communication system or in person, where reasonably available to residents in Indiana, regarding the budget analysis and plan required by subsection (a); and

(3) with respect to all creditors identified by the debtor or otherwise known by the licensee to be creditors of the debtor, provide the debtor with a list of:

(A) creditors that the licensee expects to participate in the plan and grant concessions;

(B) creditors that the licensee expects to participate in the plan but not grant concessions;

(C) creditors that the licensee expects not to participate in the plan; and

(D) all other creditors.

(c) Except as provided in subsections (d), (e), and (f), before a debtor enters into an agreement with a licensee, the licensee shall, in a written form that is provided to the debtor separately, that contains no other information, and that the debtor may keep whether or not the debtor enters into the agreement, provide the following information to the debtor:

(1) The licensee's name and business address of the licensee.

(2) A statement that:

(A) the licensee's plans are not suitable for all debtors and the debtor may ask the licensee about other ways, including bankruptcy, to deal with indebtedness;

(B) nonpayment of debt may lead creditors to increase finance and other charges or undertake collection activity, including litigation;

(C) unless the statement would be untrue, the licensee may receive compensation from the creditors of the debtor; and

(D) unless the debtor is insolvent, if a creditor settles for less than the full amount of the debt, the plan may result in the creation of taxable income to the debtor, even though the debtor does not receive any money.

(d) If a licensee may receive payments from a debtor's creditors and the plan contemplates that the debtor's creditors will reduce finance charges or fees for late payment, default, or delinquency, the licensee may comply with subsection (c) by providing the following disclosure in clear and conspicuous type, surrounded by black lines:

"IMPORTANT INFORMATION FOR YOU TO CONSIDER

(1) Debt management plans are not right for all individuals, and you may ask us to provide information about other ways, including bankruptcy, to deal with your debts.

(2) We may receive compensation for our services from your creditors.

_____

Name and business address of licensee".

(e) If a licensee will not receive payments from a debtor's creditors and the plan contemplates that the debtor's creditors will reduce finance charges or fees for late payment, default, or delinquency, a licensee may comply with subsection (c) by providing the following disclosure in clear and conspicuous type, surrounded by black lines:

"IMPORTANT INFORMATION FOR YOU TO CONSIDER

Debt management plans are not right for all individuals, and you may ask us to provide information about other ways, including bankruptcy, to deal with your debts.

_____

Name and business address of licensee".

(f) If an agreement contemplates that creditors will settle debts for less than the full principal amount of debt owed, a licensee may comply with subsection (c) by providing the following disclosure in clear and conspicuous type, surrounded by black lines:

"IMPORTANT INFORMATION FOR YOU TO CONSIDER

(1) Our program is not right for all individuals, and you may ask us to provide information about bankruptcy and other ways to deal with your debts.

(2) Nonpayment of your debts under our program may:

(A) hurt your ability to obtain credit;

(B) lead your creditors to increase finance and other charges; and

(C) lead your creditors to undertake activity, including lawsuits, to collect the debts.

(3) Reduction of debt under our program may result in taxable income to you, even though you will not actually receive any money.

_____

Name and business address of licensee".

SECTION 127. IC 28-1-29-8, AS AMENDED BY P.L.1-2009, SECTION 148, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8. ~~(a) A licensee shall deliver to every contract debtor, at the time the contract is made, a copy of the contract, showing the:~~

~~(1) date executed;~~

~~(2) rate of charge the licensee will impose;~~

~~(3) initial set up fee;~~

~~(4) cancellation fee;~~

~~(5) amount of debts claimed by the contract debtor to be due the contract debtor's creditors;~~

~~(6) total amount of fee to be assessed by the licensee, including the initial set up fee, but excluding the cancellation fee; and~~

~~(7) total amount of debt to be repaid under the contract;~~

~~and shall immediately notify all creditors of the licensee's and debtor's relationship. The contract shall specify the schedule of payments from the debtor under the debt program.~~

(a) An agreement between a licensee and a debtor must:

(1) be in a written form;

(2) be dated and signed by the licensee and the debtor;

(3) include the name of the debtor and the address where the debtor resides;

(4) include the name, business address, and telephone number

of the licensee;

(5) be delivered to the debtor immediately upon formation of the agreement; and

(6) disclose the following:

(A) The services to be provided.

(B) The amount or method of determining the amount of all fees, individually itemized, to be paid by the debtor.

(C) The schedule of payments to be made by or on behalf of the debtor, including the amount of each payment, the date on which each payment is due, and an estimate of the date of the final payment.

(D) If a plan provides for regular periodic payments to creditors:

(i) each creditor of the debtor to which payment will be made, the amount owed to each creditor, and any concessions the licensee reasonably believes each creditor will offer; and

(ii) the schedule of expected payments to each creditor, including the amount of each payment and the date on which the payment will be made.

(E) Each creditor that the licensee believes will not participate in the plan and to which the licensee will not direct payment.

(F) The manner in which the licensee will comply with the licensee's obligations under section 9(j) of this chapter.

(G) A statement that:

(i) the licensee may terminate the agreement for good cause, upon return of unexpended money of the debtor;

(ii) the debtor may cancel the agreement as provided in section 8.6 of this chapter; and

(iii) the debtor may contact the department with any questions or complaints regarding the licensee.

(H) The address, telephone number, and Internet address or web site of the department.

(b) For purposes of subsection (a)(5), delivery of an electronic record occurs when:

(1) the record is made available in a format in which the debtor may retrieve, save, and print the record; and

(2) the debtor is notified that the record is available.

(c) An agreement must provide that:

(1) the debtor has a right to terminate the agreement at any time without penalty, notwithstanding the close-out fee as permitted by section 8.3(d) of this chapter, or obligation, by giving the licensee written or electronic notice, in which event:

(A) the licensee shall refund all unexpended money that the licensee or the licensee's agent has received from or on behalf of the debtor for the reduction or satisfaction of the debtor's debt; and

(B) all powers of attorney granted by the debtor to the licensee are revoked and ineffective;

(2) the debtor authorizes any bank insured by the federal deposit insurance corporation in which the licensee or the licensee's agent has established a trust account to disclose to the department any financial records relating to the trust account;

(3) the licensee shall notify the debtor within five (5) days after learning of a creditor's final decision to reject or withdraw from a plan under the agreement; and

(4) the notice under subdivision (3) must include:

(A) the identity of the creditor; and

(B) a statement that the debtor has the right to modify or terminate the agreement.

~~(b) A licensee may take no fee unless a debt program or a finance program, or both, agreed upon by the licensee and the contract debtor, has been arranged.~~ **(d)** All creditors must be notified of the debtor's and licensee's relationship. ~~Acceptance of a program payment constitutes agreement by the creditor to the program.~~

~~(c)~~ **(e)** A licensee shall give to the contract debtor a dated receipt for each payment, at the time of the payment, unless the payment is made by check, money order, or ~~direct deposit.~~ **automated clearinghouse withdrawal as authorized by the contract debtor.**

~~(d)~~ **(f)** A licensee shall, upon cancellation by a contract debtor of the ~~contract,~~ **agreement,** notify immediately in writing all creditors **in the debt management plan** of **the cancellation by** the contract debtor.

~~(e) A licensee shall maintain in the licensee's business such books, accounts, and records as will enable the department or the attorney general to determine whether the licensee is complying with this~~

~~chapter. Such books, accounts, and records shall be preserved for at least three (3) years after making the final entry of any contract recorded therein. A licensee is subject to IC 28-1-2-30.5 with respect to any records maintained by the licensee.~~

~~(f) A licensee may not, except as provided in subsection (g), receive a fee from the contract debtor for services in excess of fifteen percent (15%) of the amount of the debt payable to creditors that the debtor agrees to pay through the licensee, divided into equal monthly payments over the term of the contract. The total monthly amount of fees paid by the contract debtor to the licensee plus the fair share fees paid by the contract debtor's creditors to the licensee shall not exceed twenty percent (20%) of the monthly amount the debtor agrees to pay through the licensee. The accrual method of accounting shall apply to the creditor's fair share fees received by the licensee. The program fee may be charged for any one (1) month or part of a month. As a portion of the total fees and charges stated in the contract, the licensee may require the debtor to pay a maximum initial payment of fifty dollars ($50). The initial payment must be deducted from the total contract fees and charges to determine the monthly amortizable amount for subsequent fees. Unless approved by the department, the licensee may not retain in the debtor's trust account, for charges, an amount greater than one (1) month's fee plus the close-out fee. Any fee charged by the licensee to the debtor under this section for services rendered by the licensee, other than the amount pursuant to subsection (g), is not considered a debt owed by the debtor to the licensee.~~

~~(g) Upon:~~

~~(1) cancellation of the contract by a contract debtor; or~~

~~(2) termination of payments by a contract debtor;~~

~~a licensee may not withhold for the licensee's own benefit, in addition to the amounts specified in subsection (f), more than one hundred dollars ($100), which may be accrued as a close-out fee. The licensee may not charge the contract debtor more than one (1) set up fee or cancellation fee, or both, unless the contract debtor leaves the services of the licensee for more than six (6) months.~~

~~(h)~~ **(g)** A licensee may not enter into ~~a contract~~ **an agreement** with a debtor unless a thorough, written budget analysis of the debtor indicates that the debtor can reasonably meet the payments required under a proposed ~~debt program or finance program.~~ **plan. The**

following must be included in the budget analysis:

(1) Documentation and verification of all income considered. All income verification shall be dated not more than sixty (60) days before the completion of the budget analysis.

(2) Monthly living expense figures must be reasonable for the particular family size and part of the state.

(3) Documentation and verification, either by a current credit bureau report, current debtor account statements, or direct documentation from the creditor, of monthly debt payments and balances to be paid outside the plan.

(4) Documentation and verification, either by a current credit bureau report, current debtor account statements, or direct documentation from the creditor, of the monthly debt payments and current balances to be paid through the plan.

(5) The date of the budget analysis and the signature of the debtor.

~~(i)~~ **(h)** A licensee may not enter into ~~a contract~~ **an agreement** with a contract debtor for a period longer than ~~twenty-four (24)~~ **sixty (60)** months. **Every thirty (30) months, the licensee shall complete a thorough, written budget analysis of the contract debtor to ensure the debt management plan is still suitable for the contract debtor and the contract debtor will be able to meet the payment obligations under the plan. When adjustments are needed to change the indebtedness listed in the agreement, the licensee may execute a new agreement using the revised figures. A licensee may not increase the monthly fee percentage under section 8.3(c)(2)(A) of this chapter during the term of the original debt management plan agreement.**

~~(j)~~ **(i)** A licensee may provide services under this chapter in the same place of business in which another business is operating, or from which other products or services are sold, if the director issues a written determination that:

(1) the operation of the other business; or

(2) the sale of other products and services;

from the location in question is not contrary to the best interests of the licensee's contract debtors.

~~(k)~~ **(j)** A licensee without a physical location in Indiana may:

(1) solicit sales of; and

(2) sell;

additional products and services to Indiana residents if the director issues a written determination that the proposed solicitation or sale is not contrary to the best interests of contract debtors.

~~(l) A licensee may assess a charge not to exceed twenty-five dollars ($25) for each return by a bank or other depository institution of a dishonored check, negotiable order of withdrawal, or share draft issued by the contract debtor.~~

(k) A licensee shall maintain a toll free communication system, staffed at a level that reasonably permits a contract debtor to speak to a counselor, debt specialist, or customer service representative, as appropriate, during ordinary business hours.

(l) A debt management company shall act in good faith in all matters under this chapter.

SECTION 128. IC 28-1-29-8.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 8.3. (a) Except as otherwise permitted by this section, a licensee may not:**

(1) impose, directly or indirectly, a fee or other charge on a debtor; or

(2) receive money from or on behalf of a debtor for debt management services.

(b) A licensee may not impose charges or receive payment for debt management services until the licensee and the debtor have agreed upon a plan and have signed an agreement that complies with sections 8, 8.6, and 9.5 of this chapter. All creditors must be notified of the debtor's and licensee's relationship.

(c) If a debtor assents to a plan, the licensee may charge the following:

(1) A set up fee of not more than fifty dollars ($50) for consultation, obtaining a credit report, and setting up an account. Acceptance of a plan payment constitutes agreement by the creditor to the plan.

(2) A monthly service fee of the lesser of:

(A) not more than fifteen percent (15%) of the monthly amount the contract debtor agrees to pay through the licensee, divided into equal monthly payments over the term of the agreement; or

(B) not more than seventy-five dollars ($75) in any month. The monthly service fee under this subdivision may be charged for any one (1) month or part of a month. The amount of a set up fee under subdivision (1) may not be included in the calculation of the monthly service fee.

(d) Upon cancellation by a contract debtor or termination of payments by a contract debtor, a licensee may not withhold for the licensee's own benefit more than one hundred dollars ($100), which may be accrued as a close-out fee.

(e) A licensee may not charge a contract debtor more than one (1) set up fee or one (1) cancellation fee unless the contract debtor leaves the services of the licensee for more than six (6) months.

(f) With respect to any additional charge not specifically provided for in this section, the licensee must submit a written explanation of the charge to the department indicating how the charge would be assessed and the value or benefit to the contract debtor. Supporting documents may be required by the department. The department shall determine whether the charge:

(1) would be of benefit to the consumer; and

(2) is reasonable in relation to the benefits.

An additional charge is not permitted unless approved by the department.

(g) For purposes of this chapter, the terms of an agreement commence on the date on which the agreement is made.

(h) A licensee may assess a charge of not more than twenty-five dollars ($25) for each return by a bank or other depository institution of a dishonored check, negotiable order of withdrawal, or share draft issued by the contract debtor.

(i) Any fee charged by the licensee to the debtor under this section for services rendered by the licensee, other than the fees described under subsection (e), is not considered a debt owed by the debtor to the licensee.

SECTION 129. IC 28-1-29-8.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 8.6. (a) A debtor may cancel an agreement before midnight of the third business day after the debtor enters into the agreement unless the agreement does not comply with subsection (b) or section 8 or 9.5 of this chapter, in which event the debtor may cancel the agreement at any time after**

the debtor enters into the agreement and all fees paid by the debtor shall be refunded to the debtor. To exercise the right to cancel, the debtor must give written notice to the licensee. Notice by mail is given when mailed.

(b) An agreement must be accompanied by a form that contains in clear and conspicuous type, surrounded by bold black lines:

"NOTICE OF RIGHT TO CANCEL

You may cancel this agreement, without any penalty or obligation, at any time before midnight of the third business day that begins the day after you agree to it by electronic communication or by signing it.

To cancel this agreement during this period, send an electronic mail message to

_____ or mail or deliver a signed,

Electronic mail address of licensee

dated copy of this notice, or any other written notice to

_____

Name of licensee

at _____ before midnight on

Address of licensee

_____.

Date

If you cancel this agreement within the 3 day period, we will refund all the money you have already paid us.

You also may terminate this agreement at any later time, but we may not be required to refund fees you have paid us.

I cancel this agreement,

_____

Print your name

_____

Signature

_____

Date".

(c) If a personal financial emergency necessitates the disbursement of a debtor's money to one (1) or more of the debtor's creditors before the expiration of the third business day after the date an agreement is signed, a debtor may waive the right to cancel. To waive the right, the individual must send or deliver a signed, dated statement in the debtor's own words describing the

circumstances that necessitate a waiver. The waiver must explicitly waive the right to cancel. A waiver by means of a standard form record is void.

SECTION 130. IC 28-1-29-8.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 8.8. (a) If a contract debtor fails to make a payment to a licensee within sixty (60) days after the date a payment is due under an agreement, the agreement is considered canceled by the contract debtor. A contract debtor may file a letter of continuation of an agreement even if the contract debtor did not make a payment within sixty (60) days after a payment was due. All of the following apply to a letter of continuation of an agreement:**

(1) A contract debtor may file only one (1) letter of continuation with a licensee for any agreement.

(2) A letter of continuation must contain a detailed explanation of the reason or reasons for the missed payment.

(3) If an agreement for which a letter of continuation that meets the requirements of this subsection is filed, the agreement remains in effect and subject to cancellation for any future failure to make a payment as described in this subsection.

(4) An agreement between a licensee and a contract debtor must clearly provide for one (1) letter of continuation by a contract debtor.

(5) A contract debtor may not file a letter of continuation with a licensee at the beginning of an agreement.

(b) If a licensee or a contract debtor terminates an agreement, the licensee shall immediately return to the contract debtor any money of the contract debtor held in trust for the benefit of the contract debtor.

SECTION 131. IC 28-1-29-9, AS AMENDED BY P.L.217-2007, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9. ~~(a) All funds received by a licensee or the licensee's agent from and for the purpose of paying bills, invoices, or accounts of a debtor constitute trust funds owned by and belonging to the person from whom they were received. All such funds received by a licensee shall be separated from the funds of the licensee not later~~

~~than the end of the same business day following receipt by the licensee. All such funds shall thereafter be kept separate and apart at all times from funds belonging to the licensee or any of its officers, employees, or agents and may be used for no purpose other than paying bills, invoices, or accounts of said persons. All such trust funds received at the main or branch offices of a licensee shall be deposited in a bank or banks in an account or accounts in the name of the licensee designated "trust account", or by some other appropriate name indicating that the funds are not the funds of the licensee or its officers, employees, or agents, on or before the close of the same banking day following receipt.~~

~~(b) Prior to separation and deposit by the licensee, the funds may only be used by the licensee for the making of change or the cashing of checks in the normal course of its business. Such funds are not subject to attachment, levy of execution, or sequestration by order of court except by an obligor for whom a licensee is acting as an agent in paying bills, invoices, or accounts.~~

~~(c) Each licensee shall make remittances within thirty (30) days after initial receipt of funds, and thereafter remittances shall be made within fifteen (15) days of receipt, less fees and costs, unless the reasonable payment of one (1) or more of the debtor's obligations requires that the funds be held for a longer period so as to accumulate a sum certain. For the purpose of this section, the cancellation fee set forth in section 8(g) of this chapter shall not be deemed an obligation of the debtor.~~

(a) All money paid to a licensee by or on behalf of a contract debtor for distribution to creditors under a plan is held in trust. On or before the close of the same banking day following receipt, the licensee shall deposit the money in a trust account established for the benefit of the contract debtor to whom the licensee is furnishing debt management services.

(b) A licensee shall do the following:

(1) Maintain separate records of account for each individual to whom the licensee is furnishing debt management services.

(2) Disburse money paid by or on behalf of the contract debtor to creditors of the contract debtor as disclosed in the agreement.

(3) Make remittances not later than thirty (30) days after

initial receipt of funds. After the initial receipt of funds, remittances shall be made not later than fifteen (15) days after receipt of funds, less fees and costs, unless the reasonable payment of one (1) or more of the contract debtor's obligations requires that the funds be held for a longer period to accumulate a sum certain. For purposes of this section, the close-out fee set forth in section 8.3(d) of this chapter is not considered an obligation of the contract debtor.

(4) Retain in the contract debtor's trust account, for charges, an amount less than or equal to the sum of one (1) month's fee as permitted by section 8.3(c)(2) of this chapter plus the close-out fee as permitted by section 8.3(d) of this chapter, unless a greater amount is approved in writing by the department.

(5) Promptly:

(A) correct any payments that are not made or that are misdirected as a result of an error by the licensee or other person in control of the trust account; and

(B) reimburse the contract debtor for any costs or fees imposed by a creditor as a result of the failure to pay or misdirection.

(c) A licensee may not commingle money in a trust account established for the benefit of contract debtors to whom the licensee is furnishing debt management services with money of other persons.

(d) A trust account must at all times have a cash balance equal to the sum of the balances of each contract debtor's account.

(e) If a licensee has established a trust account under subsection (a), the licensee shall reconcile the trust account at least every thirty (30) days after receipt of the bank statement. The reconciliation must compare the cash balance in the trust account with the sum of the balances in each contract debtor's account. If the licensee or the licensee's designee has more than one (1) trust account, each trust account must be individually reconciled.

(f) If a licensee discovers, or has a reasonable suspicion of, embezzlement or other unlawful appropriation of money held in trust, the licensee shall:

(1) immediately notify the department in writing; and

(2) unless the department by rule provides otherwise, give

notice to the department describing the remedial action taken or to be taken not later than five (5) days after the licensee discovers, or has a reasonable suspicion of, the embezzlement or other unlawful appropriation.

(g) If a contract debtor terminates an agreement or it becomes reasonably apparent to a licensee that a plan has failed, the licensee shall promptly refund to the contract debtor all money paid by or on behalf of the contract debtor that has not been paid to creditors less fees that are payable to the licensee under section 8.3(e) of this chapter.

(h) Before relocating a trust account from one (1) bank to another, a licensee shall inform the department of the name, business address, and telephone number of the new bank. As soon as practicable, the licensee shall inform the department of the account number of the trust account at the new bank.

~~(d)~~ **(i)** At least once every three (3) months the licensee shall render an accounting to the **contract** debtor which must itemize the total amount received from the **contract** debtor, the total amount paid each creditor, the amount of charges deducted, the amount of fair share fees received **or withheld** by the licensee from each of the contract debtor's creditors, and any amount held in reserve. A licensee shall, in addition thereto, render such an accounting to a **contract** debtor within seven (7) days after written demand, but not more than three (3) per six (6) month period.

~~(e)~~ **(j)** Upon the completion or termination of a contract between a licensee and a contract debtor, the licensee shall mail to the contract debtor a statement:

(1) indicating that the licensee no longer holds funds in trust for the contract debtor; and

(2) listing the name and address of:

(A) each creditor paid in full; and

(B) any creditors remaining unpaid.

SECTION 132. IC 28-1-29-9.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 9.5. (a) A licensee may not, directly or indirectly, do any of the following:**

(1) Misappropriate or misapply money held in trust.

(2) Exercise or attempt to exercise a power of attorney after

a contract debtor has terminated an agreement.

(3) Initiate a transfer from a contract debtor's account at a bank or with another person unless the transfer is:

(A) a return of money to the contract debtor; or

(B) before the termination of an agreement, properly authorized by the agreement and this chapter, and for:

(i) payment to one (1) or more creditors under an agreement; or

(ii) payment of a fee.

(4) Offer a gift or bonus, premium, reward, or other compensation to a debtor for executing an agreement.

(5) Offer, pay, or give:

(A) a gift or bonus;

(B) a premium;

(C) a reward; or

(D) other compensation;

to a person for referring a prospective customer if the person making the referral has a financial interest in the outcome of debt management services provided to the customer.

(6) Receive a bonus, a commission, or other benefit for referring a debtor to a person.

(7) Structure a plan in a manner that would result in a negative amortization of any of a debtor's debts, unless a creditor that is owed a negatively amortizing debt agrees to refund or waive the finance charge upon payment of the principal amount of the debt.

(8) Compensate the licensee's employees on the basis of a formula that incorporates the number of debtors the employee induces to enter into agreements. It is not a violation of this subsection for a licensee to use the number of successfully completed debt management plans as a criterion for compensation for the licensee's employees.

(9) Settle a debt or lead a contract debtor to believe that a payment to a creditor is in settlement of a debt to the creditor unless, at the time of settlement, the contract debtor receives a certification by the creditor that the payment is in full settlement of the debt.

(10) Make a representation that:

(A) the licensee will furnish money to pay bills or prevent

attachments;

(B) payment of a certain amount will permit satisfaction of a certain amount or range of indebtedness; or

(C) participation in a plan will or may prevent litigation, garnishment, attachment, repossession, foreclosure, eviction, or loss of employment.

(11) Misrepresent that the licensee is authorized or competent to furnish legal advice or perform legal services.

(12) Represent in the licensee's agreements, disclosures required by this chapter, advertisements, or Internet web site that the licensee is:

(A) a nonprofit entity unless the licensee is organized and properly operating as a nonprofit entity under the law of the state in which entity was formed; or

(B) a tax exempt entity unless the entity has received certification of tax exempt status from the Internal Revenue Service and is properly operating as a nonprofit entity under the law of the state in which the entity was formed.

(13) Take a confession of judgment or power of attorney to confess judgment against a contract debtor.

(14) Employ an unfair, unconscionable, or deceptive act or practice, including the knowing omission of any material information.

(b) If a licensee furnishes debt management services to a debtor, the licensee may not, directly or indirectly, do any of the following:

(1) Purchase a debt or obligation of the debtor.

(2) Receive from or on behalf of the debtor:

(A) a promissory note or other negotiable instrument other than a check or a demand draft; or

(B) a postdated check or demand draft.

(3) Lend money or provide credit to the debtor.

(4) Obtain a mortgage or other security interest from any person in connection with the services provided to the debtor.

(5) Except as permitted by federal law, disclose the identity or identifying information of the debtor or the identity of the debtor's creditors, except:

(A) to the department, upon proper demand;

(B) to a creditor of the debtor, to the extent necessary to

secure the cooperation of the creditor in a plan; or

(C) to the extent necessary to administer the plan.

(6) Charge the debtor for or provide credit or other insurance, coupons for goods or services, membership in a club, access to computers or the Internet, or any other matter not directly related to debt management services or educational services concerning personal finance.

(7) Furnish legal advice or perform legal services unless the person furnishing the advice or performing the services is licensed to practice law.

(c) This chapter does not authorize any person to engage in the practice of law.

(d) A licensee may not receive a gift, bonus, premium, reward, or other compensation, directly or indirectly, for advising, arranging, or assisting a debtor in connection with obtaining an extension of credit or other service from a lender or service provider.

SECTION 133. IC 28-1-29-9.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 9.7. A licensee:**

(1) may not use false, misleading, or deceptive advertising; and

(2) shall meet the following conditions in advertising:

(A) An advertisement may not include a statement that states or implies that no financial problem is too great for the licensee to solve.

(B) An advertisement may not include a statement that states or implies that the licensee will use the licensee's own cash to pay the debtor's accounts.

(C) All advertisements must contain the statement "We do not lend money.".

(D) All advertisements must contain the true name and address of the licensee.

SECTION 134. IC 28-1-29-10.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 10.5. (a) A licensee shall maintain in the licensee's business any books, accounts, and records that enable the department to determine whether the licensee is complying with this chapter. The books, accounts, and records**

shall be preserved for at least two (2) years after making the final entry of any agreement recorded in the books, accounts, and records. A licensee is subject to IC 28-1-2-30.5 with respect to any records maintained by the licensee.

(b) In administering this chapter and in order to determine whether this chapter is being complied with by a person engaging in acts subject to this chapter, the department may examine the records of a person and may make investigations of a person as necessary to determine compliance. Records subject to examination under this section include the following:

(1) Training, operating, and policy manuals.

(2) Minutes of:

(A) management meetings; and

(B) other meetings.

(3) Other records that the department determines are necessary to perform the department's investigation or examination.

(c) The department may also administer oaths or affirmations, subpoena witnesses, compel a witness's attendance, adduce evidence, and require the production of any matter that is relevant to the investigation. The department shall determine whether:

(1) the records maintained are sufficient; and

(2) the person has made the required information reasonably available.

(d) If the department:

(1) investigates; or

(2) examines the books and records of;

a person that is subject to this chapter, the person shall pay all reasonably incurred costs of the investigation or examination in accordance with the fee schedule adopted by the department under IC 28-11-3-5. Any costs required to be paid under this subsection shall be paid not later than sixty (60) days after the person receives a notice from the department of the costs being assessed. The department may impose a fee, in an amount fixed by the department under IC 28-11-3-5, for each day that the assessed costs are not paid, beginning on the first day after the sixty (60) day period described in this subsection.

(e) The department shall be given free access to the records wherever located. If the person's records are located outside

Indiana, at the discretion of the director, the records shall be made available to the department at a convenient location within Indiana, or the person shall pay the reasonable and necessary expenses for the department or the department's representative to examine the records where the records are maintained.

(f) If a person fails to:

(1) obey a subpoena without a lawful excuse; or

(2) give testimony;

the department may apply to a civil court for an order compelling compliance.

(g) The department shall not make public the name or identity of a person whose acts or conduct the department investigates under this section or the facts disclosed in the investigation. However, this subsection does not apply to disclosures of enforcement proceedings under this chapter.

(h) The department may:

(1) enter into a cooperative arrangement with another federal or state agency having authority over debt management companies; and

(2) exchange with the agency information about a person subject to this chapter, including information obtained during an examination of the person.

(i) If a person doing business as a debt management company contracts with an outside vendor to provide a service that would otherwise be undertaken internally by the person doing business as a debt management company and be subject to the department's routine examination procedures, the person that provides the service to the person doing business as a debt management company shall, at the request of the director, submit to an examination by the department. If the director determines that an examination under this subsection is necessary or desirable, the examination may be made at the expense of the person to be examined. If the person to be examined under this subsection refuses to permit the examination to be made, the director may order any person doing business as a debt management company that receives services from the person refusing the examination to:

(1) discontinue receiving one (1) or more services from the person refusing the examination; or

(2) otherwise cease conducting business with the person

refusing the examination.

SECTION 135. IC 28-1-29-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 13. **(a) The department may enforce this chapter and rules adopted under this chapter by taking one (1) or more of the following actions:**

(1) Order a debt management company or a director, employee, or other agent of a debt management company to cease and desist from any violations.

(2) Order a debt management company or a person that has caused a violation to correct the violation, including making restitution of money or property to a person aggrieved by a violation.

(3) Impose on a debt management company or a person that causes a violation of this chapter a civil penalty of not more than ten thousand dollars ($10,000) for each violation.

(4) Prosecute a civil action to:

(A) enforce an order;

(B) obtain restitution, an injunction, or other equitable relief; or

(C) accomplish both clauses (A) and (B).

(b) If a person violates or knowingly authorizes, directs, or aids in the violation of a final order issued under subsection (a)(1) or (a)(2), the department may impose a civil penalty of not more than twenty thousand dollars ($20,000) for each violation.

(c) The department may maintain an action in any county to enforce this chapter.

(d) The department may recover the reasonable costs of enforcing this chapter under subsections (a) through (c), including attorney's fees.

(e) In determining the amount of a civil penalty to impose under subsection (a) or (b), the department shall consider:

(1) the seriousness of the violation;

(2) the good faith of the person who violated this chapter;

(3) any previous violations by the person who violated this chapter;

(4) the deleterious effect of the violation on the public;

(5) the net worth of the person who violated this chapter; and

(6) any other factor the department considers relevant to the determination of a civil penalty.

(f) In addition to the revocation provision of section 4 of this chapter, a person who violates section 3, 5, 6, 8, ~~or~~ **8.3,** 9, **or 9.5** of this chapter commits a Class A misdemeanor, and the license of the licensee shall be revoked on the date of the conviction of an offense.

SECTION 136. IC 28-1-29-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. Any applicant for a license aggrieved by a decision of the department pursuant to this chapter may file a petition for review as prescribed in IC 4-21.5. **Except as otherwise provided, IC 4-21.5 applies to and governs all agency action taken by the department under this chapter. All proceedings for administrative review under IC 4-21.5-3 or judicial review under IC 4-21.5-5 shall be held in Marion County.**

SECTION 137. IC 28-1-29-15 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 15. (a) As used in this section, "consumer" means an individual who seeks or obtains goods or services that are used primarily for personal, family, or household purposes.**

(b) As used in this section, "federal act" means the Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7001 et seq., as amended).

(c) A licensee may satisfy the requirements of section 7.7, 8, or 9 of this chapter by means of the Internet or other electronic means if the licensee obtains a consumer's consent in the manner provided by Section 101(c)(1) of the federal act.

(d) The disclosures and materials required by section 7.7, 8, or 9 of this chapter shall be presented in a form that is capable of being accurately reproduced for later reference.

(e) With respect to disclosure by means of an Internet web site, the disclosure of the information required by section 7.7 of this chapter must appear on one (1) or more screens that:

(1) contain no other information; and

(2) the debtor must see before proceeding to assent to formation of an agreement.

(f) At the time of providing the materials and agreement required by sections 7.7, 8, and 9 of this chapter, a licensee shall inform the debtor that upon electronic, telephonic, or written request, the licensee shall:

(1) send the debtor a written copy of the materials; and

(2) comply with a request as provided in subsection (g).

(g) If a licensee is requested, after an agreement is completed or terminated, to send a written copy of the materials required by section 7.7, 8, or 9 of this chapter, the licensee shall send the materials at no charge to the debtor not later than three (3) business days after the request. However, the licensee is not required to comply with a request more than once per calendar month or if the licensee reasonably believes the request is made for purposes of harassment.

(h) A licensee that maintains an Internet web site shall disclose on the home page of the licensee's web site or on a page that is clearly and conspicuously connected to the home page by a link that clearly reveals the following:

(1) The licensee's name and all names under which the licensee does business.

(2) The licensee's principal business address, telephone number, and electronic mail address, if any.

(3) The names of the licensee's principal officers.

(i) A licensee may not terminate the licensee's agreement because a consumer who has consented to electronic communication in the manner provided by Section 101 of the federal act withdraws consent as provided in the federal act.

SECTION 138. IC 28-1-29-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 16. Unless the department provides otherwise in a rule, the disclosures and documents required by this chapter must be in English. If a licensee communicates with a debtor primarily in a language other than English, the licensee shall furnish a translation of the disclosures and documents required by this chapter from the other language into English.**

SECTION 139. IC 28-1-29-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 17. Unless a fee is specifically authorized under the chapter, a licensee may not solicit or accept a voluntary contribution from a contract debtor for any service provided to the contract debtor.**

SECTION 140. IC 28-1-29-18 IS ADDED TO THE INDIANA

CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 18. If a licensee delegates any of the licensee's duties or obligations under an agreement or this chapter to another person, including an independent contractor, the licensee is liable for conduct of the person which, if done by the licensee, would violate the agreement or this chapter.**

SECTION 141. IC 28-2-13-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. As used in this chapter, "branch" means any office, agency, mobile unit, messenger service, or other place of business at which deposits are received, checks paid, or money lent. However, the term does not include:

(1) the principal office of a bank;

(2) the principal office of an affiliate;

(3) a branch of an affiliate;

(4) an automated teller machine;

(5) a night depository; ~~or~~

(6) a temporary facility authorized in IC 28-2-13-22.5;

(7) a loan production office;

(8) a deposit production office; or

(9) other service delivery mechanisms not considered by the director to be a branch.

SECTION 142. IC 28-2-13-20.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 20.5. Notwithstanding any other provision of this title, upon receipt of approval by the department and all required federal regulatory approvals, a state bank is entitled to establish a branch through a transaction with a savings association (as defined in Section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)), if the transaction

~~(1) is permissible under Section 5(d)(2)(C) or 5(d)(3) of the Federal Deposit Insurance Act (12 U.S.C. 1815(d)(2)(C) and 12 U.S.C. 1815(d)(3), respectively), and~~

~~(2)~~ otherwise complies with this chapter.

SECTION 143. IC 28-5-1-6.3, AS AMENDED BY P.L.217-2007, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6.3. (a) As used in this section, "rights and privileges" means the power:

(1) to:

~~(1)~~ **(A)** create;

~~(2)~~ **(B)** deliver;

~~(3)~~ **(C)** acquire; or

~~(4)~~ **(D)** sell;

a product, a service, or an investment that is available to or offered by; **or**

(2) to engage in mergers, consolidations, reorganizations, or other activities or to exercise other powers authorized for;

national banks domiciled in Indiana.

(b) An industrial loan and investment company that intends to exercise any rights and privileges that are:

(1) granted to national banks; but

(2) not authorized for industrial loan and investment companies under the Indiana Code (except for this section) or any rule adopted under the Indiana Code;

shall submit a letter to the department describing in detail the requested rights and privileges granted to national banks that the company intends to exercise. If available, copies of relevant federal law, regulations, and interpretive letters must be attached to the letter submitted by the company.

(c) The department shall promptly notify the requesting company of the department's receipt of the letter submitted under subsection (b). Except as provided in subsection (e), the company may exercise the requested rights and privileges sixty (60) days after the date on which the department receives the letter unless otherwise notified by the department.

(d) The department may deny the requested rights and privileges if the department finds that:

(1) national banks domiciled in Indiana do not possess the requested rights and privileges;

(2) the exercise of the requested rights and privileges by the company would adversely affect the safety and soundness of the company;

(3) the exercise of the requested rights and privileges by the company would result in an unacceptable curtailment of consumer protection; or

(4) the failure of the department to approve the requested rights and privileges will not result in a competitive disadvantage to the company.

(e) The sixty (60) day period referred to in subsection (c) may be extended by the department based on a determination that the company's letter raised issues requiring additional information or additional time for analysis. If the sixty (60) day period is extended under this subsection, the company may exercise the requested rights and privileges only if the company receives prior written approval from the department. However:

(1) the department must:

(A) approve or deny the requested rights and privileges; or

(B) convene a hearing;

not later than sixty (60) days after the department receives the company's letter; and

(2) if a hearing is convened, the department must approve or deny the requested rights and privileges not later than sixty (60) days after the hearing is concluded.

(f) The exercise of rights and privileges by a company in compliance with and in the manner authorized by this section is not a violation of any provision of the Indiana Code or rules adopted under IC 4-22-2.

(g) If a company receives approval to exercise the requested rights and privileges granted to national banks domiciled in Indiana, the department shall determine by order whether all industrial loan and investment companies may exercise the same rights and privileges. In making the determination required by this subsection, the department must ensure that the exercise of the rights and privileges by all industrial loan and investment companies will not:

(1) adversely affect their safety and soundness; or

(2) unduly constrain Indiana consumer protection provisions.

(h) If the department denies the request of a company under this section to exercise any rights and privileges that are granted to national banks, the company may appeal the decision of the department to the circuit court with jurisdiction in the county in which the principal office of the company is located. In an appeal under this section, the court shall determine the matter de novo.

SECTION 144. IC 28-5-1-15, AS AMENDED BY P.L.217-2007, SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 15. (a) The department shall have charge of the organization, supervision, regulation, examination, and liquidation of

all industrial loan and investment companies to which this chapter is applicable, to the same extent and in the same manner as is provided for financial institutions in IC 28-1 and IC 28-11, and for such purpose any company to which this chapter is applicable shall be deemed to be and shall be a financial institution within the meaning of the term as used in IC 28-1-2, IC 28-1-3.1, and IC 28-11. The department shall be subject to the same limitations with reference to the disclosure of information as is provided in IC 28-11-3-3.

(b) In conducting an examination of an industrial loan and investment company, the department shall include an examination of the affairs of all the industrial loan and investment company's affiliates necessary to disclose fully:

(1) the relations between the industrial loan and investment company and its affiliates; and

(2) the effect of the relations described in subdivision (1) upon the affairs of the industrial loan and investment company.

In conducting the examination of an affiliate of an industrial loan and investment company, the department has the same powers to examine the affiliate as the department has to examine the affairs of the industrial loan and investment company under this section.

(c) If an industrial loan and investment company contracts with an outside vendor to provide a service that would otherwise be undertaken internally by the industrial loan and investment company and be subject to the department's routine examination procedures, the person that provides the service to the industrial loan and investment company shall, at the request of the director, submit to an examination by the department. If the director determines that an examination under this subsection is necessary or desirable, the examination may be made at the expense of the person to be examined. If the person to be examined under this subsection refuses to permit the examination to be made, the director may order any industrial loan and investment company that receives services from the person refusing the examination to:

(1) discontinue receiving one (1) or more services from the person; or

(2) otherwise cease conducting business with the person.

SECTION 145. IC 28-6.1-6-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10. (a) A savings bank

may receive deposits of state and federal public funds:

(1) on the same terms and conditions;

(2) with the same rights and privileges; and

(3) subject to the same duties and obligations;

as provided by law for banks of discount and deposit, trust companies, and other financial institutions.

(b) The power under subsection (a) includes the right to pledge securities or other assets for the repayment of the deposits if the pledge is ~~required~~ **permitted** by **applicable** law or ~~applicable~~ regulation.

SECTION 146. IC 28-6.1-6-24, AS AMENDED BY P.L.217-2007, SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 24. (a) As used in this section, "rights and privileges" means the power:

(1) to:

~~(1)~~ **(A)** create;

~~(2)~~ **(B)** deliver;

~~(3)~~ **(C)** acquire; or

~~(4)~~ **(D)** sell;

a product, a service, or an investment that is available to or offered by; **or**

(2) to engage in mergers, consolidations, reorganizations, or other activities or to exercise other powers authorized for;

national banks domiciled in Indiana.

(b) Subject to the conditions set forth in this section, a savings bank may exercise the rights and privileges that are or may be granted to national banks domiciled in Indiana.

(c) A savings bank that intends to exercise any rights and privileges that are:

(1) granted to national banks; but

(2) not authorized for a savings bank under the Indiana Code (except for this section) or any rule adopted under the Indiana Code;

shall submit a letter to the department describing in detail the requested rights and privileges granted to national banks that the savings bank intends to exercise. If available, copies of relevant federal law, regulations, and interpretive letters must be attached to the letter submitted by the company.

(d) The department shall promptly notify the requesting savings

bank of the department's receipt of the letter submitted under subsection (c). Except as provided in subsection (f), the savings bank may exercise the requested rights and privileges sixty (60) days after the date on which the department receives the letter unless otherwise notified by the department.

(e) The department may deny the requested rights and privileges if the department finds that:

(1) national banks domiciled in Indiana do not possess the requested rights and privileges;

(2) the exercise of the requested rights and privileges by the savings bank would adversely affect the safety and soundness of the savings bank;

(3) the exercise of the requested rights and privileges by the savings bank would result in an unacceptable curtailment of consumer protection; or

(4) the failure of the department to approve the requested rights and privileges will not result in a competitive disadvantage to the savings bank.

(f) The sixty (60) day period referred to in subsection (d) may be extended by the department based on a determination that the savings bank's letter raised issues requiring additional information or additional time for analysis. If the sixty (60) day period is extended under this subsection, the savings bank may exercise the requested rights and privileges only if the savings bank receives prior written approval from the department. However:

(1) the department must:

(A) approve or deny the requested rights and privileges; or

(B) convene a hearing;

not later than sixty (60) days after the department receives the savings bank's letter; and

(2) if a hearing is convened, the department must approve or deny the requested rights and privileges not later than sixty (60) days after the hearing is concluded.

(g) The exercise of rights and privileges by a savings bank in compliance with and in the manner authorized by this section is not a violation of any provision of the Indiana Code or rules adopted under IC 4-22-2.

(h) If a savings bank receives approval to exercise the requested

rights and privileges granted to national banks domiciled in Indiana, the department shall determine by order whether all savings banks may exercise the same rights and privileges. In making the determination required by this subsection, the department must ensure that the exercise of the rights and privileges by all savings banks will not:

(1) adversely affect their safety and soundness; or

(2) unduly constrain Indiana consumer protection provisions.

(i) If the department denies the request of a savings bank under this section to exercise any rights and privileges that are granted to national banks, the savings bank may appeal the decision of the department to the circuit court with jurisdiction in the county in which the principal office of the savings bank is located. In an appeal under this section, the court shall determine the matter de novo.

SECTION 147. IC 28-7-1-0.5, AS AMENDED BY P.L.90-2008, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 0.5. The following definitions apply throughout this chapter:

(1) "Automated teller machine" (ATM) means a piece of unmanned electronic or mechanical equipment that performs routine financial transactions for authorized individuals.

(2) "Branch office" means an office, agency, or other place of business at which deposits are received, share drafts are paid, or money is lent to members of a credit union. The term does not include:

(A) the principal office of a credit union;

(B) the principal office of a credit union affiliate;

(C) a branch office of a credit union affiliate;

(D) an automated teller machine; or

(E) a night depository.

(3) "Credit union" is a cooperative, nonprofit association, incorporated under this chapter, for the purposes of educating its members in the concepts of thrift and to encourage savings among its members. A credit union should provide a source of credit at a fair and reasonable rate of interest and provide an opportunity for its members to use and control their own money in order to improve their economic and social condition.

(4) "Department" refers to the department of financial institutions.

(5) "Surplus" means the credit balance of undivided earnings after

losses. The term does not include statutory reserves.

(6) "Unimpaired shares" means paid in shares less any losses for which no reserve exists and for which there is no charge against undivided earnings.

(7) "Related credit union service organization" means, in reference to a credit union, a credit union service organization **(as defined and formed under Part 712 of the regulations of the National Credit Union Administration, 12 CFR 712)** in which the credit union has invested under section ~~9(3)(J)~~ **9(a)(4)** of this chapter.

(8) "Premises" means any office, branch office, suboffice, service center, parking lot, real estate, or other facility where the credit union transacts or will transact business.

(9) "Furniture, fixtures, and equipment" means office furnishings, office machines, computer hardware, computer software, automated terminals, and heating and cooling equipment.

(10) "Fixed assets" means:

(A) premises; and

(B) furniture, fixtures, and equipment.

(11) "Audit period" means a twelve (12) month period designated by the board of directors of a credit union.

(12) "Community" means:

(A) a second class city;

(B) a third class city;

(C) a town;

(D) a county other than a county containing a consolidated city;

(E) a census tract;

(F) a township; or

(G) any other municipal corporation (as defined in IC 36-1-2-10).

(13) "Control of a related interest" refers to a situation in which an individual directly or indirectly, or through or in concert with one (1) or more other individuals, possesses any of the following:

(A) The ownership of, control of, or power to vote at least twenty-five percent (25%) of any class of voting securities of the related interest.

(B) The control in any manner of the election of a majority of

the directors of the related interest.

(C) The power to exercise a controlling influence over the management or policies of the related interest. For purposes of this clause, an individual is presumed to have control, including the power to exercise a controlling influence over the management or policies of a related interest, if the individual:

(i) is an executive officer or a director of the related interest and directly or indirectly owns, controls, or has the power to vote more than ten percent (10%) of any class of voting securities of the related interest; or

(ii) directly or indirectly owns, controls, or has the power to vote more than ten percent (10%) of any class of voting securities of the related interest and no other person owns, controls, or has the power to vote a greater percentage of that class of voting securities.

(14) "Executive officer" includes any of the following officers of a credit union:

(A) The chairman of the board of directors.

(B) The president.

(C) A vice president.

(D) The cashier.

(E) The secretary.

(F) The treasurer.

(15) "Immediate family", for purposes of section 17.1 of this chapter, means the spouse of an individual, the individual's minor children, and any of the individual's children, including adults, residing in the individual's home.

(16) "Officer" means any individual who **is not solely a director or committee member and** participates or has the authority to participate in major policymaking functions of a credit union, regardless of whether:

(A) the individual has an official title;

(B) the individual's title designates the individual as an assistant; or

(C) the individual is serving without salary or other compensation.

(17) "Related interest", with respect to an individual, means:

(A) a partnership, a corporation, or another business organization that is controlled by the individual; or

(B) a political campaign committee:

(i) controlled by the individual; or

(ii) the funds or services of which benefit the individual.

(18) Except as provided in ~~section 9(3)(J)~~ **section 9(a)(4)** of this chapter, "capital and surplus" means the sum of:

(A) undivided profits;

(B) reserve for contingencies;

(C) regular reserve; and

(D) allowance for loan and lease losses.

SECTION 148. IC 28-7-1-9, AS AMENDED BY P.L.90-2008, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9. **(a)** A credit union has the following powers:

(1) To issue shares of its capital stock to its members. No commission or compensation shall be paid for securing members or for the sale of shares.

(2) To make loans to officers, directors, or committee members under ~~section~~ **sections** 17.1 **and 17.2** of this chapter.

(3) To invest in any of the following:

(A) Bonds, notes, or certificates that are the direct or indirect obligations of the United States, or of the state, or the direct obligations of a county, township, city, town, or other taxing district or municipality or instrumentality of Indiana and that are not in default.

(B) Bonds or debentures issued by the Federal Home Loan Bank Act (12 U.S.C. 1421 through 1449) or the Home Owners' Loan Act (12 U.S.C. 1461 through 1468).

(C) ~~Interest-bearing obligations of the FSLIC Resolution Fund and~~ Obligations of national mortgage associations issued under the authority of the National Housing Act.

(D) Mortgages on real estate situated in Indiana which are fully insured under Title 2 of the National Housing Act (12 U.S.C. 1707 through 1715z).

(E) Obligations issued by farm credit banks and banks for cooperatives under the Farm Credit Act of 1971 (12 U.S.C. 2001 through 2279aa-14).

(F) In savings and loan associations, other credit unions that

are insured under IC 28-7-1-31.5, and certificates of indebtedness or investment of an industrial loan and investment company if the association or company is federally insured. Not more than twenty percent (20%) of the assets of a credit union may be invested in the shares or certificates of an association or company; nor more than forty percent (40%) in all such associations and companies.

(G) Corporate credit unions.

(H) Federal funds or similar types of daily funds transactions with other financial institutions.

~~(I) Mutual funds created and controlled by credit unions, credit union associations, or their subsidiaries. Mutual funds referred to in this clause may invest only in instruments that are approved for credit union purchase under this chapter.~~

~~(J) Shares, stocks, or obligations of any credit union service organization (as defined in Section 712 of the Rules and Regulations of the National Credit Union Administration) with the approval of the department. Not more than ten percent (10%) of the capital and surplus and unimpaired shares of the credit union may be invested under this clause. However, a credit union may invest more than ten percent (10%) of the capital and surplus and unimpaired shares with the prior approval of the department.~~

(I) Shares or certificates of an open-end management investment company registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. 80a-1 through 15 U.S.C. 80a-3 and 15 U.S.C. 80a-4 through 15 U.S.C. 80a-64), if all of the following conditions are met:

(i) The fund's assets consist of and are limited to securities in which a credit union may invest directly.

(ii) The credit union has an equitable and undivided interest in the underlying assets of the fund.

(iii) The credit union is not liable for acts or obligations of the fund.

(iv) The credit union's investment in any one (1) fund does not exceed fifteen percent (15%) of the amount of the credit union's net worth.

~~(K)~~ **(J)** For a credit union that is well capitalized (as defined in ~~Section~~ **Part** 702 of the Rules and Regulations of the National Credit Union Administration, **12 CFR 702),** investment securities, as may be defined by **a statute or** a policy or rule of the department and subject to the following:

(i) The department may prescribe, by policy or rule, limitations or restrictions on a credit union's investment in investment securities.

(ii) The total amount of any investment securities purchased or held by a credit union may never exceed at any given time ten percent (10%) of the capital and surplus of the credit union. However, the limitations imposed by this item do not apply to investments in the direct or indirect obligations of the United States or in the direct obligations of a United States territory or insular possession, or in the direct obligations of the state or any municipal corporation or taxing district in Indiana.

(iii) A credit union may not purchase for its own account any bond, note, or other evidence of indebtedness that is commonly designated as a security that is speculative in character or that has speculative characteristics. For the purposes of this item, a security is speculative or has speculative characteristics if at the time of purchase the security is in default or is rated below the first four (4) rating classes by a generally recognized security rating service.

(iv) A credit union may purchase for its own account a security that is not rated by a generally recognized security rating service if the credit union at the time of purchase obtains financial information that is adequate to document the investment quality of the security.

(v) A credit union that purchases a security for its own account shall maintain sufficient records of the security to allow the security to be properly identified by the department for examination purposes.

(vi) Except as otherwise authorized by this title, a credit union may not purchase any share of stock of a corporation. **If a credit union possesses stock or another equity investment as a result of a loan default, the credit union**

shall dispose of the investment within a reasonable period that does not exceed one (1) year or a longer period if approved by the department.

(vii) Subject to items (i) through (iv), a credit union may purchase yankee dollar deposits, eurodollar deposits, banker's acceptances, deposit notes, bank notes with original weighted average maturities of less than five (5) years, and investments in obligations of, or issued by, any state or political subdivision (including any agency, corporation, or instrumentality of a state or political subdivision).

~~(L)~~ **(K)** Collateralized obligations that are eligible for purchase and sale by federal credit unions. However, a credit union may purchase for its own account and sell the obligations only to the extent that a federal credit union can purchase and sell those obligations.

(4) With the prior approval of the department, and subject to the limitations of this subsection, a credit union may organize, invest in, or loan money to a credit union service organization (as defined in Part 712 of the regulations of the National Credit Union Administration, 12 CFR 712). A credit union may not loan or invest in a credit union service organization if the aggregate amount of all such loans or investments in a particular credit union service organization is greater than ten percent (10%) of the capital, surplus, and unimpaired shares of the credit union without the prior written approval of the department. A credit union may organize, invest in, or loan money to a credit union service organization described in this subdivision only if the following requirements are met:

(A) The credit union service organization is adequately capitalized or has a reasonable plan for adequate capitalization if the credit union service organization is to be formed or is newly formed.

(B) The credit union service organization is structured and operated as a separate legal entity from the credit union.

(C) The credit union obtains a written legal opinion that the credit union service organization is structured and operated in a manner that limits the credit union's potential liability for the debts and liabilities of the credit

union service organization to not more than the loss of money invested in or loaned to the credit union service organization by the credit union.

(D) The credit union service organization agrees in writing to prepare financial statements and provide the financial statements to the credit union at least quarterly, and to the department upon request.

(E) The credit union service organization agrees in writing to obtain an audit of the credit union service organization from a certified public accountant at least annually and provide a copy of each audit report to the credit union, and to the department upon request. A wholly owned credit union service organization is not required to obtain a separate annual audit if the credit union service organization is included in the annual consolidated audit of the credit union that is the credit union service organization's parent.

(F) The credit union service organization operates in compliance with all applicable federal and state laws.

~~(4)~~ **(5)** To deposit its funds into:

(A) depository institutions that are federally insured; or

(B) state chartered credit unions that are privately insured by an insurer approved by the department.

~~(5)~~ **(6)** To purchase, hold, own, or convey real estate as may be conveyed to the credit union in satisfaction of debts previously contracted or in exchange for real estate conveyed to the credit union.

~~(6)~~ **(7)** To own, hold, or convey real estate as may be purchased by the credit union upon judgment in its favor or decrees of foreclosure upon mortgages.

~~(7)~~ **(8)** To issue shares of stock and upon the terms, conditions, limitations, and restrictions and with the relative rights as may be stated in the bylaws of the credit union, but no stock may have preference or priority over the other to share in the assets of the credit union upon liquidation or dissolution or for the payment of dividends except as to the amount of the dividends and the time for the payment of the dividends as provided in the bylaws.

~~(8)~~ **(9)** To charge the member's share account for the actual cost

of a necessary locator service when the member has failed to keep the credit union informed about the member's current address. The charge shall be made only for amounts paid to a person or concern normally engaged in providing such service, and shall be made against the account or accounts of any one (1) member not more than once in any twelve (12) month period.

~~(9)~~ **(10)** To transfer to an accounts payable account, a dormant account, or a special account share accounts which have been inactive, except for dividend credits, for a period of at least two (2) years. The credit union shall not consider the payment of dividends on the transferred account.

~~(10)~~ **(11)** To invest in fixed assets with the funds of the credit union. An investment in fixed assets in excess of five percent (5%) of its assets is subject to the approval of the department. **A credit union may rent excess space at the credit union's main office or branch as a source of income.**

~~(11)~~ **(12)** To establish branch offices, upon approval of the department, provided that all books of account shall be maintained at the principal office.

~~(12)~~ **(13)** To pay an interest refund on loans proportionate to the interest paid during the dividend period by borrowers who are members at the end of the dividend period.

~~(13)~~ **(14)** To purchase life savings and loan protection insurance for the benefit of the credit union and its members, if:

(A) the coverage is placed with an insurance company licensed to do business in Indiana; and

(B) no officer, director, or employee of the credit union personally benefits, directly or indirectly, from the sale or purchase of the coverage.

~~(14)~~ **(15)** To sell and cash negotiable checks, travelers checks, and money orders for members.

~~(15)~~ **(16)** To purchase members' notes from any liquidating credit union, with written approval from the department, at prices agreed upon by the boards of directors of both the liquidating and the purchasing credit unions. However, the aggregate of the unpaid balances of all notes of liquidating credit unions purchased by any one (1) credit union shall not exceed ten percent (10%) of the purchasing credit union's capital and surplus unless special

written authorization has been granted by the department.

~~(16)~~ **(17)** To exercise such incidental powers necessary or requisite to enable it to carry on effectively the business for which it is incorporated.

~~(17)~~ **(18)** To act as a custodian or trustee of any trust created or organized in the United States and forming part of a tax advantaged savings plan which qualifies or qualified for specific tax treatment under Section 223, 401(d), 408, 408A, or 530 of the Internal Revenue Code, if the funds of the trust are invested only in share accounts or insured certificates of the credit union.

~~(18)~~ **(19)** To issue shares ~~of its capital stock~~ or insured certificates to a trustee or custodian of a pension plan, profit sharing plan, or stock bonus plan which qualifies for specific tax treatment under Sections 401(d) or 408(a) of the Internal Revenue Code.

~~(19)~~ **(20)** A credit union may exercise any rights and privileges that are:

(A) granted to federal credit unions; but

(B) not authorized for credit unions under the Indiana Code (except for this section) or any rule adopted under the Indiana Code;

if the credit union complies with section 9.2 of this chapter.

~~(20)~~ **(21)** To sell, pledge, or discount any of its assets. However, a credit union may not pledge any of its assets as security for the safekeeping and prompt payment of any money deposited, except that a credit union may, for the safekeeping and prompt payment of money deposited, give security as authorized by federal law.

~~(21)~~ **(22)** To purchase assets of another credit union and to assume the liabilities of the selling credit union.

~~(22)~~ **(23)** To act as a fiscal agent of the United States and to receive deposits from nonmember units of the federal, state, or county governments, from political subdivisions, and from other credit unions upon which the credit union may pay varying interest rates at varying maturities subject to terms, rates, and conditions that are established by the board of directors. However, the total amount of public funds received from units of state and county governments and political subdivisions that a credit union may have on deposit may not exceed twenty percent (20%) of the total assets of that credit union, excluding those public funds.

~~(23)~~ **(24)** To join the National Credit Union Administration Central Liquidity Facility.

~~(24)~~ **(25)** To participate in community investment initiatives under the administration of organizations:

(A) exempt from taxation under Section 501(c)(3) of the Internal Revenue Code; and

(B) located or conducting activities in communities in which the credit union does business.

Participation may be in the form of either charitable contributions or participation loans. In either case, disbursement of funds through the administering organization is not required to be limited to members of the credit union. Total contributions or participation loans may not exceed one tenth of one percent ~~(0.001)~~ **(0.1%)** of total assets of the credit union. A recipient of a contribution or loan is not considered qualified for credit union membership. A contribution or participation loan made under this subdivision must be approved by the board of directors.

~~(25)~~ **(26)** To establish and operate an automated teller machine (ATM):

(A) at any location within Indiana; or

(B) as permitted by the laws of the state in which the automated teller machine is to be located.

~~(26)~~ **(27)** To demand and receive, for the faithful performance and discharge of services performed under the powers vested in the credit union by this article:

(A) reasonable compensation, or compensation as fixed by agreement of the parties;

(B) all advances necessarily paid out and expended in the discharge and performance of its duties; and

(C) unless otherwise agreed upon, interest at the legal rate on the advances referred to in clause (B).

~~(27)~~ **(28)** Subject to any restrictions the department may impose, to become the owner or lessor of personal property acquired upon the request and for the use of a member and to incur additional obligations as may be incident to becoming an owner or lessor of such property.

(b) A credit union shall maintain files containing credit and other information adequate to demonstrate evidence of prudent

business judgment in exercising the investment powers granted under this chapter or by rule, order, or declaratory ruling of the department.

SECTION 149. IC 28-7-1-9.2, AS AMENDED BY P.L.217-2007, SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9.2. (a) As used in this section, "rights and privileges" means the power:

(1) to:

(A) create;

(B) deliver;

(C) acquire; or

(D) sell;

a product, a service, or an investment that is available to or offered by; or

(2) to engage in **mergers, consolidations, reorganizations, or** other activities **or to exercise other powers** authorized for;

federal credit unions domiciled in Indiana.

(b) A credit union that intends to exercise any rights and privileges that are:

(1) granted to federal credit unions; but

(2) not authorized for credit unions under the Indiana Code (except for this section) or any rule adopted under the Indiana Code;

shall submit a letter to the department describing in detail the requested rights and privileges granted to federal credit unions that the credit union intends to exercise. If available, copies of relevant federal law, regulations, and interpretive letters must be attached to the letter submitted by the credit union.

(c) The department shall promptly notify the requesting credit union of the department's receipt of the letter submitted under subsection (b). Except as provided in subsection (e), the credit union may exercise the requested rights and privileges sixty (60) days after the date on which the department receives the letter unless otherwise notified by the department.

(d) The department may deny the requested rights and privileges if the department finds that:

(1) federal credit unions domiciled in Indiana do not possess the requested rights and privileges;

(2) the exercise of the requested rights and privileges by the credit union would adversely affect the safety and soundness of the credit union;

(3) the exercise of the requested rights and privileges by the credit union would result in an unacceptable curtailment of consumer protection; or

(4) the failure of the department to approve the requested rights and privileges will not result in a competitive disadvantage to the credit union.

(e) The sixty (60) day period referred to in subsection (c) may be extended by the department based on a determination that the credit union's letter raised issues requiring additional information or additional time for analysis. If the sixty (60) day period is extended under this subsection, the credit union may exercise the requested rights and privileges only if the credit union receives prior written approval from the department. However:

(1) the department must:

(A) approve or deny the requested rights and privileges; or

(B) convene a hearing;

not later than sixty (60) days after the department receives the credit union's letter; and

(2) if a hearing is convened, the department must approve or deny the requested rights and privileges not later than sixty (60) days after the hearing is concluded.

(f) The exercise of rights and privileges by a credit union in compliance with and in the manner authorized by this section is not a violation of any provision of the Indiana Code or rules adopted under IC 4-22-2.

(g) If a credit union receives approval to exercise the requested rights and privileges granted to federal credit unions domiciled in Indiana, the department shall determine by order whether all credit unions may exercise the same rights and privileges. In making the determination required by this subsection, the department must ensure that the exercise of the rights and privileges by all credit unions will not:

(1) adversely affect their safety and soundness; or

(2) unduly constrain Indiana consumer protection provisions.

(h) If the department denies the request of a credit union under this

section to exercise any rights and privileges that are granted to federal credit unions, the credit union may appeal the decision of the department to the circuit court with jurisdiction in the county in which the principal office of the credit union is located. In an appeal under this section, the court shall determine the matter de novo.

SECTION 150. IC 28-7-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10. (a) The membership of credit unions shall be clearly and specifically identified. The membership of a credit union shall be limited to one (1) or more qualified groups of persons, immediate family members of the persons in the qualified group or groups, and organizations of those persons. For purposes of this section, a qualified group consists of:

(1) persons having a common bond of occupation, trade, or professional association;

(2) members of a labor organization;

(3) members of a church;

(4) persons engaged in a common trade or profession within a well defined geographical location;

(5) employees of the credit union;

(6) persons who are members of a farm bureau cooperative, or other farm bureau organization, and who have subscribed to one (1) or more shares; or

(7) persons who reside or are employed within a community.

(b) A credit union may expand its membership with an additional qualified group or groups upon prior approval of the department.

(c) Membership cards must be kept on file and maintained in the credit union's main office for inspection by examiners and must contain at least the following information:

(1) Account number, name, address, date of birth, signature of member, and the date signed.

(2) A statement that the member is eligible for membership in the credit union by reason of employment, membership, affiliation, association, or other relationship with the organization, institution, corporation, or entity included in the credit union's field of membership.

(3) Date, signature, and title of person authorized to record approval by the board, membership officer, or executive committee.

SECTION 151. IC 28-7-1-10.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 10.1. The department shall consider a person, a firm, a corporation, or an organization to be an illegal member if the person, firm, corporation, or organization:**

(1) became a member of a credit union; and

(2) did not qualify under section 10(a) of this chapter or the articles of incorporation of the credit union.

The membership of any illegal member, as determined by the department, shall be terminated and all accounts shall be purged from the active share accounts of the credit union within the period specified in writing by the department. However, a loan agreement between a terminated member and the credit union is unaffected by the termination and, if a loan involving an illegal member is secured by shares, the share account, to the extent encumbered by the loan, remains valid until unencumbered.

SECTION 152. IC 28-7-1-10.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 10.5. The following apply with respect to the acceptance by credit unions of trusts as members:**

(1) A credit union may accept a trust as a member if:

(A) any of the settlors living at the time of application are eligible for membership; or

(B) none of the settlors is living at the time of application and one (1) or more beneficiaries are eligible for membership.

(2) An account owned by one (1) or more individuals may be titled or retitled in the name of a trust and not in the name of individuals if all of the following are met:

(A) The trust is eligible for membership in the credit union under subdivision (1).

(B) Each owner of the account consents in writing to titling or retitling the account in the name of the trust.

(C) Any beneficiaries listed on the account are removed as beneficiaries by the owners.

(D) The account is an account that provides tax deferrals or any other tax benefit under state or federal law.

(3) If an account is retitled in the name of a trust under subdivision (2), the membership of an individual who had

owned all or an interest in the account is terminated unless the individual:

(A) is a member based on ownership of another account; or

(B) qualifies for, applies for, and is accepted into membership.

SECTION 153. IC 28-7-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 12. **(a)** Every credit union **and every affiliate of a credit union** shall be subject to examination by the department. A credit union shall be examined by the department as often as the department shall deem necessary. The department shall at all times be given free access to all of the books, papers, securities, and other sources of information, ~~in respect to~~ **including audit reports and audit working papers for** any such credit union. The director, the members of the department, and the supervisor in charge of the division shall have the power to subpoena documents and examine witnesses under oath pertaining to the business of the credit union. The department may accept an audit by a certified public accountant and govern its examination procedures and examination fees accordingly. At the close of each examination, a conference shall be conducted to disclose to the board of directors the findings of the examination.

(b) If a credit union contracts with an outside vendor to provide a service that would otherwise be undertaken internally by the credit union and be subject to the department's routine examination procedures, the person that provides the service to the credit union shall, at the request of the director, submit to an examination by the department. If the director determines that an examination under this subsection is necessary or desirable, the examination may be made at the expense of the person to be examined. If the person to be examined under this subsection refuses to permit the examination to be made, the director may order any credit union that receives services from the person refusing the examination to:

(1) discontinue receiving one (1) or more services from the person; or

(2) otherwise cease conducting business with the person.

SECTION 154. IC 28-7-1-15 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 15. (a) At the annual meeting, the members shall elect a board of directors and a supervisory committee.

(b) The bylaws:

(1) may provide for a credit committee; and

(2) if a credit committee is provided for, must state whether the credit committee is to be elected by the members or appointed by the board of directors.

(c) The credit committee must consist of not fewer than three (3) nor more than seven (7) members. A director may not be a member of either the credit committee or the supervisory committee.

(d) Each member of the board and each member of the credit committee or the supervisory committee shall take an oath. The length of the term of a member of the board or of the credit committee or the supervisory committee must be set forth in the bylaws.

(e) If a credit union replaces the chief executive officer of the credit union, the credit union shall give the department written notice of the replacement not later than thirty (30) days after replacing a person as the chief executive officer.

(f) Each individual elected or appointed to serve as a director, supervisory committee member, or credit committee member of a credit union, or as a member of any other committee that performs significant ongoing functions relating to the ongoing operations of the credit union, shall meet all of the following criteria:

(1) The individual is a member of the credit union and in good standing according to reasonable criteria established by the credit union board.

(2) The individual is acceptable as a bonding risk by a bonding company licensed to do business in this state.

(3) The individual has not been removed as a director, officer, committee member, or employee of a financial institution by a federal regulator, a state regulator, or a court with jurisdiction.

(4) The department has not removed the individual as a director, officer, committee member, or employee of a credit union, financial institution, or other legal entity under the department's enforcement powers under any law of this state.

(5) The individual has not been convicted of a crime involving

dishonesty or breach of trust.

(6) The individual is not habitually negligent in paying the individual's financial obligations as determined by criteria reasonably established by the credit union board.

(7) The individual has not been convicted by a court with jurisdiction of a violation, or found in violation by a court with jurisdiction or the department, of any law of this state enforced or administered by the department.

(g) If an individual no longer meets one (1) or more of the requirements of subsection (f) while serving as a director, supervisory committee member, or credit committee member of a credit union, or as a member of any other committee that performs significant ongoing functions relating to the ongoing operations of the credit union, the:

(1) individual immediately shall be removed from that office without further action of the members of the credit union board; and

(2) credit union shall appoint or elect a replacement to fill the vacancy in the manner described in the bylaws.

SECTION 155. IC 28-7-1-16, AS AMENDED BY P.L.141-2005, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 16. (a) Not more than thirty (30) business days after the conclusion of the annual meeting, the board of directors shall elect from its own members:

(1) a chairperson;

(2) a vice chairperson or vice chairpersons;

(3) a secretary; ~~and~~

(4) a treasurer; **and**

(5) other officers determined necessary by the board of directors.

(b) The board may appoint officers of the credit union.

(c) The office of secretary and treasurer may be held by the same person. The board may appoint:

(1) an assistant secretary;

(2) an assistant treasurer; or

(3) both an assistant secretary and an assistant treasurer.

(d) The board of directors shall have the general management of the affairs, funds, and records of the credit union and shall meet at least

monthly, **in person or by any means of communication by which all directors participating may simultaneously hear each other during the meeting. A director participating in a meeting in accordance with this subsection is considered to be present in person at the meeting. Minutes of every meeting of the board of directors or executive committee shall be kept and maintained.**

(e) The board may appoint an executive committee to exercise authority delegated to it by the board. ~~All actions taken by the executive committee shall be subject to ratification by the board.~~ **The board retains ultimate responsibility for authority delegated to an executive committee.**

(f) ~~Unless the bylaws provide otherwise,~~ It is the duty of the directors to do the following:

~~(1) To act upon all applications for membership unless the board has appointed a membership officer. The board shall receive the report of the membership officer monthly and shall act upon all those applications for membership not approved by the membership officer.~~

~~(2) To determine rates of interest on loans.~~

~~(3)~~ **(1)** To determine:

(A) the maximum number of shares which may be held by a member; and

(B) the maximum amount which may be loaned to a member.

~~(4) To declare dividends.~~

~~(5)~~ **(2)** To amend the bylaws, provided that the qualifications for membership in the credit union are principally defined in the articles of incorporation.

~~(6)~~ **(3)** To fill vacancies on the board and the credit committee until the next election.

~~(7) To invest the funds of the credit union or to delegate the authority for investments to an executive committee or manager. However, the board of directors shall review all investments made by the executive committee or manager at least monthly.~~

~~(8)~~ **(4)** To set the compensation of members of the board, credit committee, or supervisory committee.

~~(9)~~ **(5)** To establish and annually review written lending **and investment** policies and ~~maintain the policies on file in~~ **other policies necessary for the prudent operation of** the credit union.

(6) To approve an annual operating budget for the credit union.

(g) The board may appoint loan officers. Each loan officer shall furnish to the credit committee or to the board a record of each loan approved or denied at its next meeting. A loan officer, including the treasurer or assistant treasurer, shall not have authority to disburse funds of the credit union for any loan which has been approved by the loan officer. ~~Not more than one (1) member of the credit committee may be appointed as loan officer.~~

(h) A credit union board is responsible for the performance of all of the duties listed in this subsection. The board may delegate the performance of the duties to the chief executive officer, who may further delegate one (1) or more of the following duties:

(1) Approving, disapproving, or otherwise acting on applications for membership.

(2) Determining the interest rates on loans and on deposits.

(3) Hiring employees other than the chief executive officer and fixing the employees' compensation.

(4) Making and selling investments according to investment policies adopted by the board.

(5) Designating one (1) or more depositories for funds.

(6) Establishing procedures to implement policies of the credit union board.

(7) Establishing internal controls as necessary.

(8) Determining the amount of a dividend after providing for any required reserves and declaring the dividend.

(i) The board of directors by a majority vote may suspend or remove any officer from the officer's duties as an officer.

(j) Unless specifically prohibited by the bylaws, if this chapter requires or allows a credit union board to take an action at a meeting, the board may take that action without a meeting if a consent in writing setting forth the action taken is signed by all of the directors entitled to vote on the matter. A written consent under this subsection must contain one (1) or more written approvals, each of which sets forth the action taken and bears the signature of one (1) or more directors. The directors shall deliver the directors' signed approvals to the secretary, and the secretary shall file the approvals in the corporate records of the credit union. An action taken by written consent under this subsection is

effective on the date that all the directors have approved the consent unless the consent specifies a different effective date. A consent signed by all the directors has the same effect as a unanimous vote. The credit union may represent that the action was approved by a unanimous vote in any document filed with the department under this act.

SECTION 156. IC 28-7-1-16.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 16.5. (a) This section governs the participation of board members in board actions.**

(b) Unless a matter involves setting dividends, loan rates, or fees for services or other general policy applicable to all members of the credit union, a director, a committee member, an officer, or an employee of a credit union shall not in any manner, directly or indirectly, participate in the deliberation or board action on any matter that affects the director's, committee member's, officer's, or employee's pecuniary interest or the pecuniary interest of an entity other than the credit union in which the director, committee member, officer, or employee is interested.

(c) If one (1) or more directors are disqualified from participating in a matter before the credit union board under subsection (b), the remaining qualified directors present at the meeting, if together with the disqualified director constitutes a quorum, may by majority vote exercise all the powers of the board with respect to the matter under consideration. If all of the directors are disqualified, the members of the credit union shall act on the matter.

(d) If one (1) or more committee members are disqualified from participating in a matter before the committee under subsection (b), the remaining qualified committee members, if together with the disqualified committee member constitutes a quorum, may by majority vote exercise all the powers of the committee with respect to the matter under consideration. If all the committee members are disqualified, the credit union board shall act on the matter.

SECTION 157. IC 28-7-1-17, AS AMENDED BY P.L.217-2007, SECTION 66, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 17. (a) Every loan application shall be submitted on a form approved by the board of directors. When making an application, a member shall state the security offered. Loans may be

dispersed upon written approval by a majority of the credit committee or a loan officer. If the credit committee or loan officer fails to approve an application for a loan, the applicant may appeal to the board of directors, providing such appeal is authorized by the bylaws.

(b) Loans to members may be made only under the following terms and conditions:

(1) All loans shall be evidenced by notes signed by the borrowing member.

(2) Except as otherwise provided in this section, the terms of any loan to a member with a maturity of more than six (6) months shall provide for principal and interest payments that will amortize the obligation in full within the terms of the loan contract. If the income of the borrowing member is seasonal, the terms of the loan contract may provide for seasonal amortization.

(3) Loans may be made upon the security of improved or unimproved real estate. Except as otherwise specified in this section, such loans must be secured by a first lien upon real estate prior to all other liens, except for taxes and assessments not delinquent, and may be made with repayment terms other than as provided in subdivision (2). When the amount of a loan is at least two hundred fifty thousand dollars ($250,000), the fair cash value of real estate security shall be determined by a written appraisal made by one (1) or more qualified state licensed or certified appraisers designated by the board of directors. The credit union loan folder for real estate mortgage loans shall include: ~~when applicable:~~

(A) the loan application;

(B) the mortgage instrument;

(C) the note;

(D) the disclosure statement;

(E) the ~~documentations~~ **documentation** of property insurance;

(F) an appraisal on the real estate for which the loan is made; and

(G) the attorney's opinion of titles or a certificate of title insurance on the real estate upon which the mortgage loan is made.

(4) Loans made upon security of real estate are subject to the following restrictions:

(A) Real estate loans in which no principal amortization is required shall provide for the payment of interest at least annually and shall mature within five (5) years of the date of the loan unless extended and shall not exceed fifty percent (50%) of the fair cash value of the real estate used as security.

(B) Real estate loans on improved real estate, except for variable rate mortgage loans and rollover mortgage loans provided for in subdivision (5), shall require substantially equal payments at successive intervals of not more than one (1) year, shall mature within thirty (30) years, and shall not exceed one hundred percent (100%) of the fair cash value of the real estate used as security.

(C) Real estate loans on unimproved real estate may be made. The terms of the loan shall:

(i) require substantially equal payments of interest and principal at successive intervals of one (1) year or less;

(ii) mature within ten (10) years; and

(iii) not exceed eighty-five percent (85%) of the fair cash value of the real estate used as security.

(D) Loans primarily secured by a mortgage which constitutes a second lien on improved real estate may be made only if the aggregate amount of all loans on the real estate does not exceed one hundred percent (100%) of the fair cash value of the real estate after such loan is made. Repayment terms shall be in accordance with subdivision (2).

(E) Real estate loans may be made for the construction of improvements to real property. Funds borrowed may be advanced as work on the improvements progresses. Repayment terms must comply with subdivision (2).

(5) Subject to the limitations of subdivision (3), variable rate mortgage loans and rollover mortgage loans may be made under the same limitations and rights provided state chartered savings associations under IC 28-1-21.5 (before its repeal) or IC 28-15 or federal credit unions.

(6) **As used in this subdivision, "originating lender" means the participating lender with which the member contracts.** A credit union may participate with other **state and federal depository** financial institutions **(as defined in IC 28-1-1-6) or**

credit union service organizations in making loans to credit union members and may sell a participating interest in any of its loans **under written participation loan policies established by the board of directors.** However, the credit union may not sell more than ninety percent (90%) of the principal of participating loans outstanding at the time of sale. **A participating credit union that is not the originating lender may participate only in loans made to the credit union's own members or to members of another participating state or federal credit union. A master participation agreement must be properly executed. The agreement must include provisions for identifying, either through documents incorporated by reference or directly in the agreement, the participation loan or loans before the sale of the loans.**

(7) Notwithstanding subdivisions (1) through (6), a credit union may make any of the following:

(A) Any loan that may be made by a federal credit union. However, IC 24-4.5 applies to any loan that is:

(i) made under this clause; and

(ii) within the scope of IC 24-4.5.

Any provision of federal law that is in conflict with IC 24-4.5 does not apply to a loan made under this clause.

(B) Subject to subdivision (3), any alternative mortgage loan (as defined in IC 28-15-11-2) that may be made by a savings association (as defined in IC 28-15-1-11) under IC 28-15-11. A loan made under this clause by a credit union is subject to the same terms, conditions, exceptions, and limitations that apply to an alternative mortgage loan made by a savings association under IC 28-15-11.

(8) A credit union may make a loan under either:

(A) subdivisions (2) through (6); or

(B) subdivision (7);

but not both. A credit union shall make an initial determination as to whether to make a loan under subdivisions (2) through (6) or under subdivision (7). If the credit union determines that a loan or category of loans is to be made under subdivision (7), the written loan policies of the credit union must include that determination. A credit union may not combine the terms and conditions that

apply to a loan made under subdivisions (2) through (6) with the terms and conditions that apply to a loan made under subdivision (7) to make a loan not expressly described and authorized either under subdivisions (2) through (6) or under subdivision (7).

(c) Nothing in this section prevents any credit union from taking an indemnifying or second mortgage on real estate as additional security.

SECTION 158. IC 28-7-1-17.1, AS AMENDED BY P.L.90-2008, SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 17.1. (a) A credit union may make a loan to the credit union's individual directors and committee members under the following terms and conditions:

(1) The loan must comply with all requirements under this chapter that apply to loans made to other borrowers.

(2) The loan may not be on terms more favorable than those extended to other borrowers.

(3) The borrower may not:

(A) take part in the consideration of; or

(B) vote on;

the borrower's loan application.

(4) Except as provided in subsection (b), a credit union may not make a loan under this section to an individual, the individual's immediate family, or the individual's related interests if the amount of the loan, either by itself or when added to the amounts of all other loans made under this section to the individual, the individual's immediate family, or the individual's related interests, exceeds the greater of:

(A) five percent (5%) of the credit union's capital and surplus; or

(B) twenty-five thousand dollars ($25,000);

unless the loan is first approved by the credit union's board of directors.

(5) A credit union may not make a loan under this section to an individual, the individual's immediate family, or the individual's related interests if the amount of the loan, either by itself or when added to the amounts of all other loans made under this section to the individual, the individual's immediate family, or the individual's related interests, exceeds the lending limits set forth in IC 28-7-1-39.

(6) The total amount of all loans made under this section may not exceed the credit union's capital and surplus. However, the limit set forth in this subdivision does not apply to either of the following:

(A) A loan, in any amount, secured by a perfected security interest in bonds, notes, certificates of indebtedness, or treasury bills of the United States or in other obligations fully guaranteed as to principal and interest by the United States.

(B) A loan, in any amount, secured by a perfected security interest in a segregated deposit account in the lending credit union.

(b) Approval by the board of directors under subsection (a)(4) is not required for an extension of credit made under a line of credit approved under subsection (a)(4) if the extension of credit is made not later than fourteen (14) months after the line of credit was approved.

(c) The department may apply the provisions of 12 CFR 215 (Regulation O) in applying and administering this section.

(d) If a loan made to or cosigned, endorsed, or guaranteed by a director or a member of the supervisory, credit, or other committee is more than three (3) months delinquent, the individual:

(1) is automatically removed from the individual's position as director or committee member; and

(2) is ineligible to serve as a director or committee member for two (2) years.

The director may waive the application of this subsection if the director determines that it is in the best interests of the credit union.

SECTION 159. IC 28-7-1-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 18. (a) The supervisory committee shall cause the share and loan accounts of the members to be verified with the records of the treasurer at least each biennium.

(b) The supervisory committee shall supervise the acts of the board of directors, credit committee, and officers.

(c) By a majority vote, the supervisory committee may call a meeting of the shareholders to consider any violation of this chapter, or of the bylaws, or any practice of the credit union which, in the opinion of the committee is unsafe and unauthorized.

(d) The supervisory committee shall fill vacancies in its own number until the next annual meeting of the members.

(e) At the close of the audit period, the supervisory committee shall make or cause to be made a thorough audit of the credit union for each audit period and shall make a full report to the directors. The audit shall be made at any time during the one hundred twenty (120) days following the close of the audit period. Tapes, work papers, schedules, and evidence of verification of accounts shall be retained until the next examination by the department. A summary of the report shall be read at the annual meeting and shall be filed and preserved with the records of the credit union.

(f) A credit union with assets of at least ~~ten million dollars ($10,000,000)~~ **five million dollars ($5,000,000)** shall have an annual audit performed by an outside professional accounting firm. The department may require a professional outside audit to be performed upon any credit union when the department questions the safety and soundness of the credit union.

(g) Minutes of every meeting of the supervisory committee shall be kept and maintained.

SECTION 160. IC 28-7-1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 19. The capital of a credit union shall consist of the payments on shares which have been made to it by members. A credit union may attach a lien on the shares of any member with outstanding obligations to the credit union. A credit union may, upon the resignation of a member, cancel the shares of such member, and apply the withdrawal value of such shares towards the liquidation of the member's obligations. Fully paid up shares of a credit union may be transferred to any qualified member upon such terms as the bylaws provide. **If a federal credit union is authorized by the federal regulatory authority with jurisdiction or by federal law to use one (1) or more forms of secondary capital, the department may by rule, order, or declaratory ruling allow a credit union to use one (1) or more forms of secondary capital. The rule, order, or declaratory ruling must include disclosure requirements concerning the conditions for return of the secondary capital and the liquidation priority of the secondary capital.**

SECTION 161. IC 28-7-1-20.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 20.1. **(a)** Shares may

be issued as the bylaws provide. The provisions of IC 28-1-20-6 apply to loans to any borrower and shall inure to the benefit of the credit union. Shares may be issued in a joint tenancy with right of survivorship, but no joint tenant shall be permitted to vote, obtain loans, or hold office, unless the tenant is a member.

(b) A credit union may issue shares to and receive deposits from a minor. The minor may withdraw the deposits or shares and any dividends or interest on the deposits or shares. A deposit, investment in a share, or withdrawal under this subsection by a minor is valid and enforceable. The minor is considered an adult with respect to the deposit, investment, or withdrawal.

SECTION 162. IC 28-7-1-22, AS AMENDED BY P.L.90-2008, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 22. **(a)** A credit union may borrow from any source. The total borrowing of a credit union may not at any time exceed fifty per cent (50%) of the unimpaired shares capital and surplus of the credit union.

(b) A credit union may receive deposits of state and federal public funds, including the right to pledge securities or other assets for the repayment of the deposits if the pledge is permitted by applicable law or regulation.

SECTION 163. IC 28-7-1-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 24. (a) All entrance charges shall, after payment of the organization expenses, be known as reserve income, and shall be added to the regular reserve of the credit union. At the close of the dividend period, there shall be set apart to the regular reserve ten percent (10%) of gross income until the regular reserve shall equal seven and one-half percent (7 1/2%) of the total of outstanding loans, then five percent (5%) of gross income until the regular reserve shall equal ten percent (10%) of the total of outstanding loans. Whenever the regular reserve falls below ten percent (10%) or seven and one-half percent (7 1/2%) of the total of outstanding loans, it shall be replenished by regular contributions to maintain the reserve goals of seven and one-half percent (7 1/2%) or ten percent (10%). The regular reserve shall be held to meet contingencies and shall not be distributed to the members except upon dissolution of the credit union.

(b) A credit union may have an undivided profits account. The undivided profits account may be transferred to the regular reserve. ~~or~~

~~used for the payment of dividends or necessary operating expenses with board approval.~~

(c) The department may, by rule, revise the formula prescribed by this section. A revised formula must be prudent and must reasonably be expected to protect the credit unions.

(d) Financial statements of credit unions must provide for full and fair disclosure of all assets, liabilities, and members' equity, including such allowance for loan loss accounts necessary to present fairly the financial position, and all income and expenses necessary to present fairly the results of operation for the period concerned.

(e) The maintenance of an allowance for loan losses and investment or other losses does not exempt a credit union from the requirement set forth in subsection (a) or regulation CU-2. The totals of the regular reserve, the allowance for loan losses account, and the allowance for investment losses shall be combined for determining the percentage of gross income to be transferred to the regular reserve.

(f) Loan losses of a credit union must be charged against the allowance for loan loss. Adjustments to the allowance for loan losses shall be made before the distribution of any dividend so that the allowance for loan loss represents the value of loans and anticipated losses resulting from:

(1) uncollectible loans, notes, and contracts receivable, including any uncollectible accrued interest receivable thereon;

(2) assets acquired in liquidation of loans; and

(3) loans purchased from other credit unions.

(g) Adjustments to the allowance for loan losses must be recorded in the expense account "provision for loan losses".

(h) If the balance of the allowance for loan losses is considered to be in excess of the amount needed to meet the full and fair disclosure requirements, the excess amount must be transferred to the regular reserve account or deducted from the provision for loan loss expense account.

SECTION 164. IC 28-7-1-24.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 24.1. (a) Notwithstanding section 24(a) of this chapter as it applies to the regular reserve formula, a credit union that:**

(1) has only share accounts that are insured by an agency of

the federal government, the state, or an insuring entity that is approved by the department to insure credit union shares;

(2) has assets of five hundred thousand dollars ($500,000) or more; and

(3) has been in operation for more than four (4) years;

may maintain reserves in accordance with this section.

(b) For purposes of this section, "risk assets" means all assets except the following:

(1) Cash on hand.

(2) Deposits or shares in federally or state insured banks, savings and loan associations, and credit unions.

(3) Investments that are direct or indirect obligations of the United States government or its agencies.

(4) Loans to other credit unions.

(5) Student loans insured under the Higher Education Act (20 U.S.C. 1071 et seq.) or similar state insurance programs.

(6) Loans insured under the National Housing Act (12 U.S.C. 1703) by the Federal Housing Authority.

(7) Credit union mutual funds authorized by the Indiana Credit Union Act under IC 28-7-1-9(3)(I).

(8) Prepaid expenses.

(9) Accrued interest on nonrisk investments.

(10) Furniture and equipment.

(11) Land and buildings.

(12) Loans fully secured by a pledge of shares in the lending credit union, equal to and maintained to at least the amount of loan outstanding.

(13) Loans that are purchased from liquidating credit unions and guaranteed by an insuring agency of the federal government, the state, or an agency approved by the department to insure credit union share accounts.

(c) At the end of each accounting period, the gross income shall be determined. Based on the amount of gross income, ten percent (10%) of the gross income shall be set aside, as a regular reserve, until the reserve shall equal four percent (4%) of total risk assets, and then five percent (5%) of the gross income shall be set aside, until the reserve equals six percent (6%) of total risk assets.

(d) Except for the method of calculating the regular reserve formula, all other provisions of section 24 of this chapter

pertaining to entrance fees and charges, requirements of a special reserve for delinquent loans, and waiver of such special reserve, apply to credit unions that have reserves that are calculated under this section.

SECTION 165. IC 28-7-1-26.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 26.3. (a) A credit union board may terminate the membership of, or terminate some or all services to, a member who does any of the following:**

(1) Causes a loss to the credit union.

(2) Commits fraud or another misdeed against the credit union or against a person on the premises of the credit union.

(b) Pending action by the credit union board at the credit union board's next regularly scheduled meeting, a credit union may immediately suspend any credit union services to a member who does any of the following:

(1) Causes a loss to the credit union.

(2) Commits fraud or another misdeed against:

(A) the credit union; or

(B) a person on the premises of the credit union.

(c) A member may withdraw from a credit union at any time. However, the credit union may require a notice of withdrawal from the withdrawing member as a condition of withdrawal.

(d) Unless the withdrawal of a member occurs on a maturity date or not later than seven (7) days after a maturity date, a credit union may require that a withdrawing member give sixty (60) days written notice of the member's intention to withdraw shares. A credit union may waive an applicable notice period for a specific member or account in writing.

(e) After a termination or withdrawal under this section, the former member has no rights in the credit union. However, the termination or withdrawal does not release the former member from any remaining liability to the credit union.

SECTION 166. IC 28-7-1-26.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 26.5. (a) A credit union may refuse to make a payment from an account to a person claiming an interest in the account if the credit union:**

(1) is uncertain under the agreement governing the account of

who is entitled to receive the payment; or

(2) has actual knowledge of a dispute between any account owners, beneficiaries with present vested rights in the account, or other persons concerning ownership of the money in the account, the proposed withdrawal, or any previous withdrawals from the account.

(b) If a credit union refuses to make a payment under subsection (a), the credit union:

(1) shall notify, in writing, the account owners, beneficiaries with present vested rights in the account, and other persons claiming an interest in the account of the basis for the credit union's refusal; and

(2) may refuse to make the payment until all interested parties consent in writing to the requested payment or a court with jurisdiction orders the credit union to make the payment.

(c) The credit union is not liable in damages as a result of an action taken under this section.

SECTION 167. IC 28-7-1-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 31. Every credit union shall make provisions for adequate fidelity coverage for **directors,** officers, and employees of the credit union. The amount and form of fidelity coverage must be approved by the board of directors of the credit union. Coverage may be provided:

(1) in the form of a blanket fidelity bond issued by a corporate surety authorized to transact business in Indiana; or

(2) through the establishment of a separate reserve fund within the credit union for that purpose.

SECTION 168. IC 28-7-1-31.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 31.3. (a) As used in this section, "official" means an individual who is or who was a director, committee member, officer, or employee of a credit union.**

(b) An official of a credit union shall discharge the duties of the official's position in good faith and with the degree of diligence, care, and skill that an ordinarily prudent person would exercise under similar circumstances in a like position. In discharging the official's duties, an official may rely upon:

(1) the opinion of legal counsel for the credit union;

(2) the report of an independent appraiser selected with reasonable care by:

(A) the board; or

(B) an officer of the credit union; or

(3) financial statements of the credit union:

(A) represented to the official to be correct by the:

(i) chief executive officer; or

(ii) officer of the credit union having charge of the credit union's records; or

(B) stated in a written report by an independent public or certified public accountant or firm of accountants fairly to reflect the financial condition of the credit union.

(c) As used in this section, "credit union" includes all other credit unions that become related to a credit union by a consolidation or merger and the resulting or continuing credit union.

(d) A credit union may indemnify a director, a committee member, an officer, an employee, or an agent to the extent and in the same manner that a corporation may indemnify a director, committee member, officer, employee, or agent under IC 28-13-13-2 through IC 28-13-13-13.

SECTION 169. IC 28-7-1-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 33. (a) Any two (2) or more credit unions may, with the approval of the department, merge. This section authorizes the merger of a credit union organized under this chapter with a credit union organized under any other law.

(b) The board of directors of each credit union participating in the merger must by majority vote approve a joint agreement of merger.

(c) After the resolutions approving a joint agreement of merger have been adopted by the board of directors of each credit union, the credit unions shall submit the resolutions and joint agreement to the department for approval. **The department may, in the department's discretion, approve or disapprove the resolution and joint agreement. In deciding whether to approve or disapprove the resolution and joint agreement under this section, the department shall consider the following factors:**

(1) Whether the credit unions subject to the proposed transaction are operated in a safe, sound, and prudent manner.

(2) Whether the financial condition of any credit union subject to the proposed transaction will jeopardize the financial stability of any other credit unions subject to the proposed transaction.

(3) Whether the proposed transaction will result in a credit union that has inadequate capital, unsatisfactory management, or poor earnings prospects.

(4) Whether the proposed transaction, in the department's judgment and considering the available information under the prevailing circumstances, will result in an institution that is more favorable to the stakeholders than if the entities were to remain separate.

(5) Whether the management or other principals of the credit union that will result from the proposed transaction are qualified by character and financial responsibility to control and operate in a legal and proper manner the resulting credit union.

(6) Whether the credit unions subject to the proposed transaction furnish all the information the department requires in reaching the department's decision.

(d) If the joint agreement is approved by the department, any credit union whose existence will terminate as a result of the merger shall submit the joint agreement to a vote of its shareholders at the meeting directed by the resolution of the board of directors. A majority of the shareholders present at the meeting may approve the joint agreement. However, the department may permit the merger to become effective without the affirmative vote of the membership of a credit union if that credit union is in danger of insolvency or if the qualified group or groups associated with the credit union either have ceased or will soon cease to exist.

(e) After approval of the joint agreement by the shareholders of the merging credit unions, each credit union shall execute in triplicate articles of merger, on forms furnished by the department, which shall set forth the following:

(1) The time and place of the meeting of the board of directors at which the plan was approved.

(2) The vote by which the plan was approved by the board.

(3) A copy of the resolution or other action by which the plan was

agreed upon.

(4) The time and place of the meeting of the members at which the plan was approved.

(5) The vote by which the plan was approved by the members.

(f) The articles, joint agreement, and resolutions shall be delivered to the department for certification, which shall be evidenced in the manner prescribed in IC 28-12-5, and shall be presented to the secretary of state for recording. The secretary of state shall file one (1) copy of the articles of merger and shall issue a certificate of merger and two (2) copies of the articles of merger to the surviving credit union. The date on which the secretary of state issues the certificate of merger is the effective date of the merger.

(g) The articles of merger shall be filed with the county recorder of the county in which the principal office of the surviving credit union is located.

SECTION 170. IC 28-7-5-4, AS AMENDED BY P.L.1-2009, SECTION 149, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) Application for a pawnbroker's license shall be submitted on a form prescribed by the department and must include all information required by the department. An application submitted under this section must identify the location or locations at which the applicant proposes to engage in business as a pawnbroker in Indiana. If any business, other than the business of acting as a pawnbroker under this chapter, will be conducted by the applicant or another person at any location identified under this subsection, the applicant shall indicate for each location at which another business will be conducted:

(1) the nature of the other business;

(2) the name under which the other business operates;

(3) the address of the principal office of the other business;

(4) the name and address of the business's resident agent in Indiana; and

(5) any other information the director may require.

(b) An application submitted under this section must indicate whether any individual described in section 8(a)(2) or 8(a)(3) of this chapter at the time of the application:

(1) is under indictment for a felony ~~involving fraud, deceit, or misrepresentation~~ under the laws of Indiana or any other

jurisdiction; or

(2) has been convicted of or pleaded guilty or nolo contendere to a felony ~~involving fraud, deceit, or misrepresentation~~ under the laws of Indiana or any other jurisdiction.

(c) The director may request that the applicant provide evidence of compliance with this section at:

(1) the time of application;

(2) the time of renewal of a license; or

(3) any other time considered necessary by the director.

(d) For purposes of subsection (c), evidence of compliance with this section may include:

(1) criminal background checks, including a national criminal history background check (as defined in IC 10-13-3-12) by the Federal Bureau of Investigation for any individual described in subsection (b);

(2) credit histories; and

(3) other background checks considered necessary by the director.

If the director requests a national criminal history background check under subdivision (1) for an individual described in that subdivision, the director shall require the individual to submit fingerprints to the department or to the state police department, as appropriate, at the time evidence of compliance is requested under subsection (c). The individual to whom the request is made shall pay any fees or costs associated with the fingerprints and the national criminal history background check. The national criminal history background check may be used by the director to determine the individual's compliance with this section. The director or the department may not release the results of the national criminal history background check to any private entity.

SECTION 171. IC 28-7-5-8, AS AMENDED BY P.L.90-2008, SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8. (a) Upon an applicant's filing of the application required by section 4 of this chapter and payment of the license fee, if the department finds the financial standing, competence, business experience, and character of:

(1) the applicant and any significant affiliate of the applicant;

(2) each ~~executive officer,~~ director, **executive officer,** or manager of the applicant, or any other individual having a similar status or

performing a similar function for the applicant; and

(3) if known, each person directly or indirectly owning of record or owning beneficially at least ten percent (10%) of the outstanding shares of any class of equity security of the applicant;

are such that the business will be operated honestly, fairly, and efficiently and that the convenience and needs of the public exist for the operation of the business in the community wherein the applicant proposes to operate, it shall issue and deliver a license to the applicant, which license shall authorize the applicant to engage in the business of pawnbroking.

(b) The director is entitled to request evidence of compliance with the requirements of this section by the licensee, including any affiliate or person described in subsection (a), at:

(1) the time of issuance of the license;

(2) the time of renewal of the license; or

(3) any other time considered necessary by the director.

A license shall remain in effect until it is surrendered, revoked, or suspended. If the department denies the application, it shall notify the applicant of the denial. ~~and return the sum paid by the applicant as a license fee.~~ The department may hold a public hearing if the department considers the hearing necessary.

(c) The department may deny an application under this section if the director determines that the application was submitted for the benefit of, or on behalf of, a person who does not qualify for a license.

(d) If a licensee replaces a manager, the licensee shall give the department written notice of the replacement not later than thirty (30) days after engaging another person to serve as manager.

SECTION 172. IC 28-7-5-10.1, AS AMENDED BY P.L.90-2008, SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10.1. (a) A licensee that decides to cease engaging in business as a pawnbroker in Indiana shall do the following not later than thirty (30) days before closing the licensee's pawnbroking business:

(1) Notify the department of:

(A) the licensee's intention to cease engaging in business as a pawnbroker in Indiana; and

(B) the date on which the licensee's pawnbroking business will cease.

(2) Surrender the license to the department.

(3) Provide the following to all pledgers that have loans outstanding with the licensee:

(A) Notice of:

(i) the licensee's intention to cease engaging in business as a pawnbroker in Indiana; and

(ii) the date on which the licensee's pawnbroking business will cease.

(B) Instructions, approved by the director, on how pledged articles may be redeemed before the date identified under clause (A)(ii).

(b) If:

(1) a licensee ceases engaging in business as a pawnbroker in Indiana without complying with subsection (a); and

(2) the director determines that it is in the public interest that the department ~~oversee~~ **oversees** the liquidation of the licensee's business;

the director may appoint a liquidating agent to conclude the affairs of the licensee's pawnbroker business in Indiana. The department may use the proceeds of the licensee's bond under section 5 of this chapter to pay the expenses of the liquidation.

(c) If:

(1) a license is revoked under section 13 of this chapter and the director determines that it is not in the best interests of the public for the licensee to liquidate the business; or

(2) the director otherwise determines that it is in the best interests of the public;

the director may appoint a liquidating agent to conclude the affairs of the licensee's pawnbroker business in Indiana. The department may use the proceeds of the licensee's bond under section 5 of this chapter to pay the expenses of liquidation.

SECTION 173. IC 28-7-5-10.6, AS AMENDED BY P.L.90-2008, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10.6. (a) This section applies if, after a person has been issued a license or renewal license under this chapter, any individual described in section 8(a)(2) or 8(a)(3) of this chapter

~~(1) is under indictment for a felony involving fraud, deceit, or misrepresentation under the laws of Indiana or any other~~

~~jurisdiction; or~~

~~(2)~~ has been convicted of or pleaded guilty or nolo contendere to a felony ~~involving fraud, deceit, or misrepresentation~~ under the laws of Indiana or any other jurisdiction.

(b) If this section applies, the licensee shall provide to the department the information required under section 4(b) of this chapter:

(1) not later than thirty (30) days after the licensee or any individual described in section 8(a)(2) or 8(a)(3) of this chapter

~~(A) has been put on notice of the indictment; or~~

~~(B)~~ has been convicted of or pleaded guilty or nolo contendere to the felony;

~~whichever applies;~~ or

(2) if the licensee's next license renewal fee under section 11 of this chapter is due before the date described in subdivision (1), along with the licensee's next license renewal fee under section 11 of this chapter.

SECTION 174. IC 28-7-5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. ~~Every licensee~~ **A license** ~~shall pay to the department~~ **must be renewed** before June 1 of each year ~~a~~ **by filing a renewal application prescribed by the director. The department shall prescribe the form of the renewal application. To be accepted for processing, the license renewal** fee fixed by the department under IC 28-11-3-5 ~~for the license renewal.~~ **and all other information and documents requested by the director must be filed with the renewal application.** The department may impose a **daily late** fee ~~of five dollars ($5) per day~~ **fixed by the department under IC 28-11-3-5** on any license **renewal** fee that is not received before June 1.

SECTION 175. IC 28-7-5-15.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 15.1. Except as otherwise provided, IC 4-21.5 applies to and governs all agency action taken by the department under this chapter. A proceeding for administrative review under IC 4-21.5-3 or judicial review under IC 4-21.5-5 must be held in Marion County.**

SECTION 176. IC 28-7-5-16, AS AMENDED BY P.L.57-2006, SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 16. (a) The licensee shall keep and use in ~~his~~ **the**

licensee's business such books, accounts, and records as will enable the department to determine whether the licensee is complying with this chapter and with the rules adopted by the department under this chapter. Every licensee shall preserve such books, accounts, and records, including cards used in the card system for at least two (2) years after making the final entry on any loan recorded therein. The books and records of the licensee shall be kept so that the pawnbroking business transacted in Indiana may be readily separated and distinguished from the business of the licensee transacted elsewhere and from any other business in which the licensee may be engaged. To determine whether the licensee is complying with this chapter and with rules adopted by the department under this chapter, the department may examine the books, accounts, and records required to be kept by the licensee under this subsection. If the department examines the books, accounts, and records of the licensee under this subsection, the licensee shall pay all reasonably incurred costs of the examination in accordance with the fee schedule adopted under IC 28-11-3-5.

(b) If a pawnbroker, in the conduct of the business, purchases an article from a seller, the purchase shall be evidenced by a bill of sale properly signed by the seller. All bills of sale must be in duplicate and must recite the following separate items:

(1) Date of bill of sale.

(2) Amount of consideration.

(3) Name of pawnbroker.

(4) Description of each article sold. However, if multiple articles of a similar nature that do not contain an identification or serial number (such as precious metals, gemstones, musical recordings, video recordings, books, or hand tools) are delivered together in one (1) transaction, the description of the articles is adequate if the description contains the quantity of the articles delivered and a physical description of the type of articles delivered, including any other unique identifying marks, numbers, names, letters, or special features.

(5) Signature of seller.

(6) Address of seller.

(7) Date of birth of the seller.

(8) The type of government issued identification used to verify the identity of the seller, together with the name of the governmental

agency that issued the identification, and the identification number present on the government issued identification.

(c) If a pawnbroker, in the conduct of the business, purchases an article from a seller on the condition of selling the property back at a stipulated price, the transaction shall be evidenced by a bill of sale properly signed by the seller. All such bills of sale must be in duplicate and recite the information in subsection (b) and must also contain the following information:

(1) Date of resale.

(2) Amount of resale.

(d) The original copy of the bill of sale shall be retained by the pawnbroker. The second copy shall be delivered to the seller by the pawnbroker at the time of sale. The heading on all bill of sale forms must be in boldface type.

(e) Each licensee shall maintain a record of control indicating the number of accounts and dollar value of all outstanding pawnbroking receivables. Each licensee shall maintain a separate record of transactions subject to subsection (c).

(f) If a licensee contracts with an outside vendor to provide a service that would otherwise be undertaken internally by the licensee and be subject to the department's routine examination procedures, the person that provides the service to the licensee shall, at the request of the director, submit to an examination by the department. If the director determines that an examination under this subsection is necessary or desirable, the examination may be made at the expense of the person to be examined. If the person to be examined under this subsection refuses to permit the examination to be made, the director may order any licensee that receives services from the person refusing the examination to:

(1) discontinue receiving one (1) or more services from the person; or

(2) otherwise cease conducting business with the person.

SECTION 177. IC 28-7-5-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 22. **(a)** The holder of ~~such~~ **a** ticket **described in section 21 of this chapter** shall be presumed to be the person entitled to redeem the pledge, and, **except as provided in subsection (b),** the pawnbroker shall deliver the pledge to the person presenting the ticket, upon payment of principal, interest

and charge.

(b) If a local ordinance or other law requires the retention of the pledge for a specific period of time, the pawnbroker shall comply with the local ordinance or other law if the retention period does not exceed ten (10) days.

SECTION 178. IC 28-7-5-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 23. **(a) Except as provided in subsection (b),** when a ticket, instead of being presented in person, is sent to the pawnbroker by mail, accompanied with a money order for the total amount due and a reasonable fee for shipping and handling, the pawnbroker may securely pack and forward the pledge to the pledger in accordance with the remitter's instructions. If the remittance is insufficient to cover the amount due, the pawnbroker shall either notify the remitter of the amount of the deficiency or send the pledge subject to the payment of shipping charges by the consignee. The pawnbroker's liability for the pledge shall cease upon delivery of the pledge to the carrier or his agent.

(b) If a local ordinance or other law requires the retention of the pledge for a specific period, the pawnbroker shall comply with the local ordinance or other law if the retention period does not exceed ten (10) days.

SECTION 179. IC 28-7-5-38.1, AS ADDED BY P.L.90-2008, SECTION 54, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 38.1. If the department determines, after notice and opportunity ~~for hearing,~~ **to be heard,** that a person has violated this chapter, the department may, in addition to or instead of all other remedies available under this chapter, impose on the person a civil penalty that does not exceed ten thousand dollars ($10,000) per violation.

SECTION 180. IC 28-8-4-20, AS AMENDED BY P.L.90-2008, SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 20. (a) A person may not engage in the business of money transmission without a license required by this chapter.

(b) An application for a license must be submitted on a form prescribed by the department and must include the information required by the department.

(c) An application submitted under this section must indicate whether any individuals described in section 35(b)(2) or 35(b)(3) of

this chapter:

(1) are, at the time of the application, under indictment for a felony ~~involving fraud, deceit, or misrepresentation~~ under the laws of Indiana or any other jurisdiction; or

(2) have been convicted of or pleaded guilty or nolo contendere to a felony ~~involving fraud, deceit, or misrepresentation~~ under the laws of Indiana or any other jurisdiction.

(d) The director may request evidence of compliance with this section at:

(1) the time of application;

(2) the time of renewal of a license; or

(3) any other time considered necessary by the director.

(e) For purposes of subsection (d), evidence of compliance may include:

(1) criminal background checks, including a national criminal history background check (as defined in IC 10-13-3-12) by the Federal Bureau of Investigation for an individual described in section 35(b)(2) or 35(b)(3) of this chapter;

(2) credit histories; and

(3) other background checks considered necessary by the director.

If the director requests a national criminal history background check under subdivision (1) for an individual described in that subdivision, the director shall require the individual to submit fingerprints to the department or to the state police department, as appropriate, at the time evidence of compliance is requested under subsection (d). The individual to whom the request is made shall pay any fees or costs associated with the fingerprints and the national criminal history background check. The national criminal history background check may be used by the director to determine the individual's compliance with this section. The director or the department may not release the results of the national criminal history background check to any private entity.

SECTION 181. IC 28-8-4-32, AS AMENDED BY P.L.217-2007, SECTION 77, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 32. (a) An application must be accompanied by a nonrefundable application fee as fixed by the department under IC 28-11-3-5.

(b) If a license is granted, the application fee constitutes the license

fee for the applicant's activities through ~~December~~ **March** 31 of the year in which the initial license is granted.

SECTION 182. IC 28-8-4-40.6, AS AMENDED BY P.L.90-2008, SECTION 59, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 40.6. (a) This section applies if, after a person has been issued a license or renewal license under this chapter, ~~any of the following apply:~~

~~(1) The licensee, or any individual described in section 35(b)(2) or 35(b)(3) of this chapter, is under indictment for a felony involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction.~~

~~(2)~~ the licensee, or any individual described in section 35(b)(2) or 35(b)(3) of this chapter, has been convicted of or pleaded guilty or nolo contendere to a felony ~~involving fraud, deceit, or misrepresentation~~ under the laws of Indiana or any other jurisdiction.

(b) If this section applies, the licensee shall provide to the department the information required under section 24(5)(B) or 25(6)(B) of this chapter, whichever applies:

(1) not later than thirty (30) days after the licensee or individual described in section 35(b)(2) or 35(b)(3) of this chapter

~~(A) has been put on notice of the indictment; or~~

~~(B)~~ has been convicted of or pleaded guilty or nolo contendere to the felony;

~~whichever applies;~~ or

(2) if the licensee's next license renewal fee under section 37 of this chapter is due before the date described in subdivision (1), along with the licensee's next license renewal fee under section 37 of this chapter.

SECTION 183. IC 28-8-4-41, AS AMENDED BY P.L.57-2006, SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 41. (a) The director may conduct an annual onsite examination of a licensee or an authorized delegate of a licensee.

(b) If the director determines that a reasonable belief exists that a person is operating without a valid license or in violation of this chapter, the director has the authority to investigate and examine the records of that person. The person examined must pay the reasonably incurred costs of the examination.

(c) Except as provided in section 42(a)(2) of this chapter, the director must give the licensee forty-five (45) days written notice before conducting an onsite examination.

(d) If the director determines, based on the licensee's financial statements and past history of operations in Indiana, that an onsite examination is unnecessary, the director may waive the onsite examination.

(e) If the director concludes that an onsite examination of a licensee is necessary, the licensee shall pay all reasonably incurred costs of such examination in accordance with the fee schedule adopted under IC 28-11-3-5.

(f) An onsite examination may be conducted in conjunction with examinations to be performed by representatives of agencies of another state or states. In lieu of an onsite examination, a director may accept the examination report of an agency of another state, or a report prepared by an independent accounting firm. A report accepted under this subsection shall be considered, for all purposes, to be an official report of the director.

(g) If a licensee contracts with an outside vendor to provide a service that would otherwise be undertaken internally by the licensee and be subject to the department's routine examination procedures, the person that provides the service to the licensee shall, at the request of the director, submit to an examination by the department. If the director determines that an examination under this subsection is necessary or desirable, the examination may be made at the expense of the person to be examined. If the person to be examined under this subsection refuses to permit the examination to be made, the director may order any licensee that receives services from the person refusing the examination to:

(1) discontinue receiving one (1) or more services from the person; or

(2) otherwise cease conducting business with the person.

SECTION 184. IC 28-8-4-52 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 52. ~~The provisions of~~ **Except as otherwise provided,** IC 4-21.5 ~~shall apply to any hearing afforded under this chapter.~~ **applies to and governs all agency action taken by the department under this chapter. A proceeding for administrative review under IC 4-21.5-3 or judicial review under**

IC 4-21.5-5 must be held in Marion County.

SECTION 185. IC 28-8-5-11, AS AMENDED BY P.L.90-2008, SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 11. (a) A person shall not engage in the business of cashing checks for consideration without first obtaining a license.

(b) Each application for a license shall be in writing in such form as the director may prescribe and shall include all of the following:

(1) The following information pertaining to the applicant:

(A) Name.

(B) Residence address.

(C) Business address.

(2) The following information pertaining to any individual described in section 12(b)(1) of this chapter:

(A) Name.

(B) Residence address.

(C) Business address.

(D) Whether the person:

(i) is, at the time of the application, under indictment for a felony ~~involving fraud, deceit, or misrepresentation~~ under the laws of Indiana or any other jurisdiction; or

(ii) has been convicted of or pleaded guilty or nolo contendere to a felony ~~involving fraud, deceit, or misrepresentation~~ under the laws of Indiana or any other jurisdiction.

(3) The address where the applicant's office or offices will be located. If any business, other than the business of cashing checks under this chapter, will be conducted by the applicant or another person at any of the locations identified under this subdivision, the applicant shall indicate for each location at which another business will be conducted:

(A) the nature of the other business;

(B) the name under which the other business operates;

(C) the address of the principal office of the other business;

(D) the name and address of the business's resident agent in Indiana; and

(E) any other information that the director may require.

(4) Such other data, financial statements, and pertinent information as the director may require.

(c) The application shall be filed with a nonrefundable fee fixed by the department under IC 28-11-3-5.

SECTION 186. IC 28-8-5-12, AS AMENDED BY P.L.90-2008, SECTION 64, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 12. (a) The department shall determine the financial responsibility, business experience, character, and general fitness of the applicant before issuing the license.

(b) The department may refuse to issue a license for any of the following reasons:

(1) Any of the following has been convicted of a felony ~~involving fraud, deceit, or misrepresentation~~ under the laws of Indiana or any other jurisdiction:

(A) An executive officer, director, or manager of the applicant, or any other individual having a similar status or performing a similar function for the applicant.

(B) Any person directly or indirectly owning of record or owning beneficially at least ten percent (10%) of the outstanding shares of any class of equity security of the applicant.

(2) The application was submitted for the benefit of, or on behalf of, a person who does not qualify for a license.

(c) The director of the department may request evidence of compliance with this section by the licensee at:

(1) the time of application;

(2) the time of renewal of the licensee's license; or

(3) any other time considered necessary by the director.

(d) For purposes of subsection (c), evidence of compliance may include:

(1) criminal background checks, including a national criminal history background check (as defined in IC 10-13-3-12) by the Federal Bureau of Investigation for any individual described in subsection (b)(1);

(2) credit histories; and

(3) other background checks considered necessary by the director.

If the director requests a national criminal history background check under subdivision (1) for an individual described in that subdivision, the director shall require the individual to submit fingerprints to the department or to the state police department, as appropriate, at the time

evidence of compliance is requested under subsection (c). The individual to whom the request is made shall pay any fees or costs associated with the fingerprints and the national criminal history background check. The national criminal history background check may be used by the director to determine the individual's compliance with this section. The director or the department may not release the results of the national criminal history background check to any private entity.

SECTION 187. IC 28-8-5-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 15. A license ~~may~~ **must** be renewed for twelve (12) months upon the filing of a renewal application **as prescribed by the director of the department. The department shall prescribe a form for the renewal application. To be accepted for processing, the license renewal fee as described in this section and all information and documents requested by the director of the department must be filed with the renewal application.** Each licensee shall pay to the department before July 1 of each year a fee fixed by the department under IC 28-11-3-5 as a renewal fee. The department may fix a daily late fee under IC 28-11-3-5 for a renewal license that is not received before July 1.

SECTION 188. IC 28-8-5-18.4, AS ADDED BY P.L.217-2007, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 18.4. (a) This section applies if, after a person has been issued a license or renewal license under this chapter, ~~any of the following apply:~~

~~(1) The licensee, or any individual described in section 11(b)(2) of this chapter, is under indictment for a felony involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction.~~

~~(2)~~ the licensee, or any individual described in section 11(b)(2) of this chapter, has been convicted of or pleaded guilty or nolo contendere to a felony ~~involving fraud, deceit, or misrepresentation~~ under the laws of Indiana or any other jurisdiction.

(b) If this section applies, the licensee shall provide to the department the information required under section 11(b)(2)(D) of this chapter:

(1) not later than thirty (30) days after the licensee or individual

described in section 11(b)(2) of this chapter

~~(A) has been put on notice of the indictment; or~~

~~(B)~~ has been convicted of or pleaded guilty or nolo contendere to the felony; **or**

~~whichever applies; or~~

(2) if the licensee's next license renewal fee under section 15 of this chapter is due before the date described in subdivision (1), along with the licensee's next license renewal fee under section 15 of this chapter.

SECTION 189. IC 28-8-5-19, AS AMENDED BY P.L.57-2006, SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 19. (a) The department may examine the books, accounts, and records of a licensee and may make investigations to determine compliance.

(b) If the department examines the books, accounts, and records of a licensee, the licensee shall pay all reasonably incurred costs of the examination in accordance with the fee schedule adopted under IC 28-11-3-5.

(c) If a licensee contracts with an outside vendor to provide a service that would otherwise be undertaken internally by the licensee and be subject to the department's routine examination procedures, the person that provides the service to the licensee shall, at the request of the director, submit to an examination by the department. If the director determines that an examination under this subsection is necessary or desirable, the examination may be made at the expense of the person to be examined. If the person to be examined under this subsection refuses to permit the examination to be made, the director may order any licensee that receives services from the person refusing the examination to:

(1) discontinue receiving one (1) or more services from the person; or

(2) otherwise cease conducting business with the person.

SECTION 190. IC 28-8-5-21.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 21.1. Except as otherwise provided, IC 4-21.5 applies to and governs all agency action taken by the department under this chapter. A proceeding for administrative review under IC 4-21.5-3 or judicial review under**

IC 4-21.5-5 must be held in Marion County.

SECTION 191. IC 28-8-5-22.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 22.5. (a) A license issued by the department under this chapter shall be revoked by the department if the person fails to:

(1) file any renewal ~~form required~~ **applications prescribed** by the ~~department,~~ **director;** or

(2) pay any license renewal fee described under section 15 of this chapter;

~~for a period of at least two (2) years.~~ **more than sixty (60) days after the date the renewal is due.**

(b) A person whose license is revoked under this section may:

(1) pay all delinquent fees and apply for a new license; or

(2) appeal the revocation to the department for an administrative review under IC 4-21.5-3. Pending the decision resulting from the hearing under IC 4-21.5-3 concerning the license revocation, the license remains in force.

SECTION 192. IC 28-10-1-1, AS AMENDED BY P.L.182-2009(ss), SECTION 372, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. A reference to a federal law or federal regulation in ~~IC 28~~ **this title** is a reference to the law or regulation in effect December 31, ~~2008.~~ **2009.**

SECTION 193. IC 28-11-1-5, AS AMENDED BY P.L.57-2006, SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) A member appointed by the governor under section 3(a)(2) of this chapter serves a term of four (4) years but at the pleasure of the governor.

(b) The governor may reappoint a member appointed under section 3(a)(2) of this chapter.

(c) Notwithstanding the expiration of a member's term, the member continues to serve until a successor is appointed and qualified.

SECTION 194. IC 28-11-1-9.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 9.1. (a) This section applies to a meeting of the members at which at least four (4) members are physically present at the place where the meeting is conducted.**

(b) A member may participate in a meeting of the members by

using a means of communication that permits:

(1) all other members participating in the meeting; and

(2) all members of the public physically present at the place where the meeting is conducted;

to simultaneously communicate with each other during the meeting.

(c) A member who participates in a meeting under subsection (b) is considered to be present at the meeting.

(d) A member who participates in a meeting under subsection (b) may act as a voting member on official action only if that official action is voted upon by at least four (4) members of the board physically present at the place where the meeting is conducted.

(e) The memoranda of the meeting prepared under IC 5-14-1.5-4 must state the name of each member who:

(1) was physically present at the place where the meeting was conducted;

(2) participated in the meeting by using a means of communication described in subsection (b); and

(3) was absent.

(f) A member who participates in a meeting under subsection (b) may not cast the deciding vote on any official action.

SECTION 195. IC 28-11-1-15, AS ADDED BY P.L.217-2007, SECTION 93, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 15. If the governor:

(1) declares, under IC 10-14-3-12, a state of emergency in all or part of Indiana; or

(2) in the absence of a declaration under subdivision (1), gives prior approval to the director;

the director is authorized to take necessary and appropriate action to establish or preserve safe and sound methods of banking and **other action the director considers necessary under the circumstances** to **promote and** safeguard the interests of depositors, debtors, consumers, ~~and~~ creditors, **or the public.**

SECTION 196. IC 28-11-3-1, AS AMENDED BY P.L.90-2008, SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) The department shall examine the affairs of every financial institution as often as the department considers

necessary. Examinations may be made without notice to the institution to be examined.

(b) In making an examination, the department may examine any of the officers or agents of the institution under oath.

(c) The department may require an independent audit by a certified public accountant, subject to the standards the department determines.

(d) The department, in the classification of assets, may disregard the amount of an asset in its analysis of capital adequacy of the financial institution until the amount of the asset is recovered.

(e) After the examiners complete the examination of a financial institution, the examiners:

(1) shall submit their written findings and recommendations to:

(A) the board of directors; and

(B) other parties authorized by the board of directors and approved by the director; and

(2) may confer with the parties listed in subdivision (1) on the findings and recommendations.

(f) Upon the conclusion of an examination, a full, true, and detailed report of the condition of the financial institution shall be made to the department by the examiners in the form prescribed by the department.

(g) A financial institution subject to examination by the department may not cause, by contract or otherwise, any data processing or other similar service to be performed, either on or off its premises, until written assurances are furnished to the department by the financial institution and the entity providing the service that the performance of the service will be subject to regulation and examination by the department to the same extent as if the service was being performed by the financial institution on its own premises. Entities that provide data processing or other similar services to more than one (1) financial institution need only file one (1) written assurance to cover all financial institutions to which the entity provides services.

(h) The report of an examination conducted under this section:

(1) is the exclusive property of the department; and

(2) except as provided in subsection (i), shall not be distributed, published, or duplicated without the prior authorization of the director.

(i) A financial institution that is or seeks to become a member of the Federal Home Loan Bank System may provide a copy of a report of an

examination conducted by the department to the Federal Home Loan Bank for the confidential use of the Federal Home Loan Bank if the director and the Federal Home Loan Bank have entered into a written agreement that provides that the report of the examination:

(1) remains the property of the department; and

(2) is not:

(A) subject to inspection under IC 5-14-3;

(B) subject to subpoena;

(C) subject to discovery; or

(D) admissible in evidence in any civil action.

(j) Except as provided in subsection (i), a person who knowingly or intentionally possesses, distributes, publishes, or duplicates a report of an examination conducted under this section without the prior authorization of the director commits a Class B misdemeanor.

(k) If a financial institution contracts with an outside vendor to provide a service that would otherwise be undertaken internally by the financial institution and be subject to the department's routine examination procedures, the person that provides the service to the financial institution shall, at the request of the director, submit to an examination by the department. If the director determines that an examination under this subsection is necessary or desirable, the examination may be made at the expense of the person to be examined. If the person to be examined under this subsection refuses to permit the examination to be made, the director may order any financial institution that receives services from the person refusing the examination to:

(1) discontinue receiving one (1) or more services from the person; or

(2) otherwise cease conducting business with the person.

SECTION 197. IC 28-11-3-5, AS AMENDED BY P.L.57-2006, SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) As used in this section, "assets" means the assets of a financial institution as disclosed by a report made by the financial institution at the end of the year immediately preceding the fiscal year in which a fee is fixed under this section.

(b) The department shall fix and collect, on an annual basis, a schedule of fees for the services rendered and the duties performed by the department in the administration of financial institutions.

(c) The fees may not exceed the comparative cost to the department in the administration of financial institutions. In determining the costs, the department may classify the assets of financial institutions and fix fees at different rates for the examination, supervision, regulation, and liquidation of the classes of assets, based on the proportionate cost and expense incurred by the department in making examinations and in the administration of financial institutions.

(d) The fees shall be charged and collected until changed or modified by the department. A change or modification of fees may not be adopted more often than one (1) time each state fiscal year. A modified schedule of fees is effective on the first day of the state fiscal year following the fiscal year in which the modification is adopted.

(e) Administrative charges included in the fee are in addition to charges collected under other statutes.

(f) If the reasonable costs of performing an examination of a financial institution exceed the fees established under this section, the financial institution shall pay the excess costs not later than thirty (30) days after receipt of an invoice from the department. The department may impose a fee, in an amount fixed by the department under this section, for each day that the excess costs are not paid, beginning on the first day after the thirty (30) day period described in this subsection.

SECTION 198. IC 28-11-4-3, AS AMENDED BY P.L.217-2007, SECTION 98, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) If the director determines that a **current or former** director, ~~an~~ officer, or ~~an~~ employee of a financial institution has:

(1) committed a violation of a statute, a rule, a final cease and desist order, any condition imposed in writing by the director in connection with the grant of any application or other request by the financial institution, or any written agreement between the financial institution and the director **or the department;**

(2) engaged or participated in an unsafe or unsound practice in connection with the financial institution;

(3) committed or engaged in an act, an omission, or a practice that constitutes a breach of fiduciary duty as director, officer, or employee; or

(4) been convicted of, has pleaded guilty or nolo contendere to, or

is under indictment for, a felony involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction;

the director, subject to subsection (b), may issue and serve upon the officer, director, or employee a notice of the director's intent to issue an order removing the person from the person's office or employment, an order prohibiting any participation by the person in the conduct of the affairs of any financial institution, or an order both removing the person and prohibiting the person's participation.

(b) A violation, practice, or breach specified in subdivision (a) is subject to the authority of the director under subsection (a) if the director finds any of the following:

(1) By reason of the violation, practice, or breach, the financial institution has suffered or will probably suffer substantial financial loss or other damage.

(2) The interests of the financial institution's depositors could be seriously prejudiced by reason of the violation, practice, or breach of fiduciary duty.

(3) The violation, practice, or breach involves personal dishonesty on the part of the officer, director, or employee involved.

(4) The violation, practice, or breach demonstrates a willful or continuing disregard by the officer, director, or employee for the safety and soundness of the financial institution.

(c) A person who:

(1) is under indictment for;

(2) has been convicted of; or

(3) has pleaded guilty or nolo contendere to;

a felony involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction may not serve as a director, an officer, or an employee of a financial institution, or serve in any similar capacity, unless the person obtains the written consent of the ~~department.~~ **director.**

(d) A financial institution that willfully permits a person to serve the financial institution in violation of subsection (b) or (c) is subject to a civil penalty of five hundred dollars ($500) for each day the violation continues. A civil penalty paid under this subsection must be deposited into the financial institutions fund established by IC 28-11-2-9.

SECTION 199. IC 28-11-4-4, AS AMENDED BY P.L.57-2006,

SECTION 75, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) A notice issued under this chapter must:

(1) contain a statement of the facts constituting the alleged practice, violation, or breach;

(2) state the facts alleged in support of the violation, practice, or breach;

(3) state the director's intention to enter an order under section 3(a) of this chapter;

(4) be delivered to the board of directors of the financial institution;

(5) be delivered to the officer, director, or employee concerned; and

(6) specify the procedures that must be followed to initiate a hearing to contest the facts alleged.

(b) If a hearing is requested within ten (10) days after service of the written notice, the ~~director or designee of the director~~ **department** shall hold a hearing concerning the alleged practice, violation, or breach. The hearing shall be held not later than forty-five (45) days after receipt of the request. The ~~director or designee of the director,~~ **department,** based on the evidence presented at the hearing, shall enter:

(1) a final order under section 7 of this chapter for the immediate removal of the officer, director, or employee affected;

(2) a final order under section 7 of this chapter prohibiting further participation by the officer, director, or employee, in any manner, in the conduct of affairs of any financial institution;

(3) a final order under section 7 of this chapter requiring the financial institution and its directors, officers, employees, and agents to:

(A) cease and desist from the practice or violation; or

(B) take affirmative action to correct the conditions resulting from the practice or violation;

(4) a final order consisting of any combination of orders described in subdivisions (1) through (3);

(5) a reprimand of the individuals, entities, or other persons concerned; or

(6) a dismissal of the entire matter.

(c) If no hearing is requested within the time specified in subsection

(b), the director may proceed to issue a final order described in subsection (b)(1), (b)(2), (b)(3), or (b)(4) on the basis of the facts set forth in the written notice.

(d) An officer, director, or employee who is removed from a position under a removal order that has become final may not participate in the conduct of the affairs of any financial institution without the approval of the director.

(e) The director may, for the protection of the financial institution or the interests of its depositors, suspend from office or prohibit from participation in the affairs of the financial institution an officer, a director, or an employee of a financial institution who is the subject of a written notice served by the director under ~~subsection (a).~~ **section 3(a) of this chapter.** A suspension or prohibition under this subsection becomes effective upon service of the notice. Unless stayed by a court in a proceeding authorized by subsection (f), the ~~notice~~ **suspension or prohibition** shall remain in effect pending completion of the ~~proceeding under~~ **proceedings related to** the written notice served under ~~subsection (a)~~ **section 3(a) of this chapter** and until the effective date of an order entered by the ~~director~~ **department** under subsection (b) or **the director under subsection** (c). Copies of the notice shall also be served upon the financial institution or subsidiary of which the person is an officer, a director, or an employee.

(f) Not more than ten (10) days after an officer, a director, or an employee has been suspended from office or prohibited from participation in the conduct of the affairs of the financial institution or subsidiary under subsection (e), the officer, director, or employee may apply to a court having jurisdiction for a stay of the suspension or prohibition pending completion of the proceedings ~~under subsection (b),~~ **related to the notice served under section 3(a) of this chapter,** and the court may stay the suspension of prohibition.

(g) The department shall maintain an official record of a proceeding under this chapter.

SECTION 200. IC 28-11-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) If the ~~department~~ **director** determines that an alleged practice, a violation, or an act specified in a notice served under this chapter is likely to:

(1) cause insolvency of the financial institution;

(2) cause substantial dissipation of assets or earnings of the

financial institution; or

(3) otherwise seriously prejudice the interests of the depositors of the financial institution;

the ~~department~~ **director** may issue a temporary order without a hearing.

(b) A temporary order may:

(1) require the financial institution to cease and desist from the practice or violation;

(2) require the financial institution to take affirmative action to correct the conditions resulting from the practice or violation; or

(3) suspend or prohibit a director, an officer, or an employee from participating in the conduct of the affairs of the financial institution.

(c) A temporary order is effective upon service and remains effective and enforceable until the earliest of the following:

(1) The issuance of an injunction by a court under subsection (d).

(2) The dismissal of the charges by the department.

(3) The effective date of a final order under section 7 of this chapter.

(d) A financial institution served with a temporary order under this section may apply to a court having jurisdiction for an injunction to stay, modify, or vacate the order.

SECTION 201. IC 28-11-4-7, AS AMENDED BY P.L.90-2008, SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. (a) If, **after a hearing held under section 4(b) of this chapter,** the department finds that the conditions specified in section 2 or 3 of this chapter have been established, the department may issue a final order. **If a hearing is not requested within the time specified in section 4(b) of this chapter, the director may issue a final order on the basis of the facts set forth in the written notice served under section 3(a) of this chapter.**

(b) **Unless the director has entered into a consent agreement described in section 5 of this chapter,** a final order must include separately stated findings of fact and conclusions of law for all aspects of the order.

(c) A final order may do any of the following:

(1) Require the financial institution and its directors, officers,

employees, and agents to do any of the following:

(A) Cease and desist from the practice or violation.

(B) Take affirmative action to correct the conditions resulting from the practice or violation.

(2) Suspend or prohibit a director, an officer, or an employee from participating in the affairs of a financial institution or subsidiary.

(3) Impose a civil penalty not to exceed the amount specified in section 9 of this chapter.

(d) A final order shall be issued in writing within ninety (90) days after conclusion of ~~the~~ **a** hearing **held under section 4(b) of this chapter,** unless this period is waived or extended with the written consent of all parties or for good cause shown.

(e) If the financial institution, director, or officer does not appear individually or by a duly authorized representative at ~~the~~ **a** hearing **held under section 4(b) of this chapter,** the financial institution, director, or officer is considered to have consented to the issuance of a final order.

(f) The director may keep a final order confidential if the director determines that the immediate release of the order would endanger:

(1) the stability of the financial institution; or

(2) the security of depositors' funds.

However, after two (2) years after the date of its issuance, a final order is no longer confidential under IC 28-1-2-30.

SECTION 202. IC 28-11-4-10, AS AMENDED BY P.L.90-2008, SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10. The ~~department~~ **director** may enforce any of the following by applying for appropriate relief to a court having jurisdiction:

(1) An order issued under this chapter.

(2) A written agreement entered into by the department **or the director** and:

(A) a financial institution; or

(B) any director, officer, employee, or agent of the financial institution.

(3) Any condition imposed in writing by the department **or the director** on:

(A) a financial institution; or

(B) any director, officer, employee, or agent of the financial

institution;

in connection with any application, notice, or request concerning the financial institution.

SECTION 203. IC 28-11-4-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 11. An individual who:

(1) ~~was removed~~ **is suspended or prohibited** from ~~office~~ **participating in the conduct of the affairs of a financial institution** under section 6 or 7 of this chapter; and

(2) after ~~removal,~~ **the suspension or prohibition** knowingly or intentionally participates, directly or indirectly, in the management of the financial institution;

commits a Class D felony.

SECTION 204. IC 28-13-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) An officer may resign at any time by delivering notice:

(1) to the board of directors, its chairman, or the secretary of the corporation; or

(2) if the articles of incorporation or bylaws so provide, to another designated officer.

(b) A resignation is effective when the notice is delivered unless the notice specifies a later effective date. If a resignation is made effective at a later date and the corporation accepts the future effective date, the corporation's board of directors may fill the pending vacancy before the effective date if the board of directors provides that the successor does not take office until the effective date.

(c) A board of directors may remove any officer at any time with or without cause.

(d) An officer who appoints another officer or assistant officer may remove the appointed officer or assistant officer at any time with or without cause.

(e) If a corporation replaces the chief executive officer of the corporation, the corporation shall give the department written notice of the replacement not later than thirty (30) days after the chief executive officer is replaced.

SECTION 205. IC 28-14-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. A corporate fiduciary may deposit funds **into accounts, and** in ~~a depository in which the deposits~~ **amounts, that** are federally insured. A credit union service

organization established as a corporate fiduciary under IC 28-14-3-24 may deposit its funds in the credit union or credit unions that control the credit union service organization.

SECTION 206. IC 28-15-2-2, AS AMENDED BY P.L.217-2007, SECTION 103, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) As used in this section, "rights and privileges" means the power:

(1) to:

(A) create;

(B) deliver;

(C) acquire; or

(D) sell;

a product, a service, or an investment that is available to or offered by; or

(2) to engage in **mergers, consolidations, reorganizations, or** other activities **or to exercise other powers** authorized for;

federal savings associations domiciled in Indiana.

(b) Subject to this section, savings associations may exercise the rights and privileges that are granted to federal savings associations.

(c) A savings association that intends to exercise any rights and privileges that are:

(1) granted to federal savings associations; but

(2) not authorized for savings associations under:

(A) the Indiana Code (except for this section); or

(B) a rule adopted under IC 4-22-2;

shall submit a letter to the department, describing in detail the requested rights and privileges granted to federal savings associations that the savings association intends to exercise. If available, copies of relevant federal law, regulations, and interpretive letters must be attached to the letter.

(d) The department shall promptly notify the requesting savings association of its receipt of the letter submitted under subsection (c). Except as provided in subsection (f), the savings association may exercise the requested rights and privileges sixty (60) days after the date on which the department receives the letter unless otherwise notified by the department.

(e) The department may deny the requested rights and privileges if the department finds that:

(1) federal savings associations in Indiana do not possess the requested rights and privileges;

(2) the exercise of the requested rights and privileges by the savings association would adversely affect the safety and soundness of the savings association;

(3) the exercise of the requested rights and privileges by the savings association would result in an unacceptable curtailment of consumer protection; or

(4) the failure of the department to approve the requested rights and privileges will not result in a competitive disadvantage to the savings association.

(f) The sixty (60) day period referred to in subsection (d) may be extended by the department based on a determination that the savings association letter raises issues requiring additional information or additional time for analysis. If the sixty (60) day period is extended under this subsection, the savings association may exercise the requested rights and privileges only if the savings association receives prior written approval from the department. However:

(1) the department must:

(A) approve or deny the requested rights and privileges; or

(B) convene a hearing;

not later than sixty (60) days after the department receives the savings association's letter; and

(2) if a hearing is convened, the department must approve or deny the requested rights and privileges not later than sixty (60) days after the hearing is concluded.

(g) The exercise of rights and privileges by a savings association in compliance with and in the manner authorized by this section does not constitute a violation of any provision of the Indiana Code or rules adopted under IC 4-22-2.

(h) If a savings association receives approval to exercise the requested rights and privileges granted to national savings associations domiciled in Indiana, the department shall determine by order whether all savings associations may exercise the same rights and privileges. In making the determination required by this subsection, the department must ensure that the exercise of the rights and privileges by all savings associations will not:

(1) adversely affect their safety and soundness; or

(2) unduly constrain Indiana consumer protection provisions.

(i) If the department denies the request of a savings association under this section to exercise any rights and privileges that are granted to national savings associations, the company may appeal the decision of the department to the circuit court with jurisdiction in the county in which the principal office of the savings association is located.

SECTION 207. IC 32-28-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) As used in this section, "lender" refers to:

(1) an individual;

(2) a supervised financial organization (as defined in ~~IC 24-4.5-1-301);~~ **IC 26-1-4-102.5);**

(3) an insurance company or a pension fund; or

(4) any other entity that has the authority to make loans.

(b) The recorder shall record the statement and notice of intention to hold a lien when presented under section 3 of this chapter in the miscellaneous record book. The recorder shall charge a fee for recording the statement and notice in accordance with IC 36-2-7-10. When the statement and notice of intention to hold a lien is recorded, the lien is created. The recorded lien relates back to the date the mechanic or other person began to perform the labor or furnish the materials or machinery. Except as provided in subsections (c) and (d), a lien created under this chapter has priority over a lien created after it.

(c) The lien of a mechanic or materialman does not have priority over the lien of another mechanic or materialman.

(d) The mortgage of a lender has priority over all liens created under this chapter that are recorded after the date the mortgage was recorded, to the extent of the funds actually owed to the lender for the specific project to which the lien rights relate. This subsection does not apply to a lien that relates to a construction contract for the development, construction, alteration, or repair of the following:

(1) A Class 2 structure (as defined in IC 22-12-1-5).

(2) An improvement on the same real estate auxiliary to a Class 2 structure (as defined in IC 22-12-1-5).

(3) Property that is:

(A) owned, operated, managed, or controlled by:

(i) a public utility (as defined in IC 8-1-2-1);

(ii) a municipally owned utility (as defined in IC 8-1-2-1);

(iii) a joint agency (as defined in IC 8-1-2.2-2);

(iv) a rural electric membership corporation formed under IC 8-1-13-4;

(v) a rural telephone cooperative corporation formed under IC 8-1-17; or

(vi) a not-for-profit utility (as defined in IC 8-1-2-125);

regulated under IC 8; and

(B) intended to be used and useful for the production, transmission, delivery, or furnishing of heat, light, water, telecommunications services, or power to the public.

SECTION 208. IC 35-45-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) This chapter applies only:

(1) to consumer loans, consumer related loans, consumer credit sales, consumer related sales, and consumer leases, as those terms are defined in IC 24-4.5, subject to adjustment, where applicable, of the dollar amounts set forth in those definitions under IC 24-4.5-1-106;

(2) to any loan primarily secured by an interest in land or sale of an interest in land that is a mortgage transaction (as defined in ~~IC 24-4.5-1-301)~~ **IC 24-4.5-1-301.5)** if the transaction is otherwise a consumer loan or consumer credit sale; and

(3) to any other loan transaction or extension of credit, regardless of the amount of the principal of the loan or extension of credit, if unlawful force or the threat of force is used to collect or to attempt to collect any of the property loaned or any of the consideration for the loan or extension of credit in question.

(b) This chapter applies regardless of whether the contract is made directly or indirectly, and whether the receipt of the consideration is received or is due to be received before or after the maturity date of the loan.

SECTION 209. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2010]: IC 24-4.4-1-203; IC 24-4.4-3-112; IC 24-4.5-1-203; IC 24-4.5-1-301; IC 24-4.5-1-303; IC 24-4.5-2-104; IC 24-4.5-3-103; IC 24-4.5-3-104; IC 24-4.5-3-503.5; IC 24-4.5-3-506; IC 24-4.5-3-507; IC 24-4.5-6-103.5; IC 24-4.5-6-114; IC 28-1-29-7; IC 28-1-29-10; IC 28-1-29-12; IC 28-7-1-26; IC 28-15-11-13.

SECTION 210. **An emergency is declared for this act.**

P.L.36-2010
[S.342. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-30-6-6, AS AMENDED BY P.L.94-2006, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) A physician or a person trained in obtaining bodily substance samples and acting under the direction of or under a protocol prepared by a physician, who:

(1) obtains a blood, urine, or other bodily substance sample from a person, regardless of whether the sample is taken for diagnostic purposes or at the request of a law enforcement officer under this section; or

(2) performs a chemical test on blood, urine, or other bodily substance obtained from a person;

shall deliver the sample or disclose the results of the test to a law enforcement officer who requests the sample or results as a part of a criminal investigation. Samples and test results shall be provided to a law enforcement officer even if the person has not consented to or otherwise authorized their release.

(b) A physician, a hospital, or an agent of a physician or hospital is not civilly or criminally liable for any of the following:

(1) Disclosing test results in accordance with this section.

(2) Delivering a blood, urine, or other bodily substance sample in accordance with this section.

(3) Obtaining a blood, urine, or other bodily substance sample in accordance with this section.

(4) Disclosing to the prosecuting attorney or the deputy prosecuting attorney for use at or testifying at the criminal trial of the person as to facts observed or opinions formed.

(5) Failing to treat a person from whom a blood, urine, or other

bodily substance sample is obtained at the request of a law enforcement officer if the person declines treatment.

(6) Injury to a person arising from the performance of duties in good faith under this section.

(c) For the purposes of this chapter, IC 9-30-5, or IC 9-30-9:

(1) the privileges arising from a patient-physician relationship do not apply to the samples, test results, or testimony described in this section; and

(2) samples, test results, and testimony may be admitted in a proceeding in accordance with the applicable rules of evidence.

(d) The exceptions to the patient-physician relationship specified in subsection (c) do not affect those relationships in a proceeding not covered by this chapter, IC 9-30-5, or IC 9-30-9.

(e) The test results and samples obtained by a law enforcement officer under subsection (a) may be disclosed only to a prosecuting attorney or a deputy prosecuting attorney for use as evidence in a criminal proceeding under this chapter, IC 9-30-5, or IC 9-30-9.

(f) This section does not require a physician or a person under the direction of a physician to perform a chemical test.

(g) A physician or a person trained in obtaining bodily substance samples and acting under the direction of or under a protocol prepared by a physician shall obtain a blood, urine, or other bodily substance sample if the following exist:

(1) A law enforcement officer requests that the sample be obtained.

(2) The law enforcement officer has certified in writing the following:

(A) That the officer has probable cause to believe the person from whom the sample is to be obtained has violated IC 9-30-5.

(B) That the person from whom the sample is to be obtained has been involved in a motor vehicle accident that resulted in the serious bodily injury or death of another.

(C) That the accident that caused the serious bodily injury or death of another occurred not more than three (3) hours before the time the sample is requested.

(3) Not more than the use of reasonable force is necessary to obtain the sample.

(h) If the person:

(1) from whom the bodily substance sample is to be obtained under this section does not consent; and

(2) resists the taking of a sample;

the law enforcement officer may use reasonable force to assist an individual, who must be authorized under this section to obtain a sample, in the taking of the sample.

(i) The person authorized under this section to obtain a bodily substance sample shall take the sample in a medically accepted manner.

(j) **This subsection does not apply to a bodily substance sample taken at a licensed hospital (as defined in IC 16-18-2-179(a) and IC 16-18-2-179(b)).** A law enforcement officer may transport the person to a place where the sample may be obtained by any of the following persons who are trained in obtaining bodily substance samples and who have been engaged to obtain samples under this section:

(1) A physician holding an unlimited license to practice medicine or osteopathy.

(2) A registered nurse.

(3) A licensed practical nurse.

(4) An emergency medical technician-basic advanced (as defined in IC 16-18-2-112.5).

(5) An emergency medical technician-intermediate (as defined in IC 16-18-2-112.7).

(6) A paramedic (as defined in IC 16-18-2-266).

~~(7) A certified phlebotomist.~~

SECTION 2. **An emergency is declared for this act.**

P.L.37-2010
[S.384. Approved March 12, 2010.]

AN ACT concerning state offices and administration.

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

SECTION 1. [EFFECTIVE JULY 1, 2010] **(a) The regulatory flexibility committee created by IC 8-1-2.6-4 shall conduct a study and make recommendations concerning the use of cloud computing technology and the safety and protection of information generated by state agencies. The study must be concluded not later than November 1, 2011.**

(b) The study must cover issues regarding potential security risks presented by the use of cloud computing services based on the:

(1) mission of an agency that might use cloud computing services;

(2) types of data that an agency might have;

(3) level of sensitivity of the data;

(4) potential services to be used; and

(5) existing and potential security related threats to the state agency.

(c) The regulatory flexibility committee shall submit the findings of the study to the legislative council in an electronic format under IC 5-14-6 not later than November 1, 2011.

(d) This SECTION expires December 31, 2011.

P.L.38-2010
[S.387. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning health.

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

SECTION 1. IC 16-18-2-96, AS AMENDED BY P.L.22-2005, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 96. (a) "Director", for purposes of IC 16-19-13, refers to the director of the office of women's health established by ~~IC 16-19-13.~~ **IC 16-19-13-2.**

(b) "Director", for purposes of IC 16-19-14, refers to the director of the office of minority health established by IC 16-19-14-4.

~~(b)~~ **(c)** "Director", for purposes of IC 16-27, means the individual acting under the authority of and assigned the responsibility by the state health commissioner to implement IC 16-27.

~~(c)~~ **(d)** "Director", for purposes of IC 16-28, IC 16-29, and IC 16-30, means the individual acting under the authority of and assigned the responsibility by the state health commissioner to implement IC 16-28, IC 16-29, and IC 16-30.

~~(d)~~ **(e)** "Director", for purposes of IC 16-31, refers to the executive director of the department of homeland security established by IC 10-19-2-1.

~~(e)~~ **(f)** "Director", for purposes of IC 16-35-2, refers to the director of the program for children with special health care needs.

SECTION 2. IC 16-18-2-236 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 236. **(a) "Minority", for purposes of IC 16-19-14, has the meaning set forth in IC 16-19-14-2.**

(b) "Minority", for purposes of IC 16-46-6, has the meaning set forth in IC 16-46-6-2.

SECTION 3. IC 16-18-2-254.5 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 254.5. **(a)** "Office", for purposes of IC 16-19-13, refers to the office of women's health established by ~~IC 16-19-13.~~ **IC 16-19-13-2.**

(b) "Office", for purposes of IC 16-19-14, refers to the office of minority health established by IC 16-19-14-4.

SECTION 4. IC 16-19-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

Chapter 14. Office of Minority Health

Sec. 1. As used in this chapter, "director" refers to the director of the office.

Sec. 2. As used in this chapter, "minority" means an individual identified as any of the following:

(1) Black or African-American.

(2) Hispanic or Latino.

(3) Asian.

(4) American Indian.

(5) Alaska Native.

(6) Native Hawaiian and other Pacific Islander.

Sec. 3. As used in this chapter, "office" refers to the office of minority health established by this chapter.

Sec. 4. The office of minority health is established within the state department.

Sec. 5. The office shall perform the minority health initiative duties set forth in IC 16-46-11.

Sec. 6. (a) The state health commissioner shall appoint individuals to staff the office, including:

(1) the director of the office; and

(2) any other employees that the state health commissioner determines are necessary.

(b) The employees appointed under subsection (a)(2) shall report to the director. The director shall report to at least an appointed assistant commissioner.

(c) The director shall supervise the employees assigned to the office.

(d) The director shall oversee the administrative functions of the office.

Sec. 7. This chapter expires July 1, 2014.

SECTION 5. IC 16-46-11-1 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. The **office of minority health and the** state department of health, in partnership with the Indiana Minority Health Coalition, Inc., shall do the following:

(1) Staff, coordinate, and assist in the implementation of the comprehensive health plan developed by the interagency state council on black and minority health established under IC 16-46-6.

(2) Expand, develop, and implement a community based state structure that is conducive to addressing the health disparities of the minority populations in Indiana.

(3) Monitor minority health progress.

(4) Establish policy.

(5) Fund minority health programs, research, and other initiatives.

(6) Provide the following through interdepartmental coordination:

(A) The data and technical assistance needs of the local minority health coalitions.

(B) Measurable minority health objectives to local minority health coalitions for the development of health intervention programs.

(7) Provide through the state health data center established by IC 16-19-10-3 minority health research and resource information addressing the following:

(A) Research within minority populations.

(B) A resource database that can be disseminated to local organizations interested in minority health.

(C) Racial and ethnic specific databases including morbidity, diagnostic groups, social/economic, education, and population.

(D) Attitude, knowledge, and belief information.

(8) Staff a minority health hotline that establishes linkages with other health and social service hotlines and local coalitions.

(9) Develop and implement an aggressive recruitment and retention program to increase the number of minorities in the health and social services professions.

(10) Develop and implement an awareness program that will increase the knowledge of health and social service providers to the special needs of minorities.

(11) Develop and implement culturally and linguistically appropriate health promotion and disease prevention programs

that would emphasize avoiding the health risk factors for conditions affecting minorities and incorporate an accessible, affordable, and acceptable early detection and intervention component.

(12) Provide the state support necessary to ensure the continued development of the existing minority health coalitions and to develop coalitions in other areas targeted for minority health intervention.

(13) Coordinate each of the counties with existing local minority health coalitions to:

(A) provide community planning and needs assessment assistance to the local minority health coalitions; and

(B) assist the local minority health coalitions in the development of local minority health intervention plans. The plans shall be developed to coincide with the state fiscal year.

(14) Establish a liaison between the department and the Indiana Minority Health Coalition, Inc., to:

(A) coordinate the state department of health resources needed for the development of local coalitions;

(B) provide assistance to and monitor the local coordinators in the development of local intervention plans;

(C) serve as the barometer to the state department of health on the minority health concerns of local coalitions;

(D) assist in coordinating the minority community input on state policies and programs;

(E) serve as the linkage with the state department of health and the local minority health coordinators; and

(F) monitor the progress of the fulfilling of their responsibilities.

(15) Provide funding, within the limits of appropriations, to support preventive health, education, and treatment programs in the minority communities that are developed, planned, and evaluated by approved organizations.

(16) Provide assistance to local communities to obtain funding for the development of a health care delivery system to meet the needs, gaps, and barriers identified in the local plans.

P.L.39-2010
[S.389. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning higher education.

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

SECTION 1. IC 21-12-6-14, AS AMENDED BY P.L.100-2009, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 14. (a) This section applies to a student described in section 5(b) of this chapter.

(b) A caseworker (as defined in IC 31-9-2-11) shall provide each student to whom the caseworker is assigned information concerning the program at the appropriate time for the student to receive the information, shall explain the program to the student, and shall provide the student with information concerning:

(1) Pell grants;

(2) Chafee grants;

(3) federal supplemental grants;

(4) the Free Application for Federal Student Aid; ~~and~~

(5) individual development accounts (as described under IC 4-4-28); and

~~(5)~~ **(6)** the state student assistance commission.

(c) A student who receives information under this section shall sign a written acknowledgment that the student received the information. The written acknowledgment must be placed in the student's case file.

SECTION 2. IC 21-12-6-15 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 15. A caseworker (as defined in IC 31-9-2-11) shall provide each foster parent of a student described in section 5(b) of this chapter to whom the caseworker is assigned information concerning individual development accounts (as described under IC 4-4-28).**

P.L.40-2010
[S.394. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning state and local administration.

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

SECTION 1. IC 34-14-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 11. When declaratory relief is sought, all persons shall be made parties who have or claim any interest that would be affected by the declaration, and no declaration shall prejudice the rights of persons not parties to the proceeding. **In any proceeding in which a statute, ordinance, or franchise is alleged to be unconstitutional, the court shall certify this fact to the attorney general, and the attorney general shall be permitted to intervene for presentation of evidence, if evidence is otherwise admissible in the case, and for arguments on the question of constitutionality.** In any proceeding that involves the validity of a municipal ordinance or franchise, the municipality shall be made a party, and shall be entitled to be heard. If the statute, ordinance, or franchise is alleged to be unconstitutional, the attorney general of the state shall also be served with a copy of the proceeding and be entitled to be heard.

SECTION 2. IC 34-33.1 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

ARTICLE 33.1. AUTHORITY OF THE ATTORNEY GENERAL

Chapter 1. Authority of the Attorney General to Intervene in Cases Challenging the Constitutionality of a Statute, Ordinance, or Franchise.

Sec. 1. (a) If the constitutionality of a state statute, ordinance, or franchise affecting the public interest is called into question in an

action, suit, or proceeding in any court to which any agency, officer, or employee of the state is not a party, the court shall certify this fact to the attorney general and shall permit the attorney general to intervene on behalf of the state and present:

(1) evidence that relates to the question of constitutionality, if the evidence is otherwise admissible; and

(2) arguments on the question of constitutionality.

(b) If a party to an action bases its claim or defense on:

(1) a statute or executive order administered by a state officer or agency; or

(2) a rule, order, requirement, or agreement issued or made under the statute or executive order;

the attorney general shall be permitted to intervene in the action.

Sec. 2. The state, by the attorney general, may file an amicus curiae brief in any matter pending in any state court without the consent of the parties or leave of the court. The attorney general shall file the amicus curiae brief within the time allowed for the party with whom the state is substantively aligned to file the party's brief or petition. However, for good cause shown, a court may permit the attorney general to file a belated amicus curiae brief. If the court permits the filing of a belated amicus curiae brief, the court shall set a deadline for an opposing party to file a reply brief.

P.L.41-2010

[S.401. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 6-1.1-20-1.9, AS AMENDED BY P.L.182-2009(ss), SECTION 142, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1.9. (a) As used in this chapter, "registered voter" means the following:

(1) In the case of a petition under section 3.1 of this chapter to initiate a petition and remonstrance process, an individual who is registered to vote in the political subdivision on the date the county voter registration board makes the determination under section 3.1(b)(8) of this chapter regarding whether persons who signed the petition are registered voters.

(2) In the case of:

(A) a petition under section 3.2 of this chapter in favor of the proposed debt service or lease payments; or

(B) a remonstrance under section 3.2 of this chapter against the proposed debt service or lease payments;

an individual who is registered to vote in the political subdivision on the date the county voter registration board makes the determination under section 3.2(b)(5) of this chapter regarding whether persons who signed the petition or remonstrance are registered voters.

(3) In the case of a petition under section 3.5 of this chapter requesting the application of the local public question process under section 3.6 of this chapter concerning proposed debt service or lease payments, an individual who is registered to vote in the political subdivision on the date the county voter registration board makes the determination under section 3.5(b)(8) of this chapter regarding whether persons who signed the petition are registered voters.

(b) As used in this chapter, in the case of an election on a public question held under section 3.6 of this chapter, "eligible voter" means an individual who:

(1) is eligible to vote in the election in the political subdivision in which the public question will be held, as determined under IC 3; and

(2) resides within the boundaries of the political subdivision for which the public question is being considered.

(c) As used in this chapter, "owner of property" means a person that owns:

(1) real property;

(2) a mobile home assessed as personal property, used as a principal place of residence, and receiving the standard property tax deduction under IC 6-1.1-12-37; or

(3) a manufactured home assessed as personal property, used as a principal place of residence, and receiving the standard property tax deduction under IC 6-1.1-12-37.

SECTION 2. IC 6-1.1-20-3.1, AS AMENDED BY P.L.182-2009(ss), SECTION 143, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3.1. (a) This section applies only to the following:

(1) A controlled project (as defined in section 1.1 of this chapter as in effect June 30, 2008) for which the proper officers of a political subdivision make a preliminary determination in the manner described in subsection (b) before July 1, 2008.

(2) An elementary school building, middle school building, or other school building for academic instruction that:

(A) is a controlled project;

(B) will be used for any combination of kindergarten through grade 8;

(C) will not be used for any combination of grade 9 through grade 12; and

(D) will not cost more than ten million dollars ($10,000,000).

(3) A high school building or other school building for academic instruction that:

(A) is a controlled project;

(B) will be used for any combination of grade 9 through grade 12;

(C) will not be used for any combination of kindergarten through grade 8; and

(D) will not cost more than twenty million dollars ($20,000,000).

(4) Any other controlled project that:

(A) is not a controlled project described in subdivision (1), (2), or (3); and

(B) will not cost the political subdivision more than the lesser of the following:

(i) Twelve million dollars ($12,000,000).

(ii) An amount equal to one percent (1%) of the total gross assessed value of property within the political subdivision on the last assessment date, if that amount is at least one million dollars ($1,000,000).

(b) A political subdivision may not impose property taxes to pay debt service on bonds or lease rentals on a lease for a controlled project without completing the following procedures:

(1) The proper officers of a political subdivision shall:

(A) publish notice in accordance with IC 5-3-1; and

(B) send notice by first class mail to any organization that delivers to the officers, before January 1 of that year, an annual written request for such notices;

of any meeting to consider adoption of a resolution or an ordinance making a preliminary determination to issue bonds or enter into a lease and shall conduct a public hearing on a preliminary determination before adoption of the resolution or ordinance.

(2) When the proper officers of a political subdivision make a preliminary determination to issue bonds or enter into a lease for a controlled project, the officers shall give notice of the preliminary determination by:

(A) publication in accordance with IC 5-3-1; and

(B) first class mail to the organizations described in subdivision (1)(B).

(3) A notice under subdivision (2) of the preliminary determination of the political subdivision to issue bonds or enter into a lease for a controlled project must include the following information:

(A) The maximum term of the bonds or lease.

(B) The maximum principal amount of the bonds or the maximum lease rental for the lease.

(C) The estimated interest rates that will be paid and the total interest costs associated with the bonds or lease.

(D) The purpose of the bonds or lease.

(E) A statement that any owners of ~~real~~ property within the political subdivision or registered voters residing within the political subdivision who want to initiate a petition and remonstrance process against the proposed debt service or lease payments must file a petition that complies with subdivisions (4) and (5) not later than thirty (30) days after publication in accordance with IC 5-3-1.

(F) With respect to bonds issued or a lease entered into to

open:

(i) a new school facility; or

(ii) an existing facility that has not been used for at least three (3) years and that is being reopened to provide additional classroom space;

the estimated costs the school corporation expects to incur annually to operate the facility.

(G) A statement of whether the school corporation expects to appeal for a new facility adjustment (as defined in IC 20-45-1-16 before January 1, 2009) for an increased maximum permissible tuition support levy to pay the estimated costs described in clause (F).

(H) The political subdivision's current debt service levy and rate and the estimated increase to the political subdivision's debt service levy and rate that will result if the political subdivision issues the bonds or enters into the lease.

(4) After notice is given, a petition requesting the application of a petition and remonstrance process may be filed by the lesser of:

(A) one hundred (100) persons who are either owners of ~~real~~ property within the political subdivision or registered voters residing within the political subdivision; or

(B) five percent (5%) of the registered voters residing within the political subdivision.

(5) The state board of accounts shall design and, upon request by the county voter registration office, deliver to the county voter registration office or the county voter registration office's designated printer the petition forms to be used solely in the petition process described in this section. The county voter registration office shall issue to an owner or owners of ~~real~~ property within the political subdivision or a registered voter residing within the political subdivision the number of petition forms requested by the owner or owners or the registered voter. Each form must be accompanied by instructions detailing the requirements that:

(A) the carrier and signers must be owners of ~~real~~ property or registered voters;

(B) the carrier must be a signatory on at least one (1) petition;

(C) after the signatures have been collected, the carrier must

swear or affirm before a notary public that the carrier witnessed each signature; and

(D) govern the closing date for the petition period.

Persons requesting forms may be required to identify themselves as owners of ~~real~~ property or registered voters and may be allowed to pick up additional copies to distribute to other ~~property~~ owners **of property** or registered voters. Each person signing a petition must indicate whether the person is signing the petition as a registered voter within the political subdivision or is signing the petition as the owner of ~~real~~ property within the political subdivision. A person who signs a petition as a registered voter must indicate the address at which the person is registered to vote. A person who signs a petition as ~~a real~~ **an owner of** property ~~owner~~ must indicate the address of the ~~real~~ property owned by the person in the political subdivision.

(6) Each petition must be verified under oath by at least one (1) qualified petitioner in a manner prescribed by the state board of accounts before the petition is filed with the county voter registration office under subdivision (7).

(7) Each petition must be filed with the county voter registration office not more than thirty (30) days after publication under subdivision (2) of the notice of the preliminary determination.

(8) The county voter registration office shall determine whether each person who signed the petition is a registered voter. The county voter registration office shall not more than fifteen (15) business days after receiving a petition forward a copy of the petition to the county auditor. Not more than ten (10) business days after receiving the copy of the petition, the county auditor shall provide to the county voter registration office a statement verifying:

(A) whether a person who signed the petition as a registered voter but is not a registered voter, as determined by the county voter registration office, is the owner of ~~real~~ property in the political subdivision; and

(B) whether a person who signed the petition as an owner of ~~real~~ property within the political subdivision does in fact own ~~real~~ property within the political subdivision.

(9) The county voter registration office shall not more than ten

(10) business days after receiving the statement from the county auditor under subdivision (8) make the final determination of the number of petitioners that are registered voters in the political subdivision and, based on the statement provided by the county auditor, the number of petitioners that own ~~real~~ property within the political subdivision. Whenever the name of an individual who signs a petition form as a registered voter contains a minor variation from the name of the registered voter as set forth in the records of the county voter registration office, the signature is presumed to be valid, and there is a presumption that the individual is entitled to sign the petition under this section. Except as otherwise provided in this chapter, in determining whether an individual is a registered voter, the county voter registration office shall apply the requirements and procedures used under IC 3 to determine whether a person is a registered voter for purposes of voting in an election governed by IC 3. However, an individual is not required to comply with the provisions concerning providing proof of identification to be considered a registered voter for purposes of this chapter. A person is entitled to sign a petition only one (1) time in a particular petition and remonstrance process under this chapter, regardless of whether the person owns more than one (1) parcel of real property, **mobile home assessed as personal property, or manufactured home assessed as personal property or a combination of those types of property** within the subdivision and regardless of whether the person is both a registered voter in the political subdivision and the owner of ~~real~~ property within the political subdivision. Notwithstanding any other provision of this section, if a petition is presented to the county voter registration office within forty-five (45) days before an election, the county voter registration office may defer acting on the petition, and the time requirements under this section for action by the county voter registration office do not begin to run until five (5) days after the date of the election.

(10) The county voter registration office must file a certificate and each petition with:

(A) the township trustee, if the political subdivision is a township, who shall present the petition or petitions to the township board; or

(B) the body that has the authority to authorize the issuance of the bonds or the execution of a lease, if the political subdivision is not a township;

within thirty-five (35) business days of the filing of the petition requesting a petition and remonstrance process. The certificate must state the number of petitioners that are owners of ~~real~~ property within the political subdivision and the number of petitioners who are registered voters residing within the political subdivision.

If a sufficient petition requesting a petition and remonstrance process is not filed by owners of ~~real~~ property or registered voters as set forth in this section, the political subdivision may issue bonds or enter into a lease by following the provisions of law relating to the bonds to be issued or lease to be entered into.

SECTION 3. IC 6-1.1-20-3.2, AS AMENDED BY P.L.182-2009(ss), SECTION 144, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3.2. (a) This section applies only to controlled projects described in section 3.1(a) of this chapter.

(b) If a sufficient petition requesting the application of a petition and remonstrance process has been filed as set forth in section 3.1 of this chapter, a political subdivision may not impose property taxes to pay debt service on bonds or lease rentals on a lease for a controlled project without completing the following procedures:

(1) The proper officers of the political subdivision shall give notice of the applicability of the petition and remonstrance process by:

(A) publication in accordance with IC 5-3-1; and

(B) first class mail to the organizations described in section 3.1(b)(1)(B) of this chapter.

A notice under this subdivision must include a statement that any owners of ~~real~~ property within the political subdivision or registered voters residing within the political subdivision who want to petition in favor of or remonstrate against the proposed debt service or lease payments must file petitions and remonstrances in compliance with subdivisions (2) through (4) not earlier than thirty (30) days or later than sixty (60) days after publication in accordance with IC 5-3-1.

(2) Not earlier than thirty (30) days or later than sixty (60) days after the notice under subdivision (1) is given:

(A) petitions (described in subdivision (3)) in favor of the bonds or lease; and

(B) remonstrances (described in subdivision (3)) against the bonds or lease;

may be filed by an owner or owners of ~~real~~ property within the political subdivision or a registered voter residing within the political subdivision. Each signature on a petition must be dated, and the date of signature may not be before the date on which the petition and remonstrance forms may be issued under subdivision (3). A petition described in clause (A) or a remonstrance described in clause (B) must be verified in compliance with subdivision (4) before the petition or remonstrance is filed with the county voter registration office under subdivision (4).

(3) The state board of accounts shall design and, upon request by the county voter registration office, deliver to the county voter registration office or the county voter registration office's designated printer the petition and remonstrance forms to be used solely in the petition and remonstrance process described in this section. The county voter registration office shall issue to an owner or owners of ~~real~~ property within the political subdivision or a registered voter residing within the political subdivision the number of petition or remonstrance forms requested by the owner or owners or the registered voter. Each form must be accompanied by instructions detailing the requirements that:

(A) the carrier and signers must be owners of ~~real~~ property or registered voters;

(B) the carrier must be a signatory on at least one (1) petition;

(C) after the signatures have been collected, the carrier must swear or affirm before a notary public that the carrier witnessed each signature;

(D) govern the closing date for the petition and remonstrance period; and

(E) apply to the carrier under section 10 of this chapter.

Persons requesting forms may be required to identify themselves as owners of ~~real~~ property or registered voters and may be allowed to pick up additional copies to distribute to other ~~property~~

owners **of property** or registered voters. Each person signing a petition or remonstrance must indicate whether the person is signing the petition or remonstrance as a registered voter within the political subdivision or is signing the petition or remonstrance as the owner of ~~real~~ property within the political subdivision. A person who signs a petition or remonstrance as a registered voter must indicate the address at which the person is registered to vote. A person who signs a petition or remonstrance as ~~a real property~~ **an** owner **of property** must indicate the address of the ~~real~~ property owned by the person in the political subdivision. The county voter registration office may not issue a petition or remonstrance form earlier than twenty-nine (29) days after the notice is given under subdivision (1). The county voter registration office shall certify the date of issuance on each petition or remonstrance form that is distributed under this subdivision.

(4) The petitions and remonstrances must be verified in the manner prescribed by the state board of accounts and filed with the county voter registration office within the sixty (60) day period described in subdivision (2) in the manner set forth in section 3.1 of this chapter relating to requests for a petition and remonstrance process.

(5) The county voter registration office shall determine whether each person who signed the petition or remonstrance is a registered voter. The county voter registration office shall not more than fifteen (15) business days after receiving a petition or remonstrance forward a copy of the petition or remonstrance to the county auditor. Not more than ten (10) business days after receiving the copy of the petition or remonstrance, the county auditor shall provide to the county voter registration office a statement verifying:

(A) whether a person who signed the petition or remonstrance as a registered voter but is not a registered voter, as determined by the county voter registration office, is the owner of ~~real~~ property in the political subdivision; and

(B) whether a person who signed the petition or remonstrance as an owner of ~~real~~ property within the political subdivision does in fact own ~~real~~ property within the political subdivision.

(6) The county voter registration office shall not more than ten (10) business days after receiving the statement from the county auditor under subdivision (5) make the final determination of:

(A) the number of registered voters in the political subdivision that signed a petition and, based on the statement provided by the county auditor, the number of owners of ~~real~~ property within the political subdivision that signed a petition; and

(B) the number of registered voters in the political subdivision that signed a remonstrance and, based on the statement provided by the county auditor, the number of owners of ~~real~~ property within the political subdivision that signed a remonstrance.

Whenever the name of an individual who signs a petition or remonstrance as a registered voter contains a minor variation from the name of the registered voter as set forth in the records of the county voter registration office, the signature is presumed to be valid, and there is a presumption that the individual is entitled to sign the petition or remonstrance under this section. Except as otherwise provided in this chapter, in determining whether an individual is a registered voter, the county voter registration office shall apply the requirements and procedures used under IC 3 to determine whether a person is a registered voter for purposes of voting in an election governed by IC 3. However, an individual is not required to comply with the provisions concerning providing proof of identification to be considered a registered voter for purposes of this chapter. A person is entitled to sign a petition or remonstrance only one (1) time in a particular petition and remonstrance process under this chapter, regardless of whether the person owns more than one (1) parcel of real property, **mobile home assessed as personal property, or manufactured home assessed as personal property or a combination of those types of property** within the subdivision and regardless of whether the person is both a registered voter in the political subdivision and the owner of ~~real~~ property within the political subdivision. Notwithstanding any other provision of this section, if a petition or remonstrance is presented to the county voter registration office within forty-five (45) days before an election, the county voter registration office may defer acting on the petition or

remonstrance, and the time requirements under this section for action by the county voter registration office do not begin to run until five (5) days after the date of the election.

(7) The county voter registration office must file a certificate and the petition or remonstrance with the body of the political subdivision charged with issuing bonds or entering into leases within thirty-five (35) business days of the filing of a petition or remonstrance under subdivision (4), whichever applies, containing ten thousand (10,000) signatures or less. The county voter registration office may take an additional five (5) days to review and certify the petition or remonstrance for each additional five thousand (5,000) signatures up to a maximum of sixty (60) days. The certificate must state the number of petitioners and remonstrators that are owners of ~~real~~ property within the political subdivision and the number of petitioners who are registered voters residing within the political subdivision.

(8) If a greater number of persons who are either owners of ~~real~~ property within the political subdivision or registered voters residing within the political subdivision sign a remonstrance than the number that signed a petition, the bonds petitioned for may not be issued or the lease petitioned for may not be entered into. The proper officers of the political subdivision may not make a preliminary determination to issue bonds or enter into a lease for the controlled project defeated by the petition and remonstrance process under this section or any other controlled project that is not substantially different within one (1) year after the date of the county voter registration office's certificate under subdivision (7). Withdrawal of a petition carries the same consequences as a defeat of the petition.

(9) After a political subdivision has gone through the petition and remonstrance process set forth in this section, the political subdivision is not required to follow any other remonstrance or objection procedures under any other law (including section 5 of this chapter) relating to bonds or leases designed to protect owners of ~~real~~ property within the political subdivision from the imposition of property taxes to pay debt service or lease rentals. However, the political subdivision must still receive the approval of the department of local government finance if required by:

(A) IC 6-1.1-18.5-8; or

(B) IC 20-46-7-8, IC 20-46-7-9, and IC 20-46-7-10.

SECTION 4. IC 6-1.1-20-3.5, AS AMENDED BY P.L.182-2009(ss), SECTION 145, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3.5. (a) This section applies only to a controlled project that meets the following conditions:

(1) The controlled project is described in one (1) of the following categories:

(A) An elementary school building, middle school building, or other school building for academic instruction that:

(i) will be used for any combination of kindergarten through grade 8;

(ii) will not be used for any combination of grade 9 through grade 12; and

(iii) will cost more than ten million dollars ($10,000,000).

(B) A high school building or other school building for academic instruction that:

(i) will be used for any combination of grade 9 through grade 12;

(ii) will not be used for any combination of kindergarten through grade 8; and

(iii) will cost more than twenty million dollars ($20,000,000).

(C) Any other controlled project that:

(i) is not a controlled project described in clause (A) or (B); and

(ii) will cost the political subdivision more than the lesser of twelve million dollars ($12,000,000) or an amount equal to one percent (1%) of the total gross assessed value of property within the political subdivision on the last assessment date (if that amount is at least one million dollars ($1,000,000)).

(2) The proper officers of the political subdivision make a preliminary determination after June 30, 2008, in the manner described in subsection (b) to issue bonds or enter into a lease for the controlled project.

(b) A political subdivision may not impose property taxes to pay debt service on bonds or lease rentals on a lease for a controlled project

without completing the following procedures:

(1) The proper officers of a political subdivision shall publish notice in accordance with IC 5-3-1 and send notice by first class mail to any organization that delivers to the officers, before January 1 of that year, an annual written request for notices of any meeting to consider the adoption of an ordinance or a resolution making a preliminary determination to issue bonds or enter into a lease and shall conduct a public hearing on the preliminary determination before adoption of the ordinance or resolution. The political subdivision must make the following information available to the public at the public hearing on the preliminary determination, in addition to any other information required by law:

(A) The result of the political subdivision's current and projected annual debt service payments divided by the net assessed value of taxable property within the political subdivision.

(B) The result of:

(i) the sum of the political subdivision's outstanding long term debt plus the outstanding long term debt of other taxing units that include any of the territory of the political subdivision; divided by

(ii) the net assessed value of taxable property within the political subdivision.

(C) The information specified in subdivision (3)(A) through (3)(G).

(2) If the proper officers of a political subdivision make a preliminary determination to issue bonds or enter into a lease, the officers shall give notice of the preliminary determination by:

(A) publication in accordance with IC 5-3-1; and

(B) first class mail to the organizations described in subdivision (1).

(3) A notice under subdivision (2) of the preliminary determination of the political subdivision to issue bonds or enter into a lease must include the following information:

(A) The maximum term of the bonds or lease.

(B) The maximum principal amount of the bonds or the maximum lease rental for the lease.

(C) The estimated interest rates that will be paid and the total interest costs associated with the bonds or lease.

(D) The purpose of the bonds or lease.

(E) A statement that the proposed debt service or lease payments must be approved in an election on a local public question held under section 3.6 of this chapter.

(F) With respect to bonds issued or a lease entered into to open:

(i) a new school facility; or

(ii) an existing facility that has not been used for at least three (3) years and that is being reopened to provide additional classroom space;

the estimated costs the school corporation expects to annually incur to operate the facility.

(G) The political subdivision's current debt service levy and rate and the estimated increase to the political subdivision's debt service levy and rate that will result if the political subdivision issues the bonds or enters into the lease.

(H) The information specified in subdivision (1)(A) through (1)(B).

(4) After notice is given, a petition requesting the application of the local public question process under section 3.6 of this chapter may be filed by the lesser of:

(A) one hundred (100) persons who are either owners of ~~real~~ property within the political subdivision or registered voters residing within the political subdivision; or

(B) five percent (5%) of the registered voters residing within the political subdivision.

(5) The state board of accounts shall design and, upon request by the county voter registration office, deliver to the county voter registration office or the county voter registration office's designated printer the petition forms to be used solely in the petition process described in this section. The county voter registration office shall issue to an owner or owners of ~~real~~ property within the political subdivision or a registered voter residing within the political subdivision the number of petition forms requested by the owner or owners or the registered voter. Each form must be accompanied by instructions detailing the

requirements that:

(A) the carrier and signers must be owners of ~~real~~ property or registered voters;

(B) the carrier must be a signatory on at least one (1) petition;

(C) after the signatures have been collected, the carrier must swear or affirm before a notary public that the carrier witnessed each signature; and

(D) govern the closing date for the petition period.

Persons requesting forms may be required to identify themselves as owners of ~~real~~ property or registered voters and may be allowed to pick up additional copies to distribute to other ~~property~~ owners **of property** or registered voters. Each person signing a petition must indicate whether the person is signing the petition as a registered voter within the political subdivision or is signing the petition as the owner of ~~real~~ property within the political subdivision. A person who signs a petition as a registered voter must indicate the address at which the person is registered to vote. A person who signs a petition as ~~a real property~~ **an** owner **of property** must indicate the address of the ~~real~~ property owned by the person in the political subdivision.

(6) Each petition must be verified under oath by at least one (1) qualified petitioner in a manner prescribed by the state board of accounts before the petition is filed with the county voter registration office under subdivision (7).

(7) Each petition must be filed with the county voter registration office not more than thirty (30) days after publication under subdivision (2) of the notice of the preliminary determination.

(8) The county voter registration office shall determine whether each person who signed the petition is a registered voter. However, after the county voter registration office has determined that at least one hundred twenty-five (125) persons who signed the petition are registered voters within the political subdivision, the county voter registration office is not required to verify whether the remaining persons who signed the petition are registered voters. If the county voter registration office does not determine that at least one hundred twenty-five (125) persons who signed the petition are registered voters, the county voter registration office, not more than fifteen (15) business days after

receiving a petition, shall forward a copy of the petition to the county auditor. Not more than ten (10) business days after receiving the copy of the petition, the county auditor shall provide to the county voter registration office a statement verifying:

(A) whether a person who signed the petition as a registered voter but is not a registered voter, as determined by the county voter registration office, is the owner of ~~real~~ property in the political subdivision; and

(B) whether a person who signed the petition as an owner of ~~real~~ property within the political subdivision does in fact own ~~real~~ property within the political subdivision.

(9) The county voter registration office, not more than ten (10) business days after determining that at least one hundred twenty-five (125) persons who signed the petition are registered voters or after receiving the statement from the county auditor under subdivision (8) (as applicable), shall make the final determination of whether a sufficient number of persons have signed the petition. Whenever the name of an individual who signs a petition form as a registered voter contains a minor variation from the name of the registered voter as set forth in the records of the county voter registration office, the signature is presumed to be valid, and there is a presumption that the individual is entitled to sign the petition under this section. Except as otherwise provided in this chapter, in determining whether an individual is a registered voter, the county voter registration office shall apply the requirements and procedures used under IC 3 to determine whether a person is a registered voter for purposes of voting in an election governed by IC 3. However, an individual is not required to comply with the provisions concerning providing proof of identification to be considered a registered voter for purposes of this chapter. A person is entitled to sign a petition only one (1) time in a particular referendum process under this chapter, regardless of whether the person owns more than one (1) parcel of real property, **mobile home assessed as personal property, or manufactured home assessed as personal property or a combination of those types of property** within the political subdivision and regardless of whether the person is both a registered voter in the political subdivision and the owner

of ~~real~~ property within the political subdivision. Notwithstanding any other provision of this section, if a petition is presented to the county voter registration office within forty-five (45) days before an election, the county voter registration office may defer acting on the petition, and the time requirements under this section for action by the county voter registration office do not begin to run until five (5) days after the date of the election.

(10) The county voter registration office must file a certificate and each petition with:

(A) the township trustee, if the political subdivision is a township, who shall present the petition or petitions to the township board; or

(B) the body that has the authority to authorize the issuance of the bonds or the execution of a lease, if the political subdivision is not a township;

within thirty-five (35) business days of the filing of the petition requesting the referendum process. The certificate must state the number of petitioners who are owners of ~~real~~ property within the political subdivision and the number of petitioners who are registered voters residing within the political subdivision.

(11) If a sufficient petition requesting the local public question process is not filed by owners of ~~real~~ property or registered voters as set forth in this section, the political subdivision may issue bonds or enter into a lease by following the provisions of law relating to the bonds to be issued or lease to be entered into.

(c) If the proper officers of a political subdivision make a preliminary determination to issue bonds or enter into a lease, the officers shall provide to the county auditor:

(1) a copy of the notice required by subsection (b)(2); and

(2) any other information the county auditor requires to fulfill the county auditor's duties under section 3.6 of this chapter.

SECTION 5. IC 20-46-1-7, AS AMENDED BY P.L.182-2009(ss), SECTION 345, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. (a) This section applies to a school corporation that added an amount to the school corporation's base tax levy before 2002 as the result of the approval of an excessive tax levy by the majority of individuals voting in a referendum held in the area served by the school corporation under IC 6-1.1-19-4.5 (before

its repeal).

(b) A school corporation may adopt a resolution before September 21, 2005, to transfer the power of the school corporation to levy the amount described in subsection (a) from the school corporation's general fund to the school corporation's fund. A school corporation that adopts a resolution under this section shall, as soon as practicable after adopting the resolution, send a certified copy of the resolution to the department of local government finance and the county auditor. A school corporation that adopts a resolution under this section may, for property taxes first due and payable after 2005, levy an additional amount for the fund that does not exceed the amount of the excessive tax levy added to the school corporation's base tax levy before 2002.

(c) The power of the school corporation to impose the levy transferred to the fund under this section expires December 31, 2012, unless:

(1) the school corporation adopts a resolution to reimpose or extend the levy; and

(2) the levy is approved, before January 1, 2013, by a majority of the individuals who vote in a referendum that is conducted in accordance with the requirements in this chapter.

As soon as practicable after adopting the resolution under subdivision (1), the school corporation shall send a certified copy of the resolution to the **department of local government finance and the** county auditor. However, if requested by the school corporation in the resolution adopted under subdivision (1), the question of reimposing or extending a levy transferred to the fund under this section may be combined with a question presented to the voters to reimpose or extend a levy initially imposed after 2001. A levy reimposed or extended under this subsection shall be treated for all purposes as a levy reimposed or extended under this chapter.

(d) The school corporation's levy under this section may not be considered in the determination of the school corporation's state tuition support distribution under IC 20-43 or the determination of any other property tax levy imposed by the school corporation.

SECTION 6. IC 20-46-1-8, AS AMENDED BY P.L.146-2008, SECTION 495, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8. (a) Subject to this chapter, the governing body of a school corporation may adopt a resolution to place

a referendum under this chapter on the ballot for either of the following purposes:

(1) The governing body of the school corporation determines that it cannot, in a calendar year, carry out its public educational duty unless it imposes a referendum tax levy under this chapter.

(2) The governing body of the school corporation determines that a referendum tax levy under this chapter should be imposed to replace property tax revenue that the school corporation will not receive because of the application of the credit under IC 6-1.1-20.6.

(b) The governing body of the school corporation shall certify a copy of the resolution to the **department of local government finance and the** county fiscal body of each county in which the school corporation is located.

P.L.42-2010
[S.415. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning corrections.

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

SECTION 1. IC 11-13-9-2, AS ADDED BY P.L.119-2008, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. Notwithstanding any other law, as soon as practicable after an inmate has been confined to the custody of the department for twenty-five (25) consecutive years, **or twenty-one (21) years if the inmate has received four (4) years of credit time under IC 35-50-6,** the department shall:

(1) identify the inmate to the parole board; and

(2) provide the parole board with the inmate's offender progress report.

SECTION 2. IC 35-50-6-3.3, AS AMENDED BY P.L.80-2008,

SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3.3. (a) In addition to any credit time a person earns under subsection (b) or section 3 of this chapter, a person earns credit time if the person:

(1) is in credit Class I;

(2) has demonstrated a pattern consistent with rehabilitation; and

(3) successfully completes requirements to obtain one (1) of the following:

(A) A general educational development (GED) diploma under IC 20-20-6, if the person has not previously obtained a high school diploma.

(B) A high school diploma, if the person has not previously obtained a general educational development (GED) diploma.

(C) An associate's degree from an approved postsecondary educational institution (as defined under IC 21-7-13-6(a)).

(D) A bachelor's degree from an approved postsecondary educational institution (as defined under IC 21-7-13-6(a)).

(b) In addition to any credit time that a person earns under subsection (a) or section 3 of this chapter, a person may earn credit time if, while confined by the department of correction, the person:

(1) is in credit Class I;

(2) demonstrates a pattern consistent with rehabilitation; and

(3) successfully completes requirements to obtain at least one (1) of the following:

(A) A certificate of completion of a career and technical education program approved by the department of correction.

(B) A certificate of completion of a substance abuse program approved by the department of correction.

(C) A certificate of completion of a literacy and basic life skills program approved by the department of correction.

(D) A certificate of completion of a reformative program approved by the department of correction.

(c) The department of correction shall establish admissions criteria and other requirements for programs available for earning credit time under subsection (b). A person may not earn credit time under both subsections (a) and (b) for the same program of study.

(d) The amount of credit time a person may earn under this section is the following:

(1) Six (6) months for completion of a state of Indiana general educational development (GED) diploma under IC 20-20-6.

(2) One (1) year for graduation from high school.

(3) One (1) year for completion of an associate's degree.

(4) Two (2) years for completion of a bachelor's degree.

(5) Not more than a total of six (6) months of credit, as determined by the department of correction, for the completion of one (1) or more career and technical education programs approved by the department of correction.

(6) Not more than a total of six (6) months of credit, as determined by the department of correction, for the completion of one (1) or more substance abuse programs approved by the department of correction.

(7) Not more than a total of six (6) months credit, as determined by the department of correction, for the completion of one (1) or more literacy and basic life skills programs approved by the department of correction.

(8) Not more than a total of six (6) months credit time, as determined by the department of correction, for completion of one (1) or more reformative programs approved by the department of correction. However, a person who is serving a sentence for an offense listed under IC 11-8-8-4.5 may not earn credit time under this subdivision.

However, a person who does not have a substance abuse problem that qualifies the person to earn credit in a substance abuse program may earn not more than a total of twelve (12) months of credit, as determined by the department of correction, for the completion of one (1) or more career and technical education programs approved by the department of correction. If a person earns more than six (6) months of credit for the completion of one (1) or more career and technical education programs, the person is ineligible to earn credit for the completion of one (1) or more substance abuse programs.

(e) Credit time earned by a person under this section is subtracted from the release date that would otherwise apply to the person after subtracting all other credit time earned by the person.

(f) A person does not earn credit time under subsection (a) unless the person completes at least a portion of the degree requirements after June 30, 1993.

(g) A person does not earn credit time under subsection (b) unless the person completes at least a portion of the program requirements after June 30, 1999.

(h) Credit time earned by a person under subsection (a) for a diploma or degree completed before July 1, 1999, shall be subtracted from:

(1) the release date that would otherwise apply to the person after subtracting all other credit time earned by the person, if the person has not been convicted of an offense described in subdivision (2); or

(2) the period of imprisonment imposed on the person by the sentencing court, if the person has been convicted of one (1) of the following crimes:

(A) Rape (IC 35-42-4-1).

(B) Criminal deviate conduct (IC 35-42-4-2).

(C) Child molesting (IC 35-42-4-3).

(D) Child exploitation (IC 35-42-4-4(b)).

(E) Vicarious sexual gratification (IC 35-42-4-5).

(F) Child solicitation (IC 35-42-4-6).

(G) Child seduction (IC 35-42-4-7).

(H) Sexual misconduct with a minor as a Class A felony, Class B felony, or Class C felony (IC 35-42-4-9).

(I) Incest (IC 35-46-1-3).

(J) Sexual battery (IC 35-42-4-8).

(K) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age.

(L) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age.

(M) An attempt or a conspiracy to commit a crime listed in clauses (A) through (L).

(i) The maximum amount of credit time a person may earn under this section is the lesser of:

(1) four (4) years; or

(2) one-third (1/3) of the person's total applicable credit time.

(j) The amount of credit time earned under this section is reduced to the extent that application of the credit time would otherwise result in:

(1) postconviction release (as defined in IC 35-40-4-6); or

(2) assignment of the person to a community transition program; in less than forty-five (45) days after the person earns the credit time.

(k) A person may earn credit time for multiple degrees at the same education level under subsection (d) only in accordance with guidelines approved by the department of correction. The department of correction may approve guidelines for proper sequence of education degrees under subsection (d).

(l) A person may not earn credit time:

(1) for a general educational development (GED) diploma if the person has previously earned a high school diploma; or

(2) for a high school diploma if the person has previously earned a general educational development (GED) diploma.

(m) A person may not earn credit time under this section if the person:

(1) commits an offense listed in IC 11-8-8-4.5 while the person is required to register as a sex or violent offender under IC 11-8-8-7; and

(2) is committed to the department of correction after being convicted of the offense listed in IC 11-8-8-4.5.

P.L.43-2010

[H.1005. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning education.

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

SECTION 1. IC 20-28-6-8, AS ADDED BY P.L.1-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8. (a) An individual who:

(1) serves under contract as a teacher in a public school corporation for at least five (5) successive years; and

(2) at any time enters into a teacher's contract for further service

with the school corporation;

becomes, by entering into the contract described in subdivision (2), a permanent teacher of the school corporation. When a contract between the school corporation and a permanent teacher expires by the contract's terms, the contract is considered to continue indefinitely as an indefinite contract.

(b) An indefinite contract remains in force until ~~the permanent teacher becomes seventy-one (71) years of age, unless~~ the indefinite contract is:

(1) replaced by a new contract signed by both parties; or

(2) canceled as provided in IC 20-28-7.

P.L.44-2010

[H.1021. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning civil procedure.

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

SECTION 1. IC 34-55-10-2, AS AMENDED BY P.L.145-2008, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) This section does not apply to judgments obtained before October 1, 1977.

(b) The amount of each exemption under subsection (c) applies until a rule is adopted by the department of financial institutions under section 2.5 of this chapter.

(c) The following property of a debtor domiciled in Indiana is exempt:

(1) Real estate or personal property constituting the personal or family residence of the debtor or a dependent of the debtor, or estates or rights in that real estate or personal property, of not more than fifteen thousand dollars ($15,000). The exemption under this subdivision is individually available to joint debtors

concerning property held by them as tenants by the entireties.

(2) Other real estate or tangible personal property of eight thousand dollars ($8,000).

(3) Intangible personal property, including choses in action, deposit accounts, and cash (but excluding debts owing and income owing), of three hundred dollars ($300).

(4) Professionally prescribed health aids for the debtor or a dependent of the debtor.

(5) Any interest that the debtor has in real estate held as a tenant by the entireties. The exemption under this subdivision does not apply to a debt for which the debtor and the debtor's spouse are jointly liable.

(6) An interest, whether vested or not, that the debtor has in a retirement plan or fund to the extent of:

(A) contributions, or portions of contributions, that were made to the retirement plan or fund by or on behalf of the debtor or the debtor's spouse:

(i) which were not subject to federal income taxation to the debtor at the time of the contribution; or

(ii) which are made to an individual retirement account in the manner prescribed by Section 408A of the Internal Revenue Code of 1986;

(B) earnings on contributions made under clause (A) that are not subject to federal income taxation at the time of the levy; and

(C) roll-overs of contributions made under clause (A) that are not subject to federal income taxation at the time of the levy.

(7) Money that is in a medical care savings account established under IC 6-8-11.

(8) Money that is in a health savings account established under Section 223 of the Internal Revenue Code of 1986.

(9) Any interest the debtor has in a qualified tuition program, as defined in Section 529(b) of the Internal Revenue Code of 1986, but only to the extent funds in the program are not attributable to:

(A) excess contributions, as described in Section 529(b)(6) of the Internal Revenue Code of 1986, and earnings on the excess contributions;

(B) contributions made by the debtor within one (1) year

before the date of the levy or the date a bankruptcy petition is filed by or against the debtor, and earnings on the contributions; or

(C) the excess over five thousand dollars ($5,000) of aggregate contributions made by the debtor for all programs under this subdivision and education savings accounts under subdivision (10) having the same designated beneficiary:

(i) not later than one (1) year before; and

(ii) not earlier than two (2) years before;

the date of the levy or the date a bankruptcy petition is filed by or against the debtor, and earnings on the aggregate contributions.

(10) Any interest the debtor has in an education savings account, as defined in Section 530(b) of the Internal Revenue Code of 1986, but only to the extent funds in the account are not attributable to:

(A) excess contributions, as described in Section 4973(e) of the Internal Revenue Code of 1986, and earnings on the excess contributions;

(B) contributions made by the debtor within one (1) year before the date of the levy or the date a bankruptcy petition is filed by or against the debtor, and earnings on the contributions; or

(C) the excess over five thousand dollars ($5,000) of aggregate contributions made by the debtor for all accounts under this subdivision and qualified tuition programs under subdivision (9) having the same designated beneficiary:

(i) not later than one (1) year before; and

(ii) not earlier than two (2) years before;

the date of the levy or the date a bankruptcy petition is filed by or against the debtor, and earnings on the excess contributions.

(11) The debtor's interest in a refund or a credit received or to be received under **the following:**

(A) Section 32 of the Internal Revenue Code of 1986 **(the federal earned income tax credit).**

(B) IC 6-3.1-21-6 (the Indiana earned income tax credit).

(d) A bankruptcy proceeding that results in the ownership by the bankruptcy estate of a debtor's interest in property held in a tenancy by

the entireties does not result in a severance of the tenancy by the entireties.

(e) Real estate or personal property upon which a debtor has voluntarily granted a lien is not, to the extent of the balance due on the debt secured by the lien:

(1) subject to this chapter; or

(2) exempt from levy or sale on execution or any other final process from a court.

P.L.45-2010

[H.1061. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 33-32-2-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 9. (a) As used in this section, "training courses" refers to training courses related to the office of circuit court clerk that are developed by the Association of Indiana Counties and approved by the state board of accounts.**

(b) An individual elected to the office of circuit court clerk after November 2, 2010, shall complete at least:

(1) fifteen (15) hours of training courses within one (1) year; and

(2) forty (40) hours of training courses within three (3) years; after beginning the individual's term as circuit court clerk.

SECTION 2. IC 36-2-7-10, AS AMENDED BY P.L.3-2008, SECTION 256, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10. (a) The county recorder shall tax and collect the fees prescribed by this section for recording, filing, copying, and other services the recorder renders, and shall pay them

into the county treasury at the end of each calendar month. The fees prescribed and collected under this section supersede all other recording fees required by law to be charged for services rendered by the county recorder.

(b) The county recorder shall charge the following:

(1) Six dollars ($6) for the first page and two dollars ($2) for each additional page of any document the recorder records if the pages are not larger than eight and one-half (8 1/2) inches by fourteen (14) inches.

(2) Fifteen dollars ($15) for the first page and five dollars ($5) for each additional page of any document the recorder records, if the pages are larger than eight and one-half (8 1/2) inches by fourteen (14) inches.

(3) For attesting to the release, partial release, or assignment of any mortgage, judgment, lien, or oil and gas lease contained on a multiple transaction document, the fee for each transaction after the first is the amount provided in subdivision (1) plus the amount provided in subdivision (4) and one dollar ($1) for marginal mortgage assignments or marginal mortgage releases.

(4) One dollar ($1) for each cross-reference of a recorded document.

(5) One dollar ($1) per page not larger than eight and one-half (8 1/2) inches by fourteen (14) inches for furnishing copies of records and two dollars ($2) per page that is larger than eight and one-half (8 1/2) inches by fourteen (14) inches.

(6) Five dollars ($5) for acknowledging or certifying to a document.

(7) Five dollars ($5) for each deed the recorder records, in addition to other fees for deeds, for the county surveyor's corner perpetuation fund for use as provided in IC 21-47-3-3 or IC 36-2-12-11(e).

(8) A fee in an amount authorized under IC 5-14-3-8 for transmitting a copy of a document by facsimile machine.

(9) A fee in an amount authorized by an ordinance adopted by the county legislative body for duplicating a computer tape, a computer disk, an optical disk, microfilm, or similar media. This fee may not cover making a handwritten copy or a photocopy or using xerography or a duplicating machine.

(10) A supplemental fee of three dollars ($3) for recording a document that is paid at the time of recording. The fee under this subdivision is in addition to other fees provided by law for recording a document.

(11) Three dollars ($3) for each mortgage on real estate recorded, in addition to other fees required by this section, distributed as follows:

(A) Fifty cents ($0.50) is to be deposited in the recorder's record perpetuation fund.

(B) Two dollars and fifty cents ($2.50) is to be distributed to the auditor of state on or before June 20 and December 20 of each year as provided in IC 24-9-9-3.

(12) This subdivision applies in a county only if at least one (1) unit in the county has established an affordable housing fund under IC 5-20-5-15.5 and the county fiscal body adopts an ordinance authorizing the fee described in this subdivision. An ordinance adopted under this subdivision may authorize the county recorder to charge a fee of:

(A) two dollars and fifty cents ($2.50) for the first page; and

(B) one dollar ($1) for each additional page;

of each document the recorder records.

(13) This subdivision applies in a county containing a consolidated city that has established a housing trust fund under IC 36-7-15.1-35.5(e). The county fiscal body may adopt an ordinance authorizing the fee described in this subdivision. An ordinance adopted under this subdivision may authorize the county recorder to charge a fee of:

(A) two dollars and fifty cents ($2.50) for the first page; and

(B) one dollar ($1) for each additional page;

of each document the recorder records.

(c) The county recorder shall charge a two dollar ($2) county identification security protection fee for recording or filing a document. This fee shall be deposited under IC 36-2-7.5-6.

(d) The county treasurer shall establish a recorder's records perpetuation fund. All revenue received under section 10.1 of this chapter, ~~and~~ subsection (b)(5), (b)(8), (b)(9), and (b)(10), **and IC 36-2-7.5-6(c)(1) (after June 30, 2011),** and fifty cents ($0.50) from revenue received under subsection (b)(11), shall be deposited in this

fund. The county recorder may use any money in this fund without appropriation for the preservation of records and the improvement of record keeping systems and equipment. Money from the fund may not be deposited or transferred into the county general fund and does not revert to the county general fund at the end of a fiscal year.

(e) As used in this section, "record" or "recording" includes the functions of recording, filing, and filing for record.

(f) The county recorder shall post the fees set forth in subsection (b) in a prominent place within the county recorder's office where the fee schedule will be readily accessible to the public.

(g) The county recorder may not tax or collect any fee for:

(1) recording an official bond of a public officer, a deputy, an appointee, or an employee; or

(2) performing any service under any of the following:

(A) IC 6-1.1-22-2(c).

(B) IC 8-23-7.

(C) IC 8-23-23.

(D) IC 10-17-2-3.

(E) IC 10-17-3-2.

(F) IC 12-14-13.

(G) IC 12-14-16.

(h) The state and its agencies and instrumentalities are required to pay the recording fees and charges that this section prescribes.

(i) This subsection applies to a county other than a county containing a consolidated city. The county treasurer shall distribute money collected by the county recorder under subsection (b)(12) as follows:

(1) Sixty percent (60%) of the money collected by the county recorder under subsection (b)(12) shall be distributed to the units in the county that have established an affordable housing fund under IC 5-20-5-15.5 for deposit in the fund. The amount to be distributed to a unit is the amount available for distribution multiplied by a fraction. The numerator of the fraction is the population of the unit. The denominator of the fraction is the population of all units in the county that have established an affordable housing fund. The population to be used for a county that establishes an affordable housing fund is the population of the county outside any city or town that has established an

affordable housing fund.

(2) Forty percent (40%) of the money collected by the county recorder under subsection (b)(12) shall be distributed to the treasurer of state for deposit in the affordable housing and community development fund established under IC 5-20-4-7 for the purposes of the fund.

Money shall be distributed under this subsection before the sixteenth day of the month following the month in which the money is collected from the county recorder.

(j) This subsection applies to a county described in subsection (b)(13). The county treasurer shall distribute money collected by the county recorder under subsection (b)(13) as follows:

(1) Sixty percent (60%) of the money collected by the county recorder under subsection (b)(13) shall be deposited in the housing trust fund established under IC 36-7-15.1-35.5(e) for the purposes of the fund.

(2) Forty percent (40%) of the money collected by the county recorder under subsection (b)(13) shall be distributed to the treasurer of state for deposit in the affordable housing and community development fund established under IC 5-20-4-7 for the purposes of the fund.

Money shall be distributed under this subsection before the sixteenth day of the month following the month in which the money is collected from the county recorder.

SECTION 3. IC 36-2-7-19 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 19. (a) As used in this section, "fund" refers to a county elected officials training fund established under subsection (b).**

(b) Each county legislative body shall before July 1, 2011, establish a county elected officials training fund. The county fiscal body shall appropriate money from the fund.

(c) The fund consists of money deposited under IC 36-2-7.5-6(c)(3) and any other sources required or permitted by law. Money in the fund does not revert to the county general fund.

(d) Money in the fund shall be used solely to provide training of county elected officials required by IC 36-2-11-2.5, IC 36-2-12-2.5, and other similar laws.

SECTION 4. IC 36-2-7.5-6, AS AMENDED BY P.L.171-2006, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) The county recorder shall charge a two dollar ($2) county identification security protection fee for recording or filing a document in addition to the fees required by IC 36-2-7-10(b)(1) through IC 36-2-7-10(b)(11).

(b) The county recorder shall deposit two dollars ($2) of the fee charged under subsection (a) in the county identification security protection fund established by section 11 of this chapter. This subsection expires July 1, 2011.

(c) Beginning July 1, 2011, the county recorder shall deposit the fee charged under subsection (a) in the following manner:

(1) One dollar ($1) shall be deposited in the county recorder's records perpetuation fund established under IC 36-2-7-10(d).

(2) Fifty cents ($0.50) shall be deposited in the county identification security protection fund established under section 11 of this chapter.

(3) Fifty cents ($0.50) shall be deposited in the county elected officials training fund established under IC 36-2-7-19.

SECTION 5. IC 36-2-7.5-11, AS AMENDED BY P.L.171-2006, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 11. (a) As used in this section, "fund" refers to a county identification security protection fund established under subsection (b).

(b) Each county legislative body shall establish an identification security protection fund to be administered by the county recorder. The county fiscal body shall appropriate money from the fund.

(c) A fund consists of money deposited in the fund under section 6(b) of this chapter **(before July 1, 2011) and section 6(c) of this chapter (after June 30, 2011).** Money in a fund does not revert to the county general fund.

(d) A county recorder may use money in the fund only to purchase, upgrade, implement, or maintain redacting technology used in the office of the county recorder.

P.L.46-2010
[H.1064. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning natural and cultural resources.

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

SECTION 1. IC 14-9-5-4, AS ADDED BY P.L.66-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) As used in this section, "account" means the Indiana sportsmen's benevolence account established by subsection (b).

(b) The Indiana sportsmen's benevolence account is established within the fund for the division of law enforcement to encourage citizen participation in feeding the state's hungry through donations of wild game that has been lawfully hunted.

(c) The account consists of:

(1) gifts;

(2) donations; ~~and~~

(3) proceeds derived from marketing by the division of law enforcement of goods related to the feeding of the state's hungry through donations of wild game under subsection (a); **and**

(4) donations collected under IC 14-22-12-1(c).

(d) The expenses of administering the account shall be paid from money in the account.

(e) The division of law enforcement shall:

(1) conduct a publicity campaign relating to feeding the state's hungry through donations of wild game;

(2) coordinate with nonprofit entities and other entities created with goals of feeding the state's hungry; ~~and~~

(3) coordinate with nonprofit entities to use the money collected under IC 14-22-12-1(c) to assist meat processors in processing donations of wild game related to feeding the state's hungry; and

~~(3)~~ **(4)** engage in any other activities to further the goals of this section.

(f) The treasurer of state shall invest the money in the account not currently needed to meet the obligations of the account in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the account.

SECTION 2. IC 14-22-12-1, AS AMENDED BY P.L.69-2009, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) The department may issue the following licenses and, except as provided in section 1.5 of this chapter and subject to subsection (b), shall charge the following minimum license fees to hunt, trap, or fish in Indiana:

(1) A resident yearly license to fish, eight dollars and seventy-five cents ($8.75).

(2) A resident yearly license to hunt, eight dollars and seventy-five cents ($8.75).

(3) A resident yearly license to hunt and fish, thirteen dollars and seventy-five cents ($13.75).

(4) A resident yearly license to trap, eight dollars and seventy-five cents ($8.75).

(5) A nonresident yearly license to fish, twenty-four dollars and seventy-five cents ($24.75).

(6) A nonresident yearly license to hunt, sixty dollars and seventy-five cents ($60.75).

(7) A nonresident yearly license to trap, one hundred seventeen dollars and seventy-five cents ($117.75). However, a license may not be issued to a resident of another state if that state does not give reciprocity rights to Indiana residents similar to those nonresident trapping privileges extended in Indiana.

(8) A resident or nonresident license to fish, including for trout and salmon, for one (1) day only, four dollars and seventy-five cents ($4.75).

(9) A nonresident license to fish, excluding for trout and salmon, for seven (7) days only, twelve dollars and seventy-five cents ($12.75).

(10) A nonresident license to hunt for five (5) consecutive days only, twenty-five dollars and seventy-five cents ($25.75).

(11) A resident or nonresident yearly stamp to fish for trout and

salmon, six dollars and seventy-five cents ($6.75).
(12) A resident yearly license to take a deer with a shotgun, muzzle loading gun, rifle, or handgun, thirteen dollars and seventy-five cents ($13.75).
(13) A resident yearly license to take a deer with a muzzle loading gun, thirteen dollars and seventy-five cents ($13.75).
(14) A resident yearly license to take a deer with a bow and arrow, thirteen dollars and seventy-five cents ($13.75).
(15) A nonresident yearly license to take a deer with a shotgun, muzzle loading gun, rifle, or handgun, one hundred twenty dollars and seventy-five cents ($120.75).
(16) A nonresident yearly license to take a deer with a muzzle loading gun, one hundred twenty dollars and seventy-five cents ($120.75).
(17) A nonresident yearly license to take a deer with a bow and arrow, one hundred twenty dollars and seventy-five cents ($120.75).
(18) A resident license to take an extra deer by a means, in a location, and under conditions established by rule adopted by the department under IC 4-22-2, five dollars ($5).
(19) A nonresident license to take an extra deer by a means, in a location, and under conditions established by rule adopted by the department under IC 4-22-2, ten dollars ($10).
(20) A resident yearly license to take a turkey, fourteen dollars and seventy-five cents ($14.75).
(21) A nonresident yearly license to take a turkey, one hundred fourteen dollars and seventy-five cents ($114.75). However, if the state of residence of the nonresident applicant requires that before a resident of Indiana may take turkey in that state the resident of Indiana must also purchase another license in addition to a nonresident license to take turkey, the applicant must also purchase a nonresident yearly license to hunt under this section.
(22) A resident license to take an extra turkey by a means, in a location, and under conditions established by rule adopted by the department under IC 4-22-2, fourteen dollars and seventy-five cents ($14.75).
(23) A nonresident license to take an extra turkey by a means, in a location, and under conditions established by rule adopted by

the department under IC 4-22-2, one hundred fourteen dollars and seventy-five cents ($114.75). However, if the state of residence of the nonresident applicant requires that before a resident of Indiana may take a turkey in that state the resident of Indiana must also purchase another license in addition to a nonresident license to take a turkey, the applicant must also purchase a nonresident yearly license to hunt under this section.

(24) A resident youth yearly consolidated license to hunt, trap, and fish, six dollars ($6). This license is subject to the following:

(A) An applicant must be less than eighteen (18) years of age.

(B) The license is in lieu of the resident yearly license to hunt, trap, and fish and all other yearly licenses, stamps, or permits to hunt, trap, and fish for a specific species or by a specific means.

(25) A nonresident youth yearly license to hunt, seventeen dollars ($17). The applicant must be less than eighteen (18) years of age.

(26) A nonresident youth yearly license to trap, seventeen dollars ($17). The applicant must be less than eighteen (18) years of age.

(27) A nonresident youth yearly license to take a turkey, twenty-five dollars ($25). The applicant must be less than eighteen (18) years of age. However, if the state of residence of the nonresident applicant requires that before a resident of Indiana may take a turkey in that state the resident of Indiana must also purchase another license in addition to a nonresident license to take a turkey, the applicant must also purchase a nonresident youth yearly license to hunt under this section.

(28) A nonresident youth license to take an extra turkey by a means, in a location, and under conditions established by rule adopted by the department under IC 4-22-2, twenty-five dollars ($25). The applicant must be less than eighteen (18) years of age. However, if the state of residence of the nonresident applicant requires that before a resident of Indiana may take a turkey in that state the resident of Indiana must also purchase another license in addition to a nonresident license to take a turkey, the applicant must also purchase a nonresident youth yearly license to hunt under this section.

(29) A nonresident youth yearly license to take a deer with a shotgun, muzzle loading gun, or rifle, twenty-four dollars ($24).

The applicant must be less than eighteen (18) years of age.

(30) A nonresident youth yearly license to take a deer with a muzzle loading gun, twenty-four dollars ($24). The applicant must be less than eighteen (18) years of age.

(31) A nonresident youth yearly license to take a deer with a bow and arrow, twenty-four dollars ($24). The applicant must be less than eighteen (18) years of age.

(32) A nonresident youth license to take an extra deer by a means, in a location, and under conditions established by rule adopted by the department under IC 4-22-2, twenty-four dollars ($24). The applicant must be less than eighteen (18) years of age.

(33) A resident senior yearly license to fish, three dollars ($3). This license is subject to the following:

(A) An applicant must be at least sixty-four (64) years of age and born after March 31, 1943.

(B) The license is in lieu of the resident yearly license to fish and all other yearly licenses, stamps, or permits to fish for a specific species or by a specific means.

(34) A resident senior "fish for life" license, seventeen dollars ($17). This license is subject to the following:

(A) An applicant must be at least sixty-four (64) years of age and must have been born after March 31, 1943.

(B) The license applies each year for the remainder of the license holder's life.

(C) The license is in lieu of the resident senior yearly license to fish and all other yearly licenses, stamps, or permits to fish for a specific species or by a specific means.

(35) A voluntary resident senior yearly license to fish, three dollars ($3). This license is subject to the following:

(A) An applicant must have been born before April 1, 1943.

(B) The license is instead of the resident yearly license to fish and all other yearly licenses, stamps, and permits to fish for a specific species or by a specific means.

(b) The commission may set license fees to hunt, trap, or fish above the minimum fees established under subsection (a)

(c) In addition to the license fees set under this section, the department shall establish a procedure to collect voluntary donations for processing wild game when a hunting license is sold.

The minimum suggested donation must be one dollar ($1). The money collected under this section shall be deposited in the Indiana sportsmen's benevolence account (IC 14-9-5-4).

P.L.47-2010
[H.1068. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

SECTION 1. IC 35-47-2-3, AS AMENDED BY P.L.155-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) A person desiring a license to carry a handgun shall apply:

(1) to the chief of police or corresponding law enforcement officer of the municipality in which the applicant resides;

(2) if that municipality has no such officer, or if the applicant does not reside in a municipality, to the sheriff of the county in which the applicant resides after the applicant has obtained an application form prescribed by the superintendent; or

(3) if the applicant is a resident of another state and has a regular place of business or employment in Indiana, to the sheriff of the county in which the applicant has a regular place of business or employment.

The superintendent and local law enforcement agencies shall allow an applicant desiring to obtain or renew a license to carry a handgun to submit an application electronically under this chapter if funds are available to establish and maintain an electronic application system.

(b) The law enforcement agency which accepts an application for a handgun license shall collect the following application fees:

(1) From a person applying for a four (4) year handgun license, a

ten dollar ($10) application fee, five dollars ($5) of which shall be refunded if the license is not issued.

(2) From a person applying for a lifetime handgun license who does not currently possess a valid Indiana handgun license, a fifty dollar ($50) application fee, thirty dollars ($30) of which shall be refunded if the license is not issued.

(3) From a person applying for a lifetime handgun license who currently possesses a valid Indiana handgun license, a forty dollar ($40) application fee, thirty dollars ($30) of which shall be refunded if the license is not issued.

Except as provided in subsection (h), the fee shall be deposited into the law enforcement agency's firearms training fund or other appropriate training activities fund and used by the agency to train law enforcement officers in the proper use of firearms or in other law enforcement duties, or to purchase firearms or firearm related equipment, or both for the law enforcement officers employed by the law enforcement agency. The state board of accounts shall establish rules for the proper accounting and expenditure of funds collected under this subsection.

(c) The officer to whom the application is made shall ascertain the applicant's name, full address, length of residence in the community, whether the applicant's residence is located within the limits of any city or town, the applicant's occupation, place of business or employment, criminal record, if any, and convictions (minor traffic offenses excepted), age, race, sex, nationality, date of birth, citizenship, height, weight, build, color of hair, color of eyes, scars and marks, whether the applicant has previously held an Indiana license to carry a handgun and, if so, the serial number of the license and year issued, whether the applicant's license has ever been suspended or revoked, and if so, the year and reason for the suspension or revocation, and the applicant's reason for desiring a license. The officer to whom the application is made shall conduct an investigation into the applicant's official records and verify thereby the applicant's character and reputation, and shall in addition verify for accuracy the information contained in the application, and shall forward this information together with the officer's recommendation for approval or disapproval and one (1) set of legible and classifiable fingerprints of the applicant to the superintendent.

(d) The superintendent may make whatever further investigation the

superintendent deems necessary. Whenever disapproval is recommended, the officer to whom the application is made shall provide the superintendent and the applicant with the officer's complete and specific reasons, in writing, for the recommendation of disapproval.

(e) If it appears to the superintendent that the applicant:

(1) has a proper reason for carrying a handgun;

(2) is of good character and reputation;

(3) is a proper person to be licensed; and

(4) is:

(A) a citizen of the United States; or

(B) not a citizen of the United States but is allowed to carry a firearm in the United States under federal law;

the superintendent shall issue to the applicant a qualified or an unlimited license to carry any handgun lawfully possessed by the applicant. The original license shall be delivered to the licensee. A copy shall be delivered to the officer to whom the application for license was made. A copy shall be retained by the superintendent for at least four (4) years in the case of a four (4) year license. The superintendent may adopt guidelines to establish a records retention policy for a lifetime license. A four (4) year license shall be valid for a period of four (4) years from the date of issue. A lifetime license is valid for the life of the individual receiving the license. The license of police officers, sheriffs or their deputies, and law enforcement officers of the United States government who have been honorably retired by a lawfully created pension board or its equivalent after twenty (20) or more years of service, shall be valid for the life of these individuals. However, a lifetime license is automatically revoked if the license holder does not remain a proper person.

(f) At the time a license is issued and delivered to a licensee under subsection (e), the superintendent shall include with the license information concerning handgun safety rules that:

(1) neither opposes nor supports an individual's right to bear arms; and

(2) is:

(A) recommended by a nonprofit educational organization that is dedicated to providing education on safe handling and use of firearms;

(B) prepared by the state police department; and

(C) approved by the superintendent.

The superintendent may not deny a license under this section because the information required under this subsection is unavailable at the time the superintendent would otherwise issue a license. The state police department may accept private donations or grants to defray the cost of printing and mailing the information required under this subsection.

(g) A license to carry a handgun shall not be issued to any person who:

(1) has been convicted of a felony;

(2) has had a license to carry a handgun suspended, unless the person's license has been reinstated;

(3) is under eighteen (18) years of age;

(4) is under twenty-three (23) years of age if the person has been adjudicated a delinquent child for an act that would be a felony if committed by an adult; or

(5) has been arrested for a Class A or Class B felony, or any other felony that was committed while armed with a deadly weapon or that involved the use of violence, if a court has found probable cause to believe that the person committed the offense charged.

In the case of an arrest under subdivision (5), a license to carry a handgun may be issued to a person who has been acquitted of the specific offense charged or if the charges for the specific offense are dismissed. The superintendent shall prescribe all forms to be used in connection with the administration of this chapter.

(h) If the law enforcement agency that charges a fee under subsection (b) is a city or town law enforcement agency, the fee shall be deposited in the law enforcement continuing education fund established under IC 5-2-8-2.

(i) If a person who holds a valid license to carry a handgun issued under this chapter:

(1) changes the person's name;

(2) changes the person's address; or

(3) experiences a change, including an arrest or a conviction, that may affect the person's status as a proper person (as defined in IC 35-47-1-7) or otherwise disqualify the person from holding a license;

the person shall, not later than thirty (30) days after the date of a change described under subdivision (3), and not later than sixty (60) days after the date of the change described under subdivision (1) or (2), notify the superintendent, in writing, of the event described under subdivision (3) or, in the case of a change under subdivision (1) or (2), the person's new name or new address.

(j) The state police shall indicate on the form for a license to carry a handgun the notification requirements of subsection (i).

(k) The state police department shall adopt rules under IC 4-22-2 to implement an electronic application system under subsection (a). Rules adopted under this section must require the superintendent to keep on file one (1) set of classifiable and legible fingerprints from every person who has received a license to carry a handgun so that a person who applies to renew a license will not be required to submit an additional set of fingerprints.

(l) Except as provided in subsection (m), for purposes of IC 5-14-3-4(a)(1), the following information is confidential, may not be published, and is not open to public inspection:

(1) Information submitted by a person under this section to:

(A) obtain; or

(B) renew;

a license to carry a handgun.

(2) Information obtained by a federal, state, or local government entity in the course of an investigation concerning a person who applies to:

(A) obtain; or

(B) renew;

a license to carry a handgun issued under this chapter.

(3) The name, address, and any other information that may be used to identify a person who holds a license to carry a handgun issued under this chapter.

(m) Notwithstanding subsection (l):

(1) any information concerning an applicant for or a person who holds a license to carry a handgun issued under this chapter may be released to a federal, state, or local government entity:

(A) for law enforcement purposes; or

(B) to determine the validity of a license to carry a

handgun; and

(2) general information concerning the issuance of licenses to carry handguns in Indiana may be released to a person conducting journalistic or academic research, but only if all personal information that could disclose the identity of any person who holds a license to carry a handgun issued under this chapter has been removed from the general information.

SECTION 2. IC 35-47-2-6, AS AMENDED BY P.L.190-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) Every initial application for any license under this chapter shall be granted or rejected within sixty (60) days after the application is filed.

(b) The period during which an application for the renewal of an existing license may be filed begins ~~one~~ **three** hundred ~~eighty (180)~~ **sixty-five (365)** days before the expiration of the existing license. If the application for renewal of an existing license is filed within thirty (30) days of its expiration, the existing license is automatically extended until the application for renewal is passed upon.

P.L.48-2010
[H.1069. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning transportation.

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

SECTION 1. IC 8-5-15-3, AS AMENDED BY P.L.182-2009(ss), SECTION 263, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The district shall be supervised and managed by a board of trustees, which consists of the following:

(1) Four (4) members, one (1) from each county that is a member of the district, appointed by that county's board of county

commissioners. In the case of a member appointed or reappointed under this subdivision after December 31, 2009, the member must be a member of the board of county commissioners of the county that the member represents.

(2) Four (4) members, one (1) from each county that is a member of the district, each of whom is the president of that county's county council or another council member designated by the president as a board member.

(3) **After June 30, 2010,** one (1) member representing the rest of the state, appointed by the governor. ~~The term of a member appointed or reappointed under this subdivision ends December 31, 2009.~~

(4) **After June 30, 2010,** one (1) passenger member appointed by the governor. The member appointed under this subdivision must be selected from passengers who have submitted a letter of interest to the governor. To be considered for this position, a passenger must submit a letter of interest to the governor during a two (2) week period that begins, **in 2010, on May 2, 2010, and, in any year after 2010 in which the term of a member appointed under this subsection expires,** sixty (60) days before the expiration of the term of the member appointed under this subdivision. A member of the board serving under this subdivision is not required to submit a letter of interest to be eligible for appointment to a successive term. ~~The term of a member appointed or reappointed under this subdivision ends December 31, 2009.~~

(5) **After June 30, 2010,** one (1) member who is an employee of the district, appointed by the governor from a list of names submitted by the labor unions representing the employees of the district. Each labor union representing employees of the district may submit one (1) name to be included on the list of names under this subdivision. ~~The term of a member appointed or reappointed under this subdivision ends December 31, 2009.~~

(b) A member shall serve for a term of two (2) years from the beginning of the term for which the member was appointed and until a successor has qualified for the office. Each member shall serve at the pleasure of the appointing authority but is eligible for reappointment for successive terms.

(c) The members of the board shall elect for a one (1) year term:

(1) one (1) member as chairman;

(2) one (1) member to serve as vice chairman;

(3) one (1) member to serve as secretary; and

(4) one (1) member to serve as treasurer.

(d) **Not later than:**

(1) April 1, 2010; and

(2) in any year after 2010 in which the term of a member appointed under subsection (a)(4) expires, ninety (90) days before the expiration of the term of the board member appointed under subsection (a)(4);

the district shall post in each commuter station in the district a notice of the opening on the board of trustees. The notice must announce the opening for a passenger member on the board of trustees and provide information on submitting a letter of interest. The notice must state the period in which the passenger must submit a letter of interest. The notice must remain posted until, **in 2010, May 15, 2010, and, in any subsequent year in which the term of a member appointed under subsection (a)(4) expires,** the expiration of the two (2) week period described in subsection (a)(4).

(e) A member appointed under subsection (a)(4) or (a)(5) may not:

(1) vote on issues involving perceived or actual financial conflicts of interest, including personnel issues, collective bargaining, and assessment or levy of taxes; or

(2) participate in an executive session of the board under IC 5-14-1.5-6.1, on issues regarding:

(A) the discussion of strategy for:

(i) collective bargaining; or

(ii) the initiation of litigation or litigation that is either pending or has been threatened specifically in writing;

as described in IC 5-14-1.5-6.1(b)(2); or

(B) the discussion of job performance evaluation of individual employees, except for a discussion of the salary, compensation, or benefits of employees during a budget process, as described in IC 5-14-1.5-6.1(b)(9).

(f) The members appointed under subsection (a)(4) and (a)(5) must reside in different counties.

SECTION 2. **An emergency is declared for this act.**

P.L.49-2010
[H.1076. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning transportation.

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

SECTION 1. IC 8-10-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) Any municipal corporation, county, or any combination of a municipal corporation, municipal corporations, county, or counties may create a port authority and there may be created a port authority in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). Such authority may operate in addition to any municipal authority that may be created under this chapter. A municipal corporation shall act by ordinance, and a county shall act by resolution of the county commissioners in authorizing the creation of a port authority. A port authority created hereunder shall be a body corporate and politic which may sue and be sued, plead and be impleaded, and shall have the powers and jurisdiction enumerated in this chapter. The exercise by such port authority of the powers conferred upon it shall be deemed to be essential governmental functions of the state of Indiana, but no port authority shall be immune from liability by reason thereof.

(b) In the exercise of the powers and authorities herein granted said port authority shall have power to make and enter into any and all contracts ~~in the name or names of the governmental unit or units creating such authority, and such contracts as~~ **that** may be necessary to effectuate the purposes of this chapter. ~~and which are not~~ **Except as** otherwise expressly provided ~~for shall be made without~~ **by this chapter, a contract made by a port authority is not subject to** ratification ~~thereof~~ by any other board, body, or officer.

SECTION 2. IC 8-10-5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8. **(a)** A port authority **is an**

instrumentality of the state and shall have full power and authority **independent of any political subdivision** to do the following:

(1) Purchase, construct, sell, lease, and operate docks, wharves, warehouses, piers, and other port, terminal, or transportation facilities within its jurisdiction consistent with the purposes of the port authority and make charges for the use thereof.

(2) Straighten, deepen, and improve any canal, channel, river, stream, or other water course or way which may be necessary or proper in the development of the facilities of such port.

(3) Establish dock lines, piers, and other facilities necessary to the conduct of pleasure boating within the territory under the jurisdiction of the port authority.

(4) Regulate and enforce the regulation of all uses and activities related to the port in the area under the jurisdiction of the port authority and determine the use of land adjacent to waters under the jurisdiction of the port authority within a reasonable distance from the shore lines of such waters. However, this subdivision does not:

(A) affect the requirement that special standards for the safe operation of watercraft on public waters must be adopted by rule by the department of natural resources under IC 14-15-7-3; or

(B) authorize the assessment by the port authority of a charge or fee for the passage of a watercraft through the navigable waters of the state.

(5) Acquire, own, hold, sell, lease, or operate real or personal property for the authorized purposes of the port authority.

~~(A) The board of directors may, by resolution, recommend to the governing body of the municipality or municipalities creating the port authority that they authorize general obligations, mortgage, or revenue bonds for any one (1) or more of the following purposes:~~

~~(i) To acquire or improve port or harbor sites.~~

~~(ii) To acquire, construct, extend, alter, or improve structures, ways, facilities, or equipment necessary for the proper operation of the port authority or the port or harbor within its jurisdiction.~~

~~(iii) To refund outstanding bonds and matured interest~~

~~coupons and issue and sell refunding bonds for that purpose.~~

~~(B) Prior to a recommendation authorized by clause (A), the board shall give notice of a public hearing at which time the board shall disclose the purpose for which the bond issue is proposed, the amount of the proposed issue, and all other pertinent data. At least ten (10) days prior to the date set for hearing, the board shall publish in two (2) newspapers of general circulation in the city, county or counties, or such other municipalities involved, a notice of the time, place, and purpose of the hearing. If there is only one (1) paper one (1) notice shall be sufficient.~~

~~(C) The governing body shall review the proposal of the board of directors of the port authority and if it approves shall provide for the advertisement and sale of the issue in compliance with IC 5-1-11. For purposes of this chapter, IC 5-1-11 shall apply as fully to mortgage bonds as to general obligation or revenue bonds.~~

~~(D) Bonds issued under the authority of this chapter are not subject to limitations on interest rates.~~

~~(E) The governing body shall fix the time and place of payment of principal and interest, but no issue shall have a maturity date in excess of forty (40) years from date of issue.~~

~~(F) Bonds issued under the provisions of this chapter, together with the interest thereon, shall be tax exempt.~~

~~(G) The governing body shall apply the proceeds from the sale of bonds exclusively to the purposes for which the bonds were issued and only to the extent necessary therefor. Any remaining balance shall be placed in a sinking fund for the payment of the bonds and the interest thereon.~~

~~(H) Nothing in this chapter shall affect existing obligations on outstanding bonds. In case a board of directors or a port authority is discontinued as provided in section 4 of this chapter the primary obligations on its bonds shall remain unaffected. In addition, the city or county or municipalities involved in the issuance thereof shall assume liability for the payment of the bonds according to their terms and in relation to their interest or proportion therein.~~

~~(6) With the approval of the governing body creating it, sell,~~

~~lease, or enter into a royalty contract for the natural or mineral resources of land which it owns. Moneys received from these sources shall be deposited in the nonreverting capital fund of the port authority.~~

~~(7)~~ **(6)** Apply to the proper authorities of the United States pursuant to appropriate law for the right to establish, operate, and maintain foreign trade zones within the limits of the port authority and establish, operate, and maintain such foreign trade zones.

~~(8)~~ **(7)** Exercise the right of eminent domain to appropriate any land, rights, rights-of-way, franchises, easements, or other property necessary or proper for the construction or the efficient operation of any facility of the port authority, award damages to landowners for real estate and property rights appropriated and taken or injuriously affected, and in case the board of directors of the port authority cannot agree with the owners, lessees, or occupants of any real estate selected by them for the purposes herein set forth, proceed to procure the condemnation of the same as hereinafter provided, and in addition thereto, when not in conflict or inconsistent with the express provisions of this chapter, proceed under the general laws of the state of Indiana governing the condemnation of lands and the rights-of-way for other public purposes which may be in force at the time, and the provisions of such laws are hereby extended to ports and harbors and to the properties of port authorities as provided for herein so far as the same are not in conflict or inconsistent with the terms of this chapter. In any such proceeding prosecuted by the board of directors of a port authority to condemn or appropriate any land or the use thereof or any right therein for purposes permitted by this chapter, the board and all owners and holders of property or rights therein sought to be taken shall be governed by and have the same rights as to procedure, notices, hearings, assessments of benefits and awards, and payments thereof as are now or may hereafter be prescribed by law for the appropriation and condemnation of real estate, and such property owners shall have like powers and rights as to remonstrance and of appeals to the circuit or superior courts in the county in which such property sought to be appropriated is located. However, the payment of all damages awarded for all lands and property or interests or rights

therein appropriated under the provisions of this chapter shall be paid entirely out of funds under the control of such port authority, except for the following:

(A) Upon written application of any property owner affected, any municipal corporation, or, as to areas outside the boundaries of a municipal corporation, any county, participating in the creation of a port authority, after ten (10) days written notice to the port authority and public hearing had thereon, may revoke the right of eminent domain to be exercised by the port authority as to any parcel or parcels of land inside its borders within sixty (60) days after the port authority has by resolution announced the lands, rights, rights-of-way, franchises, easements, or other property to be taken.

(B) Nothing herein contained shall authorize a port authority to take or disturb property or facilities belonging to any public corporation, public utility, or common carrier, which property or facilities are necessary and convenient in the operation of such public corporation, public utility, or common carrier, unless provision is made for the restoration, relocating, or duplication of such property or facilities, or upon the election of such public corporation, public utility, or common carrier, for the payment of compensation, if any at the sole cost of the port authority, subject to the following:

(i) If any restoration or duplication proposed to be made hereunder shall involve a relocation of such property or facilities, the new facilities and location shall be of at least comparable utilitarian value and effectiveness and such relocation shall not impair the ability of the public utility or common carrier to compete in its original area of operation.

(ii) Provisions for restoration or duplication shall be described in detail in the resolution for appropriation passed by the port authority.

~~(9)~~ **(8)** Accept, receive, and receipt for federal moneys, and other moneys, either public or private, for the acquisition, construction, enlargement, improvement, maintenance, equipment, or operation of a port or harbor or other navigation facilities, and sites therefor and comply with the provisions of the laws of the United States

and any rules and regulations made thereunder for the expenditure of federal moneys upon such ports and other navigation facilities.

~~(10)~~ **(9)** Maintain such funds as it deems necessary.

~~(11)~~ **(10)** Direct its agents or employees, when properly identified in writing, and after at least five (5) days written notice, to enter upon lands within the confines of its jurisdiction in order to make surveys and examinations preliminary to location and construction of works for the purposes of the port authority, without liability of the port authority or its agents or employees except for actual damage done.

~~(12)~~ **(11)** Sell or lease real and personal property not needed for the operation of the port authority and grant easements or rights-of-way over property of the port authority.

~~(13)~~ **(12)** Promote, advertise, and publicize the port and its facilities, provide traffic information and rate information to shippers and shipping interests, and appear before rate making authorities to represent and promote the interests of the port.

(13) Borrow money and secure the borrowing by a pledge of the following:

(A) Accounts receivable.

(B) A security interest in capital equipment for which the proceeds of the loan are used.

(C) Other security, including the excess of unobligated revenues over operating expenses.

(b) The term of a loan authorized by subsection (a)(13) may not exceed thirty-five (35) years.

SECTION 3. IC 8-10-5-8.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8.5. Port authorities created in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000), shall have all the powers of port authorities provided under section 8 of this chapter except the power to exercise eminent domain as provided in section ~~8(8)~~ **8(7)** of this chapter in any city having a population of:

(1) more than seventy-five thousand (75,000) but less than ninety thousand (90,000); or

(2) more than thirty-two thousand (32,000) but less than thirty-two thousand eight hundred (32,800).

SECTION 4. IC 8-10-5-8.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 8.7. (a) The board of directors may, by resolution, recommend to the governing body of the municipality or municipalities creating the port authority that they authorize general obligations, mortgage, or revenue bonds for any one (1) or more of the following purposes:**

(1) To acquire or improve port or harbor sites.

(2) To acquire, construct, extend, alter, or improve structures, ways, facilities, or equipment necessary for the proper operation of the port authority or the port or harbor within its jurisdiction.

(3) To refund outstanding bonds and matured interest coupons and issue and sell refunding bonds for that purpose.

(b) Before making a recommendation authorized by subsection (a), the board shall give notice of a public hearing at which time the board shall disclose the purpose for which the bond issue is proposed, the amount of the proposed issue, and all other pertinent data. At least ten (10) days before the date set for hearing, the board shall publish in two (2) newspapers of general circulation in the city, county, counties, or other municipalities involved, a notice of the date, time, place, and purpose of the hearing. If there is only one (1) newspaper, one (1) notice is sufficient.

(c) The governing body shall review the proposal of the board of directors of the port authority and if it approves shall provide for the advertisement and sale of the issue in compliance with IC 5-1-11. For purposes of this chapter, IC 5-1-11 applies as fully to mortgage bonds as to general obligation or revenue bonds.

(d) Bonds issued under the authority of this chapter are not subject to limitations on interest rates.

(e) The governing body shall fix the date, time, and place of payment of principal and interest, but no issue may have a maturity date later than forty (40) years after date of issue.

(f) Bonds issued under this chapter, together with the interest thereon, are tax exempt.

(g) The governing body shall apply the proceeds from the sale of bonds exclusively to the purposes for which the bonds were issued and only to the extent necessary therefor. Any remaining balance shall be placed in a sinking fund for the payment of the

bonds and the interest on the bonds.

(h) This chapter does not affect obligations existing before July 1, 2010, on outstanding bonds. If a board of directors or a port authority is discontinued, as provided in section 4 of this chapter, the primary obligations on its bonds remain unaffected. In addition, the city or county or municipalities involved in the issuance of bonds shall assume liability for the payment of the bonds according to their terms and in relation to their interest or proportion in the bonds.

SECTION 5. IC 8-10-5-8.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 8.9. With the approval of the governing body creating it, a port authority may sell, lease, or enter into a royalty contract for the natural or mineral resources of land that it owns. Money received from these sources shall be deposited in the nonreverting capital fund of the port authority.**

P.L.50-2010
[H.1099. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning agriculture and animals.

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

SECTION 1. IC 15-17-2-87, AS ADDED BY P.L.2-2008, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011]: Sec. 87. "Poultry", for purposes of **IC 15-17-3 and** IC 15-17-5, means a domesticated bird, whether live or dead.

SECTION 2. IC 15-17-3-13, AS AMENDED BY P.L.111-2009, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011]: Sec. 13. In addition to the powers and duties given the board in this article and by law, the board has the powers and

duties reasonable and necessary to do the following:

(1) Provide for the quarantine of animals and objects to prevent, control, and eradicate diseases and pests of animals.

(2) Develop, adopt, and implement programs and procedures for establishing and maintaining accredited, certified, validated, or designated disease or pest free or disease or pest monitored animals, herds, flocks, or areas, including the following:

(A) The establishment and maintenance of herds that are monitored for disease or pest syndromes.

(B) The establishment and maintenance of certified or validated brucellosis free herds, animals, and areas.

(C) The establishment and maintenance of accredited tuberculosis free herds, animals, and areas.

(3) Develop, adopt, and implement programs and plans for the prevention, detection, control, and eradication of diseases and pests of animals.

(4) Control or prohibit, by permit or other means, the movement and transportation into, out of, or within Indiana of animals and objects in order to prevent, detect, control, or eradicate diseases and pests of animals. When implementing controls or prohibitions, the board may consider whether animals or objects are diseased, suspected to be diseased, or under quarantine, or whether the animals or objects originated from a country, a state, an area, or a premises that is known or suspected to harbor animals or objects infected with or exposed to a disease or pest of animals.

(5) Control or prohibit the public and private sale of animals and objects in order to prevent the spread of disease and pests of animals.

(6) Control the use, sanitation, and disinfection of:

(A) public stockyards; and

(B) vehicles used to transport animals and objects into and within Indiana;

to accomplish the objectives of this article.

(7) Control the use, sanitation, and disinfection of premises, facilities, and equipment to accomplish the objectives of this article.

(8) Control the movement of animals and objects to, from, and

within premises where diseases or pests of animals may exist.
(9) Control the movement and disposal of carcasses of animals and objects.
(10) Control the manufacture, sale, storage, distribution, handling, and use of serums, vaccines, and other biologics and veterinary drugs, except those drugs for human consumption regulated under IC 16-42-19, to be used for the prevention, detection, control, and eradication of disease and pests of animals.
(11) Control and prescribe the means, methods, and procedures for the vaccination or other treatment of animals and objects and the conduct of tests for diseases and pests of animals.
(12) Develop, adopt, and implement plans and programs for the identification of animals, objects, premises, and means of conveyances. Plans and programs may include identification:

(A) of animals or objects that have been condemned under this article; and

(B) related to classification as to disease, testing, vaccination, or treatment status.

(13) Establish the terms and method of appraisal or other determination of value of animals and objects condemned under this article, the payment of any indemnities that may be provided for the animals and objects, and the regulation of the sale or other disposition of the animals or objects.
(14) Control the sale of baby chicks.
(15) Cooperate and enter into agreements with the appropriate departments and agencies of this state, any other state, or the federal government to prevent, detect, control, and eradicate diseases and pests of animals.
(16) Control or prohibit the movement and transportation into, out of, or within Indiana of wild animals, including birds, that might carry or disseminate diseases or pests of animals.
(17) Provide for condemning or abating conditions that cause, aggravate, spread, or harbor diseases or pests of animals.
(18) Establish and designate, in addition to the animal disease diagnostic laboratory under IC 21-46-3-1, other laboratories necessary to make tests of any nature for diseases and pests of animals.
(19) Investigate, develop, and implement the best methods for the

prevention, detection, control, suppression, or eradication of diseases and pests of animals.

(20) Investigate, gather, and compile information concerning the organization, business conduct, practices, and management of any registrant, licensee, permittee, applicant for a license, or applicant for a permit.

(21) Investigate allegations of unregistered, unlicensed, and unpermitted activities.

(22) Institute legal action in the name of the state of Indiana necessary to enforce:

(A) the board's orders and rules; and

(B) this article.

(23) Control the collection, transportation, and cooking of garbage to be fed to swine or other animals and all matters of sanitation relating to the collection, transportation, and cooking of garbage affecting the health of swine or other animals and affecting public health and comfort.

(24) Adopt an appropriate seal.

(25) Issue orders as an aid to enforcement of the powers granted by this article, IC 15-18-1, and IC 15-19-6.

(26) Control disposal plants and byproducts collection services and all matters connected to disposal plants and byproducts collection services.

(27) Abate biological or chemical substances that:

(A) remain in or on any animal before or at the time of slaughter as a result of treatment or exposure; and

(B) are found by the board to be or have the potential of being injurious to the health of animals or humans.

(28) Regulate the production, manufacture, processing, and distribution of products derived from animals to control health hazards that may threaten:

(A) animal health;

(B) the public health and welfare of the citizens of Indiana; and

(C) the trade in animals and animal products in and from Indiana.

(29) Cooperate and coordinate with local, state, and federal emergency management agencies to plan and implement disaster

emergency plans and programs as the plans and programs relate to animals in Indiana.

(30) Assist law enforcement agencies investigating allegations of cruelty and neglect of animals.

(31) Assist organizations that represent livestock **and poultry** producers with issues and programs related to the care of livestock **and poultry.**

(32) Establish a registry of commercial dog brokers and commercial dog breeders in Indiana.

SECTION 3. IC 15-17-3-23 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011]: **Sec. 23. The board may adopt rules to establish standards governing the care of livestock and poultry. The board shall consider the following when adopting the standards:**

(1) The health and husbandry of the livestock and poultry.

(2) Generally accepted farm management practices.

(3) Generally accepted veterinary standards and practices.

(4) The economic impact the standards may have on:

(A) livestock and poultry farmers;

(B) the affected livestock and poultry sector; and

(C) consumers.

P.L.51-2010
[H.1100. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

SECTION 1. IC 35-44-3-9.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 9.6. A person who knowingly or intentionally possesses a cellular telephone or other wireless or cellular communications device while incarcerated in a county jail commits a Class A misdemeanor.**

SECTION 2. [EFFECTIVE JULY 1, 2010] **IC 35-44-3-9.6, as added by this act, applies only to crimes committed after June 30, 2010.**

P.L.52-2010
[H.1119. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning natural and cultural resources.

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

SECTION 1. IC 14-32-4-24 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 24. (a) Claims against a district must be allowed and approved by the governing body of the district before payment by**

the district's fiscal officer. However, the governing body may, subject to review and approval at the governing body's next regular meeting, authorize the following:

(1) Payroll.

(2) Insurance premiums.

(3) Utility payments.

(4) Bulk mailing fees.

(5) Maintenance agreements and service agreements.

(6) Lease agreements and rental agreements.

(7) Expenses that must be paid because of emergency circumstances.

(8) Recurring or periodic expenses specifically authorized by a resolution adopted at a governing body meeting.

(b) Each payment under this section must be certified by the district's fiscal officer. The certification must be on a form prescribed by the state board of accounts.

P.L.53-2010

[H.1165. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning civil law and procedure.

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

SECTION 1. IC 34-55-10-2, AS AMENDED BY P.L.145-2008, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) This section does not apply to judgments obtained before October 1, 1977.

(b) The amount of each exemption under subsection (c) applies until a rule is adopted by the department of financial institutions under section 2.5 of this chapter.

(c) The following property of a debtor domiciled in Indiana is

exempt:

(1) Real estate or personal property constituting the personal or family residence of the debtor or a dependent of the debtor, or estates or rights in that real estate or personal property, of not more than fifteen thousand dollars ($15,000). The exemption under this subdivision is individually available to joint debtors concerning property held by them as tenants by the entireties.

(2) Other real estate or tangible personal property of eight thousand dollars ($8,000).

(3) Intangible personal property, including choses in action, deposit accounts, and cash (but excluding debts owing and income owing), of three hundred dollars ($300).

(4) Professionally prescribed health aids for the debtor or a dependent of the debtor.

(5) Any interest that the debtor has in real estate held as a tenant by the entireties. The exemption under this subdivision does not apply to a debt for which the debtor and the debtor's spouse are jointly liable.

(6) An interest, whether vested or not, that the debtor has in a retirement plan or fund to the extent of:

(A) contributions, or portions of contributions, that were made to the retirement plan or fund by or on behalf of the debtor or the debtor's spouse:

(i) which were not subject to federal income taxation to the debtor at the time of the contribution; or

(ii) which are made to an individual retirement account in the manner prescribed by Section 408A of the Internal Revenue Code of 1986;

(B) earnings on contributions made under clause (A) that are not subject to federal income taxation at the time of the levy; and

(C) roll-overs of contributions made under clause (A) that are not subject to federal income taxation at the time of the levy.

(7) Money that is in a medical care savings account established under IC 6-8-11.

(8) Money that is in a health savings account established under Section 223 of the Internal Revenue Code of 1986.

(9) Any interest the debtor has in a qualified tuition program, as

defined in Section 529(b) of the Internal Revenue Code of 1986, but only to the extent funds in the program are not attributable to:

(A) excess contributions, as described in Section 529(b)(6) of the Internal Revenue Code of 1986, and earnings on the excess contributions;

(B) contributions made by the debtor within one (1) year before the date of the levy or the date a bankruptcy petition is filed by or against the debtor, and earnings on the contributions; or

(C) the excess over five thousand dollars ($5,000) of aggregate contributions made by the debtor for all programs under this subdivision and education savings accounts under subdivision (10) having the same designated beneficiary:

(i) not later than one (1) year before; and

(ii) not earlier than two (2) years before;

the date of the levy or the date a bankruptcy petition is filed by or against the debtor, and earnings on the aggregate contributions.

(10) Any interest the debtor has in an education savings account, as defined in Section 530(b) of the Internal Revenue Code of 1986, but only to the extent funds in the account are not attributable to:

(A) excess contributions, as described in Section 4973(e) of the Internal Revenue Code of 1986, and earnings on the excess contributions;

(B) contributions made by the debtor within one (1) year before the date of the levy or the date a bankruptcy petition is filed by or against the debtor, and earnings on the contributions; or

(C) the excess over five thousand dollars ($5,000) of aggregate contributions made by the debtor for all accounts under this subdivision and qualified tuition programs under subdivision (9) having the same designated beneficiary:

(i) not later than one (1) year before; and

(ii) not earlier than two (2) years before;

the date of the levy or the date a bankruptcy petition is filed by or against the debtor, and earnings on the excess contributions.

(11) The debtor's interest in a refund or a credit received or to be

received under section 32 of the Internal Revenue Code of 1986.

(12) A disability benefit awarded to a veteran for a service connected disability under 38 U.S.C. 1101 et seq. This subdivision does not apply to a service connected disability benefit that is subject to child and spousal support enforcement under 42 U.S.C. 659(h)(1)(A)(ii)(V).

(d) A bankruptcy proceeding that results in the ownership by the bankruptcy estate of a debtor's interest in property held in a tenancy by the entireties does not result in a severance of the tenancy by the entireties.

(e) Real estate or personal property upon which a debtor has voluntarily granted a lien is not, to the extent of the balance due on the debt secured by the lien:

(1) subject to this chapter; or

(2) exempt from levy or sale on execution or any other final process from a court.

P.L.54-2010

[H.1178. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning public safety.

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

SECTION 1. IC 10-16-7-24 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 24. (a) As used in this section, "PDHRA" refers to the United States Department of Defense form "Post-Deployment Health Reassessment" (DD Form 2900) or a successor form adopted by the United States Department of Defense.**

(b) As used in this section, "trained health care provider" has the meaning set forth in the United States Department of Defense Instruction 6490.03 or a successor instruction adopted by the

United States Department of Defense.

(c) The adjutant general shall require a member of the Indiana National Guard who completes a PDHRA to participate in a face-to-face clinical interview with a trained health care provider concerning the Indiana National Guard member's PDHRA.

(d) The adjutant general may contract with a trained health care provider to provide the clinical interview described in subsection (c).

P.L.55-2010

[H.1186. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning courts and court officers.

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

SECTION 1. IC 33-35-1-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 6. A city or town that has not established a court under this chapter may enter into an interlocal agreement under IC 36-1-7 with a city or town that:**

(1) has established a court under this chapter; and

(2) is located in the same judicial circuit as the city or town that has not established a court;

to hear and dispose of ordinance violations that would otherwise come under the jurisdiction of a court established by the city or town under this chapter.

SECTION 2. IC 33-35-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. A city court has the following jurisdiction over crimes, infractions, and ordinance

violations:

(1) Jurisdiction of all violations of the ordinances of the city.

(2) Jurisdiction of all misdemeanors and all infractions.

(3) If the city that established the city court has entered into an interlocal agreement described in IC 33-35-1-6 with another city or a town, jurisdiction of all other ordinance violations described in the interlocal agreement.

SECTION 3. IC 33-35-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8. (a) A town court has exclusive jurisdiction of all violations of the ordinances of the town.

(b) A town court also has jurisdiction of all misdemeanors and all infractions.

(c) If the town that established the town court has entered into an interlocal agreement described in IC 33-35-1-6 with a city or another town, the town court has jurisdiction of all other ordinance violations described in the interlocal agreement.

SECTION 4. IC 33-36-2-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 4. A city or town that has not established a court under IC 33-35-1 or an ordinance violations bureau under this chapter may enter into an interlocal agreement under IC 36-1-7 with a municipal corporation that:**

(1) has established an ordinance violations bureau under this chapter; and

(2) is located in the same judicial circuit as the city or town that has not established a court or an ordinance violations bureau;

to hear and dispose of ordinance violations that would otherwise come under the jurisdiction of an ordinance violations bureau established by the city or town under this chapter.

SECTION 5. IC 33-36-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. **(a) Subject to subsection (b),** all sums collected by the violations clerk as civil penalties for ordinance violations shall be accounted for and paid to the municipal corporation as provided by law.

(b) If a city or town that has not established a court under IC 33-35-1 or an ordinance violations bureau under IC 33-36-2 has entered into an interlocal agreement described in IC 33-36-2-4 with

a municipal corporation, the sums collected by the violations clerk that involve the city or town that has not established a court or an ordinance violations bureau shall be accounted for and paid as provided in the interlocal agreement.

P.L.56-2010
[H.1194. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning public safety.

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

SECTION 1. IC 36-8-4-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 11. (a) If it is necessary for the safety board to reduce the number of members of the police or fire department by layoff for financial reasons, the last member appointed must be the first to be laid off, with other members also laid off in reverse hiring order, until the desired level is achieved.

(b) If the department is increased in number again, the members of the department who have been laid off under this section shall be reinstated before any new member is appointed to the department. The reinstatements begin with the last member laid off.

(c) A member who is laid off shall keep the appointing authority advised of ~~his~~ **the member's** current address. A member shall be informed of ~~his~~ **the member's** reinstatement by written notice sent by certified mail to ~~his~~ **the member's** last known address. Within twenty (20) calendar days after notice of reinstatement is sent to a member, ~~he~~ **the member** must advise the hiring body that ~~he~~ **the member** accepts reinstatement and will be able to commence employment on the date specified in the notice. All reinstatement rights granted to a member terminate upon ~~his~~ **the member's** failure to accept reinstatement within that twenty (20) day period or ~~three (3)~~ **five (5)** years after the day on which a member's layoff begins.

SECTION 2. IC 36-8-10-11.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 11.1. (a) As used in this section, "appointing authority" means the sheriff and the board.

(b) If it is necessary for the appointing authority to reduce the number of members of the department by layoff for financial reasons, the last member appointed to the department must be the first to be laid off. Additional members must be laid off in reverse hiring order until the desired level of employment is achieved.

(c) If department membership is increased, the members of the department who have been laid off under this section must be reinstated before any new member is appointed to the department. The last member to be laid off from the department must be the first to be reinstated. Additional members must be reinstated in reverse of the order in which the members were laid off.

(d) A member who is laid off shall keep the appointing authority advised of the member's current address. The appointing authority shall inform a member of the member's reinstatement by written notice sent by certified mail to the member's last known address.

(e) Not later than twenty (20) calendar days after the date notice of reinstatement is sent under subsection (d), the member must advise the appointing authority whether the member:

(1) accepts reinstatement; and

(2) will be able to commence employment on the date specified in the notice.

(f) All reinstatement rights granted to a member under this section terminate on the earlier of:

(1) the date the member fails to accept reinstatement within the time specified in subsection (e); or

(2) ~~three (3)~~ **five (5)** years after the date on which a member's layoff begins.

P.L.57-2010
[H.1350. Approved March 12, 2010.]

AN ACT to amend the Indiana Code concerning civil procedure.

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

SECTION 1. IC 34-44.5 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

ARTICLE 44.5. EVIDENCE: UNIFORM INTERSTATE DEPOSITIONS AND DISCOVERY ACT

Chapter 1. Uniform Interstate Depositions and Discovery Act

Sec. 1. As used in this chapter, "foreign jurisdiction" means a state other than Indiana.

Sec. 2. As used in this chapter, "foreign subpoena" means a subpoena issued under authority of a court of record of a foreign jurisdiction.

Sec. 3. As used in this chapter, "person" means an individual, a corporation, a business trust, an estate, a trust, a partnership, a limited liability company, an association, a joint venture, a public corporation, a government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

Sec. 4. As used in this chapter, "state" means any of the following:

(1) A state of the United States.

(2) The District of Columbia.

(3) Puerto Rico.

(4) The United States Virgin Islands.

(5) A federally recognized Indian tribe.

(6) Any territory or insular possession subject to the jurisdiction of the United States.

Sec. 5. As used in this chapter, "subpoena" means a document, however denominated, issued under authority of a court of record

that requires a person to:

(1) attend and give testimony at a deposition;

(2) produce and allow inspection and copying of designated:

(A) books;

(B) documents;

(C) records;

(D) electronically stored information; or

(E) other tangible things;

in the possession, custody, or control of the person; or

(3) allow inspection of premises under the control of the person.

Sec. 6. (a) To request issuance of a subpoena under this chapter that is based on a foreign subpoena, a party must submit the foreign subpoena to the clerk of the court in the county in which discovery is sought to be conducted in Indiana. A request for the issuance of a subpoena under this chapter does not constitute an appearance in a court of this state.

(b) When a party submits a foreign subpoena to the clerk of a court in Indiana, the clerk, in accordance with the court's procedure, shall promptly issue a subpoena for service upon the person to which the foreign subpoena is directed.

(c) A subpoena issued under subsection (b) must:

(1) incorporate the terms used in the foreign subpoena; and

(2) contain or be accompanied by the names, addresses, and telephone numbers of the following:

(A) All counsel of record in the proceeding to which the subpoena relates.

(B) Any party not represented by counsel.

Sec. 7. A subpoena issued by a clerk of the court under section 6 of this chapter must be served in compliance with all applicable laws concerning service of a subpoena in Indiana.

Sec. 8. All applicable Indiana law concerning compliance with subpoenas to:

(1) attend and give testimony;

(2) produce designated books, documents, records, electronically stored information, or other tangible things; or

(3) allow inspection of premises;

apply to subpoenas issued under section 6 of this chapter.

Sec. 9. An application to a court for a protective order or to

enforce, quash, or modify a subpoena issued by a clerk of court under section 6 of this chapter must:

(1) comply with all applicable Indiana laws; and

(2) be submitted to a court in the county in which discovery is to be conducted.

Sec. 10. In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact the Uniform Interstate Depositions and Discovery Act.

Sec. 11. This chapter applies to requests for discovery in cases:

(1) pending on July 1, 2010; or

(2) filed after June 30, 2010.

SECTION 2. IC 34-59 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

ARTICLE 59. UNIFORM UNSWORN FOREIGN DECLARATIONS ACT

Chapter 1. Uniform Unsworn Foreign Declarations Act

Sec. 1. (a) This chapter applies to an unsworn declaration by a declarant who at the time of making the declaration is physically located outside the boundaries of the United States, whether or not the location is subject to the jurisdiction of the United States.

(b) This chapter does not apply to a declaration by a declarant who is physically located on property that is within the boundaries of the United States and subject to the jurisdiction of another country or a federally recognized Indian tribe.

Sec. 2. As used in this chapter, "boundaries of the United States" means the geographic boundaries of:

(1) the United States;

(2) Puerto Rico;

(3) the United States Virgin Islands; and

(4) any territory or insular possession subject to the jurisdiction of the United States.

Sec. 3. As used in this chapter, "law" includes the following:

(1) The federal or a state constitution.

(2) A federal or state statute.

(3) A judicial decision or order.

(4) A rule of court.

(5) An executive order.

(6) An administrative rule, regulation, or order.

Sec. 4. As used in this chapter, "record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

Sec. 5. As used in this chapter, "sign" means, with present intent to authenticate or adopt a record:

(1) to execute or adopt a tangible symbol; or

(2) to attach to or logically associate with the record an electronic symbol, sound, or process.

Sec. 6. As used in this chapter, "state" means any of the following:

(1) A state of the United States.

(2) The District of Columbia.

(3) Puerto Rico.

(4) The United States Virgin Islands.

(5) A federally recognized Indian tribe.

(6) Any territory or insular possession subject to the jurisdiction of the United States.

Sec. 7. (a) As used in this chapter, "sworn declaration" means a declaration in a signed record given under oath.

(b) The term includes a sworn statement, verification, certificate, and affidavit.

Sec. 8. As used in this chapter, "unsworn declaration" means a declaration in a signed record that is not given under oath but is given under penalty of perjury.

Sec. 9. (a) Except as provided in subsection (b), if an Indiana law requires or allows the use of a sworn declaration, an unsworn declaration meeting the requirements of this chapter has the same effect as a sworn declaration.

(b) This chapter does not apply to:

(1) a deposition;

(2) an oath of office;

(3) an oath required to be given before a specified official other than a notary public;

(4) a declaration to be recorded under IC 32; or

(5) an oath required by IC 29-1-5.

Sec. 10. If an Indiana law requires that a sworn declaration be presented in a particular medium, an unsworn declaration must be presented in that medium.

Sec. 11. An unsworn declaration under this chapter must be in substantially the following form:

I declare and affirm under penalty of perjury under the laws of Indiana that the foregoing is true and correct, and that I am physically located outside the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States.

Executed on the _____ day of _____, _____, at
(date) (month) (year)
_____, _____.
(city or other location, and state) (country)

_____
(printed name)

_____
(signature)

Sec. 12. In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact the Uniform Unsworn Foreign Declarations Act.

Sec. 13. This chapter modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7001 et seq.) but does not:

(1) modify, limit, or supersede 15 U.S.C. 7001(c); or

(2) authorize electronic delivery of any of the notices described in 15 U.S.C. 7003(b).

P.L.58-2010
[H.1001. Approved March 17, 2010.]

AN ACT to amend the Indiana Code concerning the general assembly.

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

SECTION 1. IC 2-2.1-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011]: Sec. 2. (a) Not later than seven (7) calendar days following the first session day in January of each year every member of the general assembly shall file with the principal clerk of the house or secretary of the senate, respectively, a written statement of the member's or candidate's economic interests for the preceding calendar year listing the following:

(1) The name of the member's or candidate's employer and the employer of the member's or candidate's spouse and the nature of the employer's business. The house of representatives and senate need not be listed as an employer.

(2) The name of any sole proprietorship owned or professional practice operated by the member or candidate or the member's or candidate's spouse and the nature of the business.

(3) The name of any partnership of which the member or candidate or the member's or candidate's spouse is a member and the nature of the partnership's business.

(4) The name of any corporation of which the member or candidate or the member's or candidate's spouse is an officer or director and the nature of the corporation's business. Churches need not be listed.

(5) The name of any corporation in which the member or candidate or the member's or candidate's spouse or unemancipated children own stock or stock options having a fair market value in excess of ten thousand dollars ($10,000). No time or demand deposit in a financial institution or insurance policy

need be listed.

(6) The name of any state agency or the supreme court of Indiana which licenses or regulates the following:

(A) The member's or candidate's or the member's or candidate's spouse's profession or occupation.

(B) Any proprietorship, partnership, corporation, or limited liability company listed under subdivision (2), (3), or (4) and the nature of the licensure or regulation.

The requirement to file certain reports with the secretary of state or to register with the department of state revenue as a retail merchant, manufacturer, or wholesaler shall not be considered as licensure or regulation.

~~(7) The name of any person whom the member or candidate knows to have been a lobbyist in the previous calendar year and knows to have purchased any of the following:~~

~~(A) From the member or candidate, the member's or candidate's sole proprietorship, or the member's or candidate's family business, goods or services for which the lobbyist paid in excess of one hundred dollars ($100).~~

~~(B) From the member's or candidate's partner, goods or services for which the lobbyist paid in excess of one thousand dollars ($1,000).~~

~~This subdivision does not apply to purchases made after December 31, 1998, by a lobbyist from a legislator's retail business made in the ordinary course of business at prices that are available to the general public. For purposes of this subdivision, a legislator's business is considered a retail business if the business is a retail merchant as defined in IC 6-2.5-1-8.~~

~~(8) The name of any person or entity from whom the member or candidate received the following:~~

~~(A) Any gift of cash from a lobbyist.~~

~~(B) Any single gift other than cash having a fair market value in excess of one hundred dollars ($100).~~

~~However, a contribution made by a lobbyist to a charitable organization (as defined in Section 501(c) of the Internal Revenue Code) in connection with a social or sports event attended by legislators need not be listed by a member of the general assembly unless the contribution is made in the name of the legislator.~~

~~(C) Any gifts other than cash having a fair market value in the aggregate in excess of two hundred fifty dollars ($250). Campaign contributions need not be listed. Gifts from a spouse or close relative need not be listed unless the donor has a substantial economic interest in a legislative matter.~~

~~(9)~~ **(7)** The name of any lobbyist who is:

(A) a member of a partnership or limited liability company;

(B) an officer or a director of a corporation; or

(C) a manager of a limited liability company;

of which the member of or candidate for the general assembly is a partner, an officer, a director, a member, or an employee, and a description of the legislative matters which are the object of the lobbyist's activity.

~~(10)~~ **(8)** The name of any person or entity on whose behalf the member or candidate has appeared before, contacted, or transacted business with any state agency or official thereof, the name of the state agency, the nature of the appearance, contact, or transaction, and the cause number, if any. This requirement does not apply when the services are rendered without compensation.

~~(11)~~ **(9)** The name of any limited liability company of which the member of the general assembly, the candidate, or the member's or candidate's individual spouse has an interest.

(b) Before any person who is not a member of the general assembly files the person's declaration of candidacy, declaration of intent to be a write-in candidate, or petition of nomination for office or is selected as a candidate for the office under IC 3-13-1 or IC 3-13-2, the person shall file with the clerk of the house or secretary of the senate, respectively, the same written statement of economic interests for the preceding calendar year that this section requires members of the general assembly to file.

(c) Any member of or candidate for the general assembly may file an amended statement upon discovery of additional information required to be reported.

SECTION 2. IC 2-2.1-3-9.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 9.5. (a) As used in this section, "honorarium" means a payment of money for an appearance or a speech. The term does not include payment or reimbursement of travel expenses.**

(b) A member of the general assembly may not receive an honorarium for an appearance or a speech made or given in the member's capacity as a legislator.

SECTION 3. IC 2-2.1-3-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 12. **The following constitute disorderly behavior and may be punished by the house of representatives or senate as provided in Article 4, Section 14 of the Constitution of the State of Indiana:**

(1) Willful failure to file a required statement by the deadline prescribed in this chapter or knowingly filing a false statement. ~~or~~

(2) Knowing violation of section 9, **9.5,** or 10 of this chapter. ~~shall constitute disorderly behavior and may be punished by the house or senate as provided in Article 4, Section 14 of the Constitution of the State of Indiana.~~

SECTION 4. IC 2-7-1-0.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE NOVEMBER 1, 2010]: **Sec. 0.1. The definitions in this chapter apply throughout this article.**

SECTION 5. IC 2-7-1-1.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE NOVEMBER 1, 2010]: **Sec. 1.3. "Candidate" refers to a candidate for election to the general assembly.**

SECTION 6. IC 2-7-1-1.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE NOVEMBER 1, 2010]: **Sec. 1.7. (a) "Close relative" of an individual refers to any of the following:**

(1) The individual's spouse.

(2) A parent of the individual or a parent of the individual's spouse.

(3) A child of the individual or a child of the individual's spouse.

(4) A sibling of the individual or a sibling of the individual's spouse.

(5) An aunt or an uncle of the individual or an aunt or uncle of the individual's spouse.

(6) A niece or nephew of the individual or a niece or nephew of the individual's spouse.

(7) A grandparent of the individual or a grandparent of the

individual's spouse.

(8) A grandchild of the individual or a grandchild of the individual's spouse.

(9) A great-grandparent of the individual or a great-grandparent of the individual's spouse.

(10) A great-grandchild of the individual or a great-grandchild of the individual's spouse.

(b) A relative by adoption, half-blood, marriage, or remarriage is considered as a relative of whole kinship.

SECTION 7. IC 2-7-1-1.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE NOVEMBER 1, 2010]: **Sec. 1.9. "Commission" refers to the Indiana lobby registration commission established by IC 2-7-1.6-1.**

SECTION 8. IC 2-7-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE NOVEMBER 1, 2010]: Sec. 4. (a) "Gift" means the voluntary transfer of anything of value without consideration.

(b) The term does not include ~~any of the following:~~

~~(1) A gift received from a relative within the third degree of kinship of the person or of the person's spouse, or from the spouse of any such relative.~~

~~(2)~~ a contribution (as defined in IC 3-5-2-15).

SECTION 9. IC 2-7-1-7.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE NOVEMBER 1, 2010]: **Sec. 7.2. "Legislative body" refers to any of the following:**

(1) The general assembly.

(2) The house of representatives.

(3) The senate.

(4) A standing or other committee established by the rules of the house of representatives or the senate.

(5) A committee established by statute or by the legislative council. An individual who:

(A) is a member of a committee described in this subdivision; and

(B) is not a member of the general assembly;

is not considered to be a member of a legislative body for purposes of this article.

(6) A caucus of the house of representatives or the senate.

SECTION 10. IC 2-7-1-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE NOVEMBER 1, 2010]: **Sec. 7.5. "Legislative liaison" has the meaning set forth in IC 5-14-7-3.**

SECTION 11. IC 2-7-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE NOVEMBER 1, 2010]: Sec. 8. "Legislative ~~official"~~ **person"** means **any of the following:**

(1) A member. ~~of the general assembly, or any~~

(2) A candidate.

(3) An officer of the general assembly.

(4) An employee ~~or~~ **of the general assembly.**

(5) A member of the immediate family of anyone described in subdivision (1), (2), (3), or (4). A lobbyist who is a close relative of a legislative person is not considered a legislative person.

(6) A paid consultant of the general assembly. ~~or~~

(7) An agency of the general assembly.

SECTION 12. IC 2-7-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE NOVEMBER 1, 2010]: Sec. 9. "Lobbying" means communicating by any means, or paying others to communicate by any means, with any legislative ~~official~~ **person** with the purpose of influencing any legislative action.

SECTION 13. IC 2-7-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE NOVEMBER 1, 2010]: Sec. 10. **(a)** "Lobbyist" means any person who:

(1) engages in lobbying; and

(2) in any registration year, receives or expends an aggregate of **at least** five hundred dollars ($500) in compensation or expenditures reportable under this article for lobbying, whether the compensation or expenditure is solely for lobbying or the lobbying is incidental to that individual's regular employment.

(b) The following are not considered lobbyists:

(1) A public employee or public official.

(2) The National Conference of State Legislatures.

(3) The National Conference of Insurance Legislators.

(4) The American Legislative Exchange Council.

(5) Women in Government.

(6) The Council of State Governments.

(7) The National Black Caucus of State Legislators.

(8) Any other national organization established for the education and support of legislative leadership, legislators, legislative staff, or related government employees.

SECTION 14. IC 2-7-1-10.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE NOVEMBER 1, 2010]: **Sec. 10.5. "Member", except as used in section 8(5) of this chapter, IC 2-7-3-3(a), and IC 2-7-7-8, refers to a member of the general assembly.**

SECTION 15. IC 2-7-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE NOVEMBER 1, 2010]: Sec. 2. (a) Each registration statement shall be filed not later than January 15 or within fifteen (15) days after ~~the registrant~~ **a person** becomes a lobbyist, whichever is later. Each registration statement expires on December 31 of the year for which it was issued. The commission may accept registration statements before January 1 of the year to which they apply, as the commission determines.

(b) Subject to subsections (c) and (d), the commission shall impose a late registration fee of ~~ten~~ **not more than one hundred** dollars ~~($10)~~ **($100)** per day for each day after the deadline until the statement is filed.

(c) The late registration fee shall not exceed ~~one hundred~~ **four thousand five hundred** dollars ~~($100).~~ **($4,500).**

(d) The commission may waive the late registration fee if the commission determines that the circumstances make imposition of the fee inappropriate.

SECTION 16. IC 2-7-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE NOVEMBER 1, 2010]: Sec. 2. (a) One (1) activity report shall be filed not later than May 31, covering the period from November 1 of the immediately preceding calendar year through April 30. The other activity report shall be filed not later than November 30, covering the period from May 1 through October 31. The commission shall provide a copy of an activity report to a member of the general assembly at the request of the member.

(b) Subject to subsections (c) and (d), the commission shall impose a penalty of ~~ten~~ **not more than one hundred** dollars ~~($10)~~ **($100)** per day for each day that the person fails to file any report required by this chapter until the report is filed.

(c) The penalty shall not exceed ~~one hundred~~ **four thousand five hundred** dollars ~~($100)~~ **($4,500)** per report.

(d) The commission may waive the penalty if the commission determines that the circumstances make imposition of the penalty inappropriate.

SECTION 17. IC 2-7-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE NOVEMBER 1, 2010]: Sec. 3. (a) The activity reports of each lobbyist shall include the following **information:**

(1) A complete and current statement of the information required to be supplied under IC 2-7-2-3 and IC 2-7-2-4.

(2) Total expenditures on lobbying (prorated, if necessary) broken down to include at least the following categories:

(A) Compensation to others who perform lobbying services.

(B) Reimbursement to others who perform lobbying services.

(C) Receptions.

(D) Entertainment, including meals. ~~However, a function to which the entire general assembly is invited is not lobbying under this article.~~

(E) Gifts made to ~~an employee of the general assembly or a member of the immediate family of an employee of the general assembly.~~ **a legislative person.**

(3) **Subject to section 3.5 of this chapter,** a statement of ~~expenditures and gifts~~ **each:**

(A) expenditure for entertainment (including meals and drink); or

(B) gift;

that ~~equal one hundred~~ **equals fifty** dollars ~~($100)~~ **($50)** or more in one (1) day, or **expenditures for entertainment (including meals and drink) or gifts** that together total more than ~~five~~ **two** hundred **fifty** dollars ~~($500)~~ **($250)** during the calendar year, if the expenditures and gifts are made by the ~~registrant~~ **lobbyist** or ~~his~~ **the lobbyist's** agent to benefit **a specific legislative person.**

~~(A) a member of the general assembly;~~

~~(B) an officer of the general assembly;~~

~~(C) an employee of the general assembly; or~~

~~(D) a member of the immediate family of anyone included in clause (A), (B), or (C).~~

~~(4) Whenever a lobbyist makes an expenditure that is for the~~

~~benefit of all of the members of the general assembly on a given occasion, the total amount expended shall be reported, but the lobbyist shall not prorate the expenditure among each member of the general assembly.~~

~~(5)~~ **(4)** A list of the general subject matter of each bill or resolution concerning which a lobbying effort was made within the registration period.

~~(6) The name of the beneficiary of each expenditure or gift made by the lobbyist or his agent that is required to be reported under subdivision (3).~~

~~(7)~~ **(5)** The name of each member of the general assembly from whom the lobbyist has received an affidavit required under IC 2-2.1-3-3.5.

(b) In the second semiannual report, when total amounts are required to be reported, totals shall be stated both for the period covered by the statement and for the entire reporting year.

(c) An amount reported under this section is not required to include the following:

(1) Overhead costs.

(2) Charges for any of the following:

(A) Postage.

(B) Express mail service.

(C) Stationery.

(D) Facsimile transmissions.

(E) Telephone calls.

(3) Expenditures for the personal services of clerical and other support staff persons who are not lobbyists.

(4) Expenditures for leasing or renting an office.

(5) Expenditures for lodging, meals, and other personal expenses of the lobbyist.

(d) A report of an expenditure under subsection (a)(3) must state the following information:

(1) The name of the lobbyist making the expenditure.

(2) A description of the expenditure.

(3) The amount of the expenditure.

SECTION 18. IC 2-7-3-3.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE NOVEMBER 1, 2010]: **Sec. 3.3. (a) This section does not apply to**

gifts made between close relatives.

(b) A lobbyist shall file a written report whenever the lobbyist makes a gift with respect to a legislative person that is required to be included in a report under section 3(a)(3) of this chapter.

(c) A report under this section must state the following:

(1) The name of the lobbyist making the gift.

(2) A description of the gift.

(3) The amount of the gift.

(d) A lobbyist shall file a copy of a report required by this section with all the following:

(1) The commission.

(2) The legislative person to whom the report is made.

(3) The principal clerk of the house of representatives, if the legislative person is a member of, or a candidate for election to, the house of representatives.

(4) The secretary of the senate, if the legislative person is a member of, or candidate for election to, the senate.

(e) A lobbyist shall file a report required by this section not later than fifteen (15) business days after making the gift. A report filed under this section is confidential and is not available for public inspection or copying until ten (10) business days after the report is filed with the commission.

(f) Not later than January 7 each year, the commission shall provide to each member and candidate a written compilation of all reports filed under subsection (d) relating to that member or candidate. The compilation must provide the following information to the member or candidate for each gift reported under subsection (d):

(1) A description of the gift.

(2) The amount of the gift.

(3) The name of the lobbyist making the gift.

SECTION 19. IC 2-7-3-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE NOVEMBER 1, 2010]: **Sec. 3.5. (a) If an expenditure for entertainment (including meals and drink) or a gift can clearly and reasonably be attributed to a particular legislative person, the expenditure must be reported with respect to that particular legislative person.**

(b) A report of an expenditure with respect to a particular

legislative person:

(1) must report actual amounts; and

(2) may not allocate to the particular legislative person a prorated amount derived from an expense made with respect to several legislative persons;

to the extent practicable.

(c) An activity report must report expenditures for a function or activity to which all the members of a legislative body are invited. Expenditures reported for a function or activity described in this subsection may not be allocated and reported with respect to a particular legislative person.

(d) If two (2) or more lobbyists contribute to an expenditure, each lobbyist shall report the actual amount the lobbyist contributed to the expenditure. For purposes of reporting such an expenditure, the following apply:

(1) For purposes of determining whether the expenditure is reportable, the total amount of the expenditure with respect to a particular legislative person must be determined and not the amount that each lobbyist contributed to that expenditure.

(2) Each lobbyist shall report the actual amount the lobbyist contributed to the expenditure, even if that amount would not have been reportable under this section if only one (1) lobbyist made an expenditure of that amount.

(e) The report of an expenditure with respect to a particular legislative person may not include any amount that the particular legislative person contributed to the expenditure.

(f) An activity report may not report expenditures or gifts relating to property or services received by a legislative person if the legislative person paid for the property or services the amount that would be charged to any purchaser of the property or services in the ordinary course of business.

(g) An activity report may not report expenditures or gifts made between close relatives unless the expenditure or gift is made in connection with a legislative action.

(h) An activity report may not report expenditures or gifts relating to the performance of a legislative person's official duties, including the legislative person's service as a member of any of the following:

(1) The legislative council.

(2) The budget committee.

(3) A standing or other committee established by the rules of the house of representatives or the senate.

(4) A study committee established by statute or by the legislative council.

(5) A statutory board or commission.

(i) An activity report may not report a contribution (as defined in IC 3-5-2-15).

SECTION 20. IC 2-7-3-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE NOVEMBER 1, 2010]: **Sec. 7. (a) This section does not apply to a purchase by a lobbyist from a member's or candidate's business made in the ordinary course of business at prices that are available to the general public.**

(b) As used in this section, "purchase" refers to a purchase of goods or services for which the lobbyist paid more than one hundred dollars ($100) from any of the following:

(1) A member or candidate.

(2) A member's or candidate's sole proprietorship.

(3) A member's or candidate's family business, regardless of the manner of the family business's legal organization.

(c) A lobbyist shall file a written report with respect to a member or candidate whenever the lobbyist makes a purchase.

(d) A report required by this section must state the following:

(1) The name of the lobbyist making the purchase.

(2) A description of the purchase.

(3) The amount of the purchase.

(e) A lobbyist shall file a copy of a report required by this section with all the following:

(1) The commission.

(2) The member or candidate with respect to whom the report is made.

(3) The principal clerk of the house of representatives, if the member or candidate is a member of, or a candidate for election to, the house of representatives.

(4) The secretary of the senate, if the member or candidate is a member of, or candidate for election to, the senate.

(f) A lobbyist shall file a report required by this section not later than fifteen (15) business days after making the purchase. A report

filed under this section is confidential and is not available for public inspection or copying until ten (10) business days after the report is filed with the commission.

(g) Not later than January 7 each year, the commission shall provide to each member and candidate a written compilation of all reports filed under subsection (e) relating to that member or candidate. The compilation must provide the following information to the member or candidate for each purchase:

(1) A description of the purchase.

(2) The amount of the purchase.

(3) The name of the lobbyist making the purchase.

SECTION 21. IC 2-7-4-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE NOVEMBER 1, 2010]: **Sec. 5.5. (a) The commission shall make copies of all the following available on the Internet:**

(1) Reports, statements, other documents required to be filed under this article.

(2) Manuals, indices, summaries, and other documents the commission is required to compile, publish, or maintain under this article.

(b) The commission shall make copies of all reports required to be made by legislative liaisons under IC 5-14-7 available on the Internet.

SECTION 22. IC 2-7-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE NOVEMBER 1, 2010]: Sec. 6. (a) The commission shall inspect and audit at least five percent (5%) of all registration statements and reports filed with the commission under this chapter by requiring the ~~registrant~~ **lobbyist** to produce verifying documents. The statements and reports inspected and audited shall be selected at random by a computer random number generator. Nothing in this chapter shall be construed as prohibiting the commission from inspecting and auditing any statement or report if the commission has reason to believe that a violation of this chapter may have occurred.

(b) Verifying documents under this section while in the possession of the commission are confidential.

SECTION 23. IC 2-7-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE NOVEMBER 1, 2011]: Sec. 1. ~~It is unlawful for any~~ **A** legislative ~~official to~~ **person may not** receive compensation or

reimbursement other than from the state for personally engaging in lobbying.

SECTION 24. IC 2-7-5-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2012]: **Sec. 7. (a) An individual who is a member of the general assembly after December 31, 2011, may not be:**

(1) registered as a lobbyist under this article; or

(2) employed as a legislative liaison;

during the period described in subsection (b).

(b) The period referred to in subsection (a):

(1) begins on the day the individual ceases to be a member of the general assembly; and

(2) ends three hundred sixty-five (365) days after the date the individual ceases to be a member of the general assembly.

SECTION 25. IC 2-7-5-7.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7.1. (a) This section applies only to an individual who is a:**

(1) candidate for nomination for election to the general assembly in 2010; or

(2) member of the general assembly on November 3, 2010.

(b) An individual described in subsection (a) may not be:

(1) registered as a lobbyist under this article; or

(2) employed as a legislative liaison;

before June 1, 2011.

(c) An individual described in subsection (a) may be registered as a lobbyist after May 31, 2011.

(d) This section expires January 1, 2012.

SECTION 26. IC 2-7-5-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE NOVEMBER 1, 2010]: **Sec. 8. (a) This section does not apply to gifts made between close relatives.**

(b) A lobbyist may not make a gift with a value of fifty dollars ($50) or more to a legislative person unless the lobbyist receives the consent of the legislative person before the gift is made. The lobbyist must inform the particular legislative person of the cost of the gift at the time the lobbyist seeks the consent of the legislative person.

SECTION 27. IC 2-7-5-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE NOVEMBER 1, 2010]: **Sec. 9. (a) This section does not apply to the following:**

(1) Expenses associated with travel outside Indiana for any purpose that is paid for by an organization or corporation of which the legislative person or the legislative person's spouse is an officer, member of the board of directors, employee, or independent contractor.

(2) Travel expenses of a legislative person attending a public policy meeting if:

(A) the legislative person's sole purpose for attending the meeting is to serve as a speaker or other key participant in the meeting; and

(B) the speaker of the house of representatives or the president pro tempore of the senate approves the payment of the travel expenses in writing.

(b) As used in this section, "travel expenses" includes expenses for transportation, lodging, meals, registration fees, and other expenses associated with travel.

(c) Except as provided in subsection (a), a lobbyist may not pay for or reimburse for travel expenses of a legislative person for travel outside Indiana for any purpose.

SECTION 28. IC 2-7-5-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 10. (a) Except as provided in subsection (c), this section does not apply to a lobbyist if the lobbyist's activity under this chapter is governed by the Rules of Professional Conduct of the Indiana supreme court.**

(b) As used in this section, "conflict of interest" means a circumstance where:

(1) the representation of a client will be directly adverse to another client; or

(2) there is a significant risk that the representation of one (1) or more clients will be materially limited by the lobbyist's responsibilities to:

(A) another client; or

(B) a personal interest of the lobbyist.

(c) A lobbyist shall file with the commission a written statement

that describes the procedures that the lobbyist and the lobbyist's client will follow if the lobbyist or the client determines at any time that the lobbyist's representation of the client might involve a conflict of interest. The lobbyist shall file the statement with the commission at the time the lobbyist files the lobbyist's annual registration statement under IC 2-7-2. If the lobbyist's activity under this chapter is governed by the Rules of Professional Conduct of the Indiana supreme court, the lobbyist shall file a statement to that effect with the commission.

(d) The statement filed under subsection (c) must be included in the agreement between the lobbyist and the client for the lobbyist's services as a lobbyist.

(e) A lobbyist may not represent a client if the representation involves a conflict of interest except as is provided in the statement filed by the lobbyist under subsection (c).

SECTION 29. IC 2-7-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE NOVEMBER 1, 2010]: Sec. 3. ~~Whoever~~ **A person who** knowingly or intentionally makes a false report under this ~~chapter~~ **article** that overstates or understates the amount of ~~any or all expenditures or gifts~~ **an expenditure or gift** commits a Class D felony.

SECTION 30. IC 2-7-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE NOVEMBER 1, 2010]: Sec. 6. (a) The commission may impose either or both of the following sanctions if, after a hearing under IC 4-21.5-3, the commission finds that a lobbyist failed to file a report with ~~a member of the general assembly~~ **a legislative person** required by ~~IC 2-7-3-6.~~ **IC 2-7-3-3.3 or IC 2-7-3-7:**

(1) Revoke the registration of the lobbyist.

(2) Assess a civil penalty against the lobbyist. A civil penalty assessed under this subdivision may not be more than five hundred dollars ($500).

(b) In imposing sanctions under subsection (a), the commission shall consider the following:

(1) Whether the failure to file the report was willful or negligent.

(2) Any mitigating circumstances.

SECTION 31. IC 3-9-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 12. (a) This section does not apply to:

(1) a member of the general assembly; or

(2) a candidate's committee of a member of the general assembly; with respect to an office other than a legislative office **or a state office** to which the member seeks election.

(b) As used in this section, "affected person" refers to any of the following:

(1) An individual who holds a legislative office.

(2) A candidate for a legislative office.

(3) An individual who holds a state office.

(4) A candidate for a state office.

(c) As used in this section, "prohibited period" means the period:

(1) beginning on the day in January in each odd-numbered year the general assembly reconvenes under IC 2-2.1-1-2; and

(2) through the day the general assembly adjourns sine die in an odd-numbered year under IC 2-2.1-1-2.

(d) During the prohibited period, an affected person, an affected person's candidate's committee, and a legislative caucus committee may not do any of the following:

(1) Solicit campaign contributions.

(2) Accept campaign contributions.

(3) Conduct other fundraising activities. This subdivision does not prohibit an affected person from participating in party activities conducted by a regular party committee.

SECTION 32. IC 3-9-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011]: Sec. 3. **(a)** A candidate for legislative office and the candidate's committee shall file each report, notice, or other instrument required by this article with the election division. ~~The candidate and committee shall also file a duplicate copy with the county election board of the county in which the candidate resides.~~

(b) The circuit court clerk shall, at the request of any person, furnish the person a copy of a report, notice, or other instrument required by this article for a candidate for a legislative office from electronic records maintained on the secretary of state's or election division's web site. The circuit court clerk shall charge for a copy of records furnished under this subsection as provided in IC 5-14-3.

SECTION 33. IC 4-2-6-15 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE

UPON PASSAGE]: **Sec. 15. (a) This section does not apply to the following:**

(1) A communication made by the governor concerning the public health or safety.

(2) A communication:

(A) that a compelling public policy reason justifies the state officer to make; and

(B) the expenditure for which is approved by the budget agency after an advisory recommendation from the budget committee.

(b) This section does not prohibit a state officer from using in a communication the title of the office the state officer holds.

(c) As used in this section, "communication" refers only to the following:

(1) An audio communication.

(2) A video communication.

(3) A print communication in a newspaper (as defined in IC 5-3-1-0.4).

(d) A state officer may not use the state officer's name or likeness in a communication paid for entirely or in part with appropriations made by the general assembly, regardless of the source of the money.

SECTION 34. IC 5-14-7 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE NOVEMBER 1, 2010]:

Chapter 7. Legislative Liaisons

Sec. 1. The definitions in IC 2-7-1 apply in this chapter.

Sec. 2. As used in this chapter, "employer" refers to either of the following:

(1) An agency (as defined in IC 4-2-6-1).

(2) A state educational institution (as defined in IC 21-7-13-32).

Sec. 3. As used in this chapter, "legislative liaison" refers to an individual:

(1) designated by an employer; and

(2) who receives at least ten percent (10%) of the individual's annual compensation to engage in lobbying.

Sec. 4. (a) An employer shall annually file a single, aggregate report of expenditures for lobbying activities by each of the

employer's legislative liaisons stating expenditures for entertainment (including meals and drink) or gifts that:

(1) total per legislative person:

(A) fifty dollars ($50) or more in one (1) day; or

(B) together more than two hundred fifty dollars ($250) during the calendar year; and

(2) would be reportable to the lobby registration commission by a registered lobbyist under IC 2-7.

(b) A report under this section may not include the following:

(1) Items provided under a statute or from an agency for redistribution to constituents.

(2) Items provided during the performance of official duties by a legislative person, including the legislative person's service as a member of, or participant in, any of the following:

(A) The legislative council.

(B) The budget committee.

(C) A standing or other committee established by the rules of the house of representatives or the senate.

(D) A study committee established by statute or by the legislative council.

(E) A statutory board or commission.

(3) A scholarship, student employment, or other financial aid granted to a legislative person for attendance at a state educational institution.

(4) Expenditures relating to an economic development effort, function, or event by an agency, including those hosted by the Indiana economic development corporation.

Sec. 5. (a) A report required by this chapter must:

(1) be filed with the commission not later than November 30 of each year; and

(2) cover the period from November 1 of the previous year through October 31 of the year in which the report is filed.

(b) The first report required by this chapter must:

(1) be filed with the commission not later than November 30, 2011; and

(2) cover the period from November 1, 2010, through October 31, 2011.

Sec. 6. If an employer has no expenditures for entertainment (including meals and drink) or gifts to report, a statement of that

fact is required and is sufficient to comply with the reporting requirements of this chapter.

Sec. 7. (a) The commission shall post reports received under this chapter on the commission's web site.

(b) If the commission does not receive a report from an employer under this chapter, the commission shall notify the employer and post a copy of the notice on the commission's web site.

SECTION 35. THE FOLLOWING ARE REPEALED [EFFECTIVE NOVEMBER 1, 2010]: IC 2-7-1-1.5; IC 2-7-1-15; IC 2-7-1-17; IC 2-7-3-6.

SECTION 36. **An emergency is declared for this act.**

P.L.59-2010
[H.1040. Approved March 17, 2010.]

AN ACT to amend the Indiana Code concerning natural and cultural resources.

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

SECTION 1. IC 2-5.5-3-5, AS ADDED BY P.L.16-2009, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2010]: Sec. 5. The work group shall do the following:

(1) Monitor, review, and coordinate the implementation of the work group's recommendations issued under P.L.239-1997 and P.L.65-2000.

(2) Facilitate collaborative efforts among commonly affected state, county, and local governmental entities in cooperation with lake residents and related organizations.

(3) Conduct public meetings to hear testimony and receive written comments concerning lake resource concerns and the implementation of the work group's recommendations.

(4) Develop proposed solutions to problems concerning the implementation of the work group's recommendations.

(5) Review, update, and coordinate the implementation of new and existing recommendations by communicating with the public, the general assembly, and other governmental entities concerning lake resources.

(6) Review and coordinate the development and maintenance of an Internet web site that includes information on the management of lake and watershed resources.

(7) Issue reports to the natural resources study committee when directed to do so.

(8) Review all funding that is used for Indiana's waterways, including potential funding sources that could be used by the general assembly to correct funding problems.

(9) Issue a final report before July 1, ~~2010.~~ **2011.**

SECTION 2. IC 2-5.5-3-10, AS ADDED BY P.L.16-2009, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 1, 2010]: Sec. 10. This chapter expires July 1, ~~2010.~~ **2011.**

SECTION 3. **An emergency is declared for this act.**

P.L.60-2010

[H.1044. Approved March 17, 2010.]

AN ACT to amend the Indiana Code concerning courts and court officers.

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

SECTION 1. IC 33-24-4-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 9. (a) The clerk of the supreme court is not personally liable for any act or omission occurring in connection with the performance of the clerk's official duties, unless the act or omission constitutes gross negligence or an intentional disregard of the**

responsibilities of the office of clerk.

(b) The fact that the clerk is not personally liable under subsection (a) does not preclude an action against the clerk's bond based on an error or omission committed by the clerk.

SECTION 2. IC 33-32-2-9.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 9.2. (a) A clerk is not personally liable for any act or omission occurring in connection with the performance of the clerk's official duties, unless the act or omission constitutes gross negligence or an intentional disregard of the responsibilities of the office of clerk.**

(b) The fact that a clerk is not personally liable under subsection (a) does not preclude an action against the clerk's bond based on an error or omission committed by the clerk.

SECTION 3. IC 34-30-2-140.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 140.8. IC 33-24-4-9 (Concerning the personal liability of the clerk of the supreme court).**

SECTION 4. IC 34-30-2-144.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 144.2. IC 33-32-2-9.2 (Concerning the personal liability of circuit court clerks).**

P.L.61-2010
[H.1047. Approved March 17, 2010.]

AN ACT to amend the Indiana Code concerning civil procedure.

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

SECTION 1. IC 34-28-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) The petition described in section 1 of this chapter ~~may~~ **must:**

(1) if applicable, include the information required by section 2.5 of this chapter;

(2) in the case of a petition filed by a person described in section 2.5 of this chapter, be subscribed and sworn to (or affirmed):

(A) under the penalties of perjury; and

(B) before a notary public or other person authorized to administer oaths; and

(3) be filed with the circuit court of the county in which the person resides.

(b) In the case of a parent or guardian who wishes to change the name of a minor child, the petition must be verified, and it must state in detail the reason the change is requested. In addition, except where a parent's consent is not required under IC 31-19-9, the written consent of a parent, or the written consent of the guardian if both parents are dead, must be filed with the petition.

(c) Before a minor child's name may be changed, the parents or guardian of the child must be served with a copy of the petition as required by the Indiana trial rules.

SECTION 2. IC 34-28-2-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 2.5. (a) If a person petitioning for a change of name under this chapter is at least seventeen (17) years of age, the person's petition must include at least the following information:**

(1) The person's date of birth.

(2) The person's current:

(A) residence address; and

(B) if different than the person's residence address, mailing address.

(3) The person's valid:

(A) Indiana driver's license number; or

(B) Indiana identification card (as described in IC 9-24-16) number.

(4) A list of all previous names used by the person.

(5) Proof that the person is a United States citizen.

(6) A statement concerning whether the person holds a valid United States passport.

(7) A description of all judgments of criminal conviction of a felony under the laws of any state or the United States that have been entered against the person.

(b) A petition under subsection (a) is subject to Indiana Rules of Court Administrative Rule 9.

SECTION 3. IC 34-28-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) Upon filing a petition for a name change, the applicant shall give notice of the petition as follows:

(1) By three (3) weekly publications in a newspaper of general circulation published in the county in which the petition is filed in court.

(2) If no newspaper is published in the county in which the petition is filed, the applicant shall give notice in a newspaper published nearest to that county in an adjoining county.

(3) The last weekly publication shall be published not less than thirty (30) days before the day the petition will be heard as indicated in the notice.

~~(b) In the case of a petition described in section 2(b) of this chapter, the petitioner must publish the first notice of the petition not more than seven (7) days after the date the petition is filed.~~

~~(c)~~ **(b)** In the case of a petition described in section 2(b) of this chapter, the notice required by this section must include the following:

(1) The name of the petitioner.

(2) The name of the minor child whose name is to be changed.

(3) The new name desired.

(4) The name of the court in which the action is pending.

(5) The date on which the petition was filed.

(6) A statement that any person has the right to appear at the hearing and to file objections.

~~(d)~~ **(c)** Except as provided in section 1.5 of this chapter, in the case of a person who has had a felony conviction within ten (10) years before filing a petition for a change of name, at least thirty (30) days before the hearing the petitioner must give notice of the filing of the petition to:

(1) the sheriff of the county in which the petitioner resides;

(2) the prosecuting attorney of the county in which the petitioner resides; and

(3) the Indiana central repository for criminal history information.

~~(e)~~ **(d)** The notice given to the Indiana central repository for criminal history information under subsection ~~(d)~~ **(c)** must include the

petitioner's full current name, requested name change, date of birth, address, physical description, and a full set of classifiable fingerprints.

~~(f)~~ **(e)** The Indiana central repository for criminal history information shall forward a copy of any criminal records of the petitioner to the court for the court's information.

~~(g)~~ **(f)** A copy of the court decree granting or denying such a petition shall be sent to the Indiana state police.

~~(h)~~ **(g)** A person who violates subsection ~~(d)~~ **(c)** commits a Class A misdemeanor.

SECTION 4. IC 34-28-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) Proof of the publication required in this chapter is made by filing a copy of the published notice, verified by the affidavit of a disinterested person, and when proof of publication is made, the court shall, subject to the limitations imposed by subsections (b), (c), and (d), proceed to hear the petition and make an order and decree the court determines is just and reasonable.

(b) In the case of a petition described in section 2(b) of this chapter, the court may not hear the petition and issue a final decree until after thirty (30) days from the later of:

(1) the filing of proof of publication of the notice required under subsection (a); or

(2) the service of the petition upon the parents or guardian of the minor child.

(c) In the case of a petition described in section 2(b) of this chapter, the court shall set a date for a hearing on the petition if:

(1) written objections have been filed; or

(2) either parent or the guardian of the minor child has refused or failed to give written consent as described in section 2(b) of this chapter.

The court shall require that appropriate notice of the hearing be given to the parent or guardian of the minor child or to any person who has filed written objections.

(d) In deciding on a petition to change the name of a minor child, the court shall be guided by the best interest of the child rule under IC 31-17-2-8. However, there is a presumption in favor of a parent of a minor child who:

(1) has been making support payments and fulfilling other duties

in accordance with a decree issued under IC 31-15, IC 31-16, or ~~IC 17~~ **IC 31-17** (or IC 31-1-11.5 before its repeal); and

(2) objects to the proposed name change of the child.

(e) In the case of a person required to give notice under section ~~3(d)~~ **3(c)** of this chapter, the petitioner must certify to the court that the petitioner has complied with the notice requirements of that subsection.

P.L.62-2010

[H.1050. Approved March 17, 2010.]

AN ACT to amend the Indiana Code concerning pensions.

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

SECTION 1. IC 36-8-8-13.8, AS AMENDED BY P.L.1-2007, SECTION 242, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009 (RETROACTIVE)]: Sec. 13.8. (a) This section applies to an active or retired member who dies other than in the line of duty (as defined in section 14.1 of this chapter) after August 31, 1982.

(b) If a fund member dies while receiving retirement or disability benefits, the following apply:

(1) Except as otherwise provided in this subsection, each of the member's surviving children is entitled to a monthly benefit equal to twenty percent (20%) of the fund member's monthly benefit:

(A) until the child becomes eighteen (18) years of age; or

(B) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university;

whichever period is longer. However, if the board finds upon the submission of satisfactory proof that a child who is at least

eighteen (18) years of age is mentally or physically incapacitated, is not a ward of the state, and is not receiving a benefit under clause (B), the child is entitled to receive an amount each month that is equal to the greater of thirty percent (30%) of the monthly pay of a first class patrolman or first class firefighter or fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death as long as the mental or physical incapacity of the child continues. Benefits paid for a child shall be paid to the surviving parent as long as the child resides with and is supported by the surviving parent. If the surviving parent dies, the benefits shall be paid to the legal guardian of the child.

(2) The member's surviving spouse is entitled to a monthly benefit equal to sixty percent (60%) of the fund member's monthly benefit during the spouse's lifetime. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

If a fund member dies while receiving retirement or disability benefits, there is no surviving eligible child or spouse, and there is proof satisfactory to the local board, subject to review in the manner specified in section 13.1(c) of this chapter, that the parent was wholly dependent on the fund member, the member's surviving parent is entitled, or both surviving parents if qualified are entitled jointly, to receive fifty percent (50%) of the fund member's monthly benefit during the parent's or parents' lifetime. **As used in this subsection, a parent is wholly dependent on a fund member if the fund member claimed the parent as a dependent on the federal income tax return filed by the fund member in the year before the year in which the fund member died.**

(c) Except as otherwise provided in this subsection, if a fund member dies while on active duty or while retired and not receiving benefits, the member's children and the member's spouse, or the member's parent or parents are entitled to receive a monthly benefit determined under subsection (b). If the fund member did not have at least twenty (20) years of service or was not at least fifty-two (52) years of age, the benefit is computed as if the member:

(1) did have twenty (20) years of service; and

(2) was fifty-two (52) years of age.

SECTION 2. IC 36-8-8-13.9, AS AMENDED BY P.L.1-2007, SECTION 243, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009 (RETROACTIVE)]: Sec. 13.9. (a) This section applies to an active member who died in the line of duty (as defined in section 14.1 of this chapter) before September 1, 1982.

(b) Except as otherwise provided in this subsection, if a fund member dies in the line of duty, the following apply:

(1) Each of the member's surviving children is entitled to a monthly benefit equal to twenty percent (20%) of the fund member's monthly benefit:

(A) until the child becomes eighteen (18) years of age; or

(B) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university;

whichever period is longer. However, if the board finds upon the submission of satisfactory proof that a child who is at least eighteen (18) years of age is mentally or physically incapacitated, is not a ward of the state, and is not receiving a benefit under clause (B), the child is entitled to receive an amount each month that is equal to the greater of thirty percent (30%) of the monthly pay of a first class patrolman or first class firefighter or fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death as long as the mental or physical incapacity of the child continues. Benefits paid for a child shall be paid to the surviving parent as long as the child resides with and is supported by the surviving parent. If the surviving parent dies, the benefits shall be paid to the legal guardian of the child.

(2) The member's surviving spouse is entitled to a monthly benefit equal to sixty percent (60%) of the fund member's monthly benefit during the spouse's lifetime. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

If there is no surviving eligible child or spouse, and there is proof satisfactory to the local board, subject to review in the manner

specified in section 13.1(c) of this chapter, that the parent was wholly dependent on the fund member, the member's surviving parent is entitled, or both surviving parents if qualified are entitled jointly, to receive fifty percent (50%) of the fund member's monthly benefit during the parent's or parents' lifetime. **As used in this subsection, a parent is wholly dependent on a fund member if the fund member claimed the parent as a dependent on the federal income tax return filed by the fund member in the year before the year in which the fund member died.**

(c) If the fund member did not have at least twenty (20) years of service or was not at least fifty-two (52) years of age, the benefit under subsection (b) is computed as if the member:

(1) did have twenty (20) years of service; and

(2) was fifty-two (52) years of age.

(d) The unit of local government that employed the deceased member shall after December 31, 2003, offer to provide and pay for health insurance coverage for the member's surviving spouse and for each natural child, stepchild, or adopted child of the member:

(1) until the child becomes eighteen (18) years of age;

(2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or

(3) during the entire period of the child's physical or mental disability;

whichever period is longest. If health insurance coverage is offered by the unit to active members, the health insurance provided to a surviving spouse and child under this subsection must be equal in coverage to that offered to active members. The offer to provide and pay for health insurance coverage shall remain open for as long as there is a surviving spouse or as long as a natural child, stepchild, or adopted child of the member is eligible for coverage under subdivision (1), (2), or (3).

SECTION 3. IC 36-8-8-14.1, AS AMENDED BY P.L.1-2007, SECTION 244, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009 (RETROACTIVE)]: Sec. 14.1. (a) Benefits paid under this section are subject to section 2.5 of this chapter.

(b) This section applies to an active member who dies in the line of duty after August 31, 1982.

(c) If a fund member dies in the line of duty after August 31, 1982, the member's surviving spouse is entitled to a monthly benefit during the spouse's lifetime, equal to the benefit to which the member would have been entitled on the date of the member's death, but not less than the benefit payable to a member with twenty (20) years service at fifty-two (52) years of age. If the spouse remarried before September 1, 1983, and benefits ceased on the date of remarriage, the benefits for the surviving spouse shall be reinstated on July 1, 1997, and continue during the life of the surviving spouse.

(d) If a fund member dies in the line of duty, each of the member's surviving children is entitled to a monthly benefit equal to twenty percent (20%) of the fund member's monthly benefit:

(1) until the child reaches eighteen (18) years of age; or

(2) until the child reaches twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university;

whichever period is longer. However, if the board finds upon the submission of satisfactory proof that a child who is at least eighteen (18) years of age is mentally or physically incapacitated, is not a ward of the state, and is not receiving a benefit under subdivision (2), the child is entitled to receive an amount each month that is equal to the greater of thirty percent (30%) of the monthly pay of a first class patrolman or first class firefighter or fifty-five percent (55%) of the monthly benefit the deceased member was receiving or was entitled to receive on the date of the member's death as long as the mental or physical incapacity of the child continues. Benefits paid for a child shall be paid to the surviving parent as long as the child resides with and is supported by the surviving parent. If the surviving parent dies, the benefits shall be paid to the legal guardian of the child.

(e) If there is no surviving eligible child or spouse, and there is proof satisfactory to the local board, subject to review in the manner specified in section 13.1(c) of this chapter, that the parent was wholly dependent on the fund member, the member's surviving parent is entitled, or both surviving parents if qualified are entitled jointly, to receive fifty percent (50%) of the fund member's monthly benefit during the parent's or parents' lifetime. **As used in this subsection, a parent is wholly dependent on a fund member if the fund member claimed the parent as a dependent on the federal income tax return**

filed by the fund member in the year before the year in which the fund member died.

(f) If the fund member did not have at least twenty (20) years of service or was not at least fifty-two (52) years old, the benefit is computed as if the member:

(1) did have twenty (20) years of service; and

(2) was fifty-two (52) years of age.

(g) For purposes of this section, "dies in the line of duty" means death that occurs as a direct result of personal injury or illness caused by incident, accident, or violence that results from:

(1) any action that the member, in the member's capacity as a police officer:

(A) is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or

(B) performs in the course of controlling or reducing crime or enforcing the criminal law; or

(2) any action that the member, in the member's capacity as a firefighter:

(A) is obligated or authorized by rule, regulation, condition of employment or service, or law to perform; or

(B) performs while on the scene of an emergency run (including false alarms) or on the way to or from the scene.

The term includes a death presumed incurred in the line of duty under IC 5-10-13.

(h) The unit of local government that employed the deceased member shall after December 31, 2003, offer to provide and pay for health insurance coverage for the member's surviving spouse and for each natural child, stepchild, or adopted child of the member:

(1) until the child becomes eighteen (18) years of age;

(2) until the child becomes twenty-three (23) years of age if the child is enrolled in and regularly attending a secondary school or is a full-time student at an accredited college or university; or

(3) during the entire period of the child's physical or mental disability;

whichever period is longest. If health insurance coverage is offered by the unit to active members, the health insurance provided to a surviving spouse and child under this subsection must be equal in coverage to that offered to active members. The offer to provide and pay for health

insurance coverage shall remain open for as long as there is a surviving spouse or as long as a natural child, stepchild, or adopted child of the member is eligible for coverage under subdivision (1), (2), or (3).

SECTION 4. IC 36-8-8-24 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009 (RETROACTIVE)]: **Sec. 24. (a) A fund member may designate one (1) or more beneficiaries to receive in a lump sum the fund member's contributions plus interest at a rate determined by the PERF board if the fund member dies:**

(1) without receiving a retirement benefit under sections 10 and 11 of this chapter;

(2) without receiving a disability benefit under section 13.3 or 13.5 of this chapter;

(3) without a survivor entitled to receive a benefit under section 13.8, 13.9, or 14.1 of this chapter; and

(4) without the PERF board returning the fund member's contributions under section 8 of this chapter.

(b) A fund member who chooses to designate one (1) or more beneficiaries under this section shall file the fund member's designation with the PERF board on a form prescribed by the PERF board.

(c) The PERF board shall adopt rules to allow a fund member who designates more than one (1) beneficiary to allocate the contributions and interest paid in percentage increments.

(d) Whenever a fund member does not designate a beneficiary under this section and has no survivors entitled to receive a benefit under section 13.8, 13.9, or 14.1 of this chapter, the PERF board shall refund to the fund member's estate:

(1) the fund member's contributions; plus

(2) interest at a rate determined by the PERF board.

SECTION 5. **An emergency is declared for this act.**

P.L.63-2010
[H.1062. Approved March 17, 2010.]

AN ACT to amend the Indiana Code concerning civil procedure.

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

SECTION 1. IC 34-6-2-48.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 48.3. "Foreign judgment", for purposes of IC 34-54-11, means ~~a~~ **any** judgment, decree or order of:

(1) a court ~~(1)~~ of the United States; **or**

~~(2) of a state other than Indiana; or~~

~~(3)~~ **(2) any other court** that is entitled to the full faith and credit of Indiana.

~~The term does not include a foreign protection order.~~

SECTION 2. IC 34-54-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) A ~~certified and exemplified~~ copy of ~~a~~ **any** foreign judgment **authenticated in accordance with 28 U.S.C. 1963 or the statutes of this state** may be filed in the office of the clerk of any court of record in a county in Indiana. ~~where the debtor resides or owns property, and is subject to IC 34-55-9-2.~~

(b) The clerk of the court in which the copy is filed shall treat the foreign judgment in the same manner as a judgment of an Indiana court.

(c) A foreign judgment filed under subsection (a) has the same effect and is subject to the same procedures, ~~and~~ defenses, **and proceedings for reopening, vacating, or staying** as a judgment entered by an Indiana court.

SECTION 3. IC 34-54-11-2, AS AMENDED BY P.L.238-2005, SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) ~~A~~ **At the time of the filing of a foreign judgment, the** judgment creditor filing a foreign judgment under this

chapter must file an affidavit with the clerk of the court in which the foreign judgment is filed at the time the foreign judgment is filed. The affidavit must set forth:

(1) the name and last known address of the judgment debtor; and

(2) the name and last known address of the judgment creditor.

(b) ~~The judgment creditor~~ **Promptly after the filing of the foreign judgment and affidavit, the clerk** must send notice of the filing of the foreign judgment ~~in the same process prescribed under Indiana Trial Rule 4 through Indiana Trial Rule 4.17.~~ **to the judgment debtor at the address given and shall make an entry of the mailing in the docket.**

(c) The notice described in subsection (b) must contain:

(1) the name and address of the judgment creditor; **and**

(2) the name and address of the judgment creditor's attorney, if any. ~~and~~

~~(3) the nature and amount of the judgment creditor's claim under the foreign judgment.~~

(d) The judgment creditor shall:

(1) mail a notice of the filing of the judgment to the judgment debtor; and

(2) file proof of mailing with the clerk.

(e) Lack of mailing notice by the clerk does not affect the enforcement of proceedings if proof of mailing by the judgment creditor has been filed.

~~(d)~~ **(f)** Execution or other process for the enforcement of a foreign judgment may not be issued earlier than twenty-one (21) days after the entry of the judgment in the judgment's original jurisdiction.

~~(e) Not later than twenty-one (21) days after the date notice is served to the judgment debtor by the judgment creditor or the judgment creditor's attorney, the judgment debtor may file a notice with the court in which the judgment has been filed asserting any defenses that would prohibit the judgment creditor from execution or another process for enforcement of the foreign judgment.~~

~~(f) If a judgment debtor files a timely notice under subsection (e), a foreign judgment may not:~~

~~(1) constitute a lien under IC 34-55-9-2; or~~

~~(2) be enforced by execution or another process for enforcement of the foreign judgment;~~

~~until the court in which the foreign judgment is filed has issued an~~

~~order sustaining or overruling each defense asserted in the notice filed under subsection (e).~~

~~(g) A court in which a foreign judgment is filed may issue an order staying the time within which a notice by a judgment debtor must be filed under subsection (e) if the court determines that litigation of a postjudgment motion:~~

~~(1) is appropriate; and~~

~~(2) would be available if the judgment had been obtained in an Indiana court.~~

~~(h) If a court stays under subsection (g) the time within which a notice by a judgment debtor must be filed under subsection (e), a foreign judgment may not:~~

~~(1) constitute a lien under IC 34-55-9-2; or~~

~~(2) be enforced by execution or another process for enforcement of the foreign judgment;~~

~~during the period of the stay.~~

~~(i) A creditor filing a foreign judgment is entitled to any prejudgment remedy that is available to a creditor in an Indiana court during the pendency of:~~

~~(1) the proceeding to determine the availability of a defense under subsection (e); or~~

~~(2) a stay under subsection (g).~~

SECTION 4. IC 34-54-11-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 6. This chapter shall be interpreted and construed to effectuate its general purpose to make uniform the law of those states that enact the uniform enforcement of foreign judgments act.**

SECTION 5. IC 34-54-11-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 7. This chapter may be cited as the "Uniform Enforcement of Foreign Judgments Act".**

P.L.64-2010
[H.1083. Approved March 17, 2010.]

AN ACT to amend the Indiana Code concerning property.

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

SECTION 1. IC 32-34-1-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 17. (a) This section does not apply to section 24 of this chapter.

(b) As used in this chapter, "property" means an interest in intangible personal property, except an unliquidated claim, and all income or increment derived from the interest, including an interest that is referred to as or evidenced by:

(1) money, a check, a draft, a deposit, an interest, or a dividend;

(2) a credit balance, a customer overpayment, ~~a gift certificate~~, a security deposit, a refund, a credit memorandum **other than a business to business credit memorandum,** an unpaid wage, an unused airline ticket, mineral proceeds, or an unidentified remittance;

(3) stock and other ownership interest in a business association;

(4) a bond, debenture, note, or other evidence of indebtedness;

(5) money deposited to redeem stocks, bonds, coupons, and other securities or to make distributions;

(6) an amount due and payable under the terms of an insurance policy; and

(7) an amount distributable from a trust or custodial fund established under a plan to provide:

(A) health;

(B) welfare;

(C) pension;

(D) vacation;

(E) severance;

(F) retirement;

(G) death;
(H) stock purchase;
(I) profit sharing;
(J) employee savings;
(K) supplemental unemployment insurance; or
(L) similar;
benefits.

(c) The term does not include transactions between business entities and:

(1) a motor carrier (as defined in IC 8-2.1-17-10); or
(2) a carrier (as defined in 49 U.S.C. 13102(3)).

SECTION 2. IC 32-34-1-20, AS AMENDED BY P.L.85-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 20. (a) For purposes of this section, an indication of interest in the property by the owner:

(1) does not include a communication with an owner by an agent of the holder who has not identified in writing the property to the owner; and
(2) includes the following:
(A) With respect to an account or underlying shares of stock or other interest in a business association or financial organization:
(i) the cashing of a dividend check or other instrument of payment received; or
(ii) evidence that the distribution has been received if the distribution was made by electronic or similar means.
(B) A deposit to or withdrawal from a bank account.
(C) The payment of a premium with respect to a property interest in an insurance policy.
(D) The mailing of any correspondence in writing from a financial institution to the owner, including:
(i) a statement;
(ii) a report of interest paid or credited; or
(iii) any other written advice;
relating to a demand, savings, or matured time deposit account, including a deposit account that is automatically renewable, or any other account or other property the owner has with the financial institution if the correspondence is not

returned to the financial institution for nondelivery.

(E) Any activity by the owner that concerns:

(i) another demand, savings, or matured time deposit account or other account that the owner has with a financial institution, including any activity by the owner that results in an increase or decrease in the amount of any other account; or

(ii) any other relationship with the financial institution, including the payment of any amounts due on a loan;

if the mailing address for the owner contained in the financial institution's books and records is the same for both an inactive account and for a related account.

(b) The application of an automatic premium loan provision or other nonforfeiture provision contained in an insurance policy does not prevent the policy from maturing or terminating if the insured has died or the insured or the beneficiary of the policy otherwise has become entitled to the proceeds before the depletion of the cash surrender value of the policy by the application of those provisions.

(c) Property that is held, issued, or owed in the ordinary course of a holder's business is presumed abandoned if the owner or apparent owner has not communicated in writing with the holder concerning the property or has not otherwise given an indication of interest in the property during the following times:

(1) For traveler's checks, fifteen (15) years after issuance.

(2) For money orders, seven (7) years after issuance.

(3) For consumer credits, three (3) years after the credit becomes payable.

(4) For amounts owed by an insurer on a life or an endowment insurance policy or an annuity contract:

(A) if the policy or contract has matured or terminated, three (3) years after the obligation to pay arose; or

(B) if the policy or contract is payable upon proof of death, three (3) years after the insured has attained, or would have attained if living, the limiting age under the mortality table on which the reserve is based.

(5) For property distributable by a business association in a course of dissolution, one (1) year after the property becomes distributable.

(6) For property or proceeds held by a court or a court clerk, five (5) years after the property or proceeds become distributable. The property or proceeds must be treated as unclaimed property under IC 32-34-3.

(7) For property held by a state or other government, governmental subdivision or agency, or public corporation or other public authority, one (1) year after the property becomes distributable.

(8) For compensation for personal services, one (1) year after the compensation becomes payable.

(9) For deposits and refunds held for subscribers by utilities, one (1) year after the deposits or refunds became payable.

(10) For stock, dividends, profits, distributions, interest, redemption, payments on principal, or any other sum held or owed by a business association for or to a shareholder, certificate holder, member, bondholder, or other security holders of the business association, or other interest in a business association, three (3) years after the earlier of:

(A) the date of the last dividend, stock split, or other distribution unclaimed by the apparent owner; or

(B) the date of the second mailing of a statement of account or other notification or communication that was:

(i) returned as undeliverable; or

(ii) made after the holder discontinued mailings to the apparent owner.

(11) For property in an individual retirement account or another account or plan that is qualified for tax deferral under the Internal Revenue Code, three (3) years after the earliest of:

(A) the actual date of the distribution or attempted distribution;

(B) the distribution date as stated in the plan or trust agreement governing the plan; or

(C) the date specified in the Internal Revenue Code by which distribution must begin in order to avoid a tax penalty.

(12) For a demand, savings, or matured time deposit, including a deposit that is automatically renewable, ~~five (5)~~ **three (3)** years after maturity or ~~five (5)~~ **three (3)** years after the date of the last indication by the owner of interest in the property, whichever is

earlier. Property that is automatically renewable is considered matured for purposes of this section upon the expiration of its initial period, unless the owner has consented to a renewal at or about the time of the renewal and the consent is in writing or is evidenced by a memorandum or other record on file with the holder.

(13) For property payable or distributable in the course of a demutualization, rehabilitation, or related reorganization of a mutual insurance company, ~~five (5)~~ **three (3)** years after the earlier of:

(A) the date of last contact with the policyholder; or

(B) the date the property became payable or distributable.

(14) For all other property, the earlier of ~~five (5)~~ **three (3)** years after:

(A) the owner's right to demand the property; or

(B) the obligation to pay or distribute the property;

arose.

(d) Property is payable or distributed for purposes of this chapter notwithstanding the owner's failure to make demand or present an instrument or a document otherwise required to receive payment.

P.L.65-2010

[H.1084. Approved March 17, 2010.]

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-13-2-10.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 10.2. "Auxiliary power unit", for purposes of IC 9-20-4-1(b), means an integrated system that:**

(1) provides heat, air conditioning, engine warming, or

electricity to components on a heavy duty vehicle; and

(2) is certified by the administrator of the United States Environmental Protection Agency under 40 CFR 89 as meeting applicable emission standards.

SECTION 2. IC 9-13-2-72.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 72.5. "Heavy duty vehicle", for purposes of IC 9-20-4-1(b), means a vehicle that:**

(1) has a gross vehicle weight rating greater than eight thousand five hundred (8,500) pounds; and

(2) is powered by a diesel engine.

SECTION 3. IC 9-20-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) Except as provided in subsections (b) and (c), a person may not operate or cause to be operated upon an Indiana highway a vehicle or combination of vehicles having weight in excess of one (1) or more of the following limitations:

(1) The total gross weight, with load, in pounds of any vehicle or combination of vehicles may not exceed an overall gross weight on a group of two (2) or more consecutive axles produced by application of the following formula:

$$W = 500 \{ [(LN) \div (N-1)] + 12N + 36 \}$$

where W equals the overall gross weight on any group of two (2) or more consecutive axles to the nearest five hundred (500) pounds, L equals the distance in feet between the extreme of any group of two (2) or more consecutive axles, and N equals the number of axles in the group under consideration, except that two (2) consecutive sets of tandem axles may carry a gross load of thirty-four thousand (34,000) pounds each, providing the overall distance between the first and last axles of the consecutive sets of tandem axles is thirty-six (36) feet or more. The overall gross weight limit, calculated under this subdivision, may not exceed eighty thousand (80,000) pounds.

(2) The weight concentrated on the roadway surface from any tandem axle group may not exceed the following:

(A) Thirty-four thousand (34,000) pounds total weight.

(B) Twenty thousand (20,000) pounds on an individual axle in a tandem group.

(3) A vehicle may not have a maximum wheel weight, unladen or

with load, in excess of eight hundred (800) pounds per inch width of tire, measured between the flanges of the rim or an axle weight in excess of twenty thousand (20,000) pounds.

(b) The enforcement of weight limits under this section is subject to the following:

(1) It is lawful to operate within the scope of a permit, under weight limitations established by the Indiana department of transportation and in effect on July 1, 1956, as provided in IC 9-20-6.

(2) It is lawful to operate or cause to be operated a vehicle or combination of vehicles on a heavy duty highway or an extra heavy duty highway designated by the Indiana department of transportation if operated within the imposed limitations.

~~(3) Whenever any of the weight limitations provided in subsection (a) are utilized on any interstate highway in Indiana, the reference to weight tolerance in IC 9-20-18-2 does not apply.~~

~~(4)~~ **(3)** Subsection (a) does not apply to any highway, road, street, or bridge for which a lesser weight limit is imposed by local authorities under IC 9-20-1-4 or IC 9-20-7-2. However, the local authority may by appropriate action establish and designate a county or city highway, road, or street or part of a highway, road, or street as a heavy duty highway subject to the weight limitations established under IC 9-20-5.

~~(5)~~ **(4)** Vehicles operated on toll road facilities are subject to rules of weight adopted for toll road facilities by the Indiana department of transportation under IC 8-15-2 and are not subject to subsection (a) when operated on a toll road facility.

(5) For purposes of a heavy duty vehicle that is equipped with an auxiliary power unit, the weight limitations provided in subsection (a) are increased by four hundred (400) pounds.

(c) The greater of the weight limits imposed under subsection (a) or this subsection applies to vehicles operated upon an Indiana highway. The weight limits in effect on January 4, 1975, for any highway that is not designated as a heavy duty highway under IC 9-20-5 are the following:

(1) The total gross weight, with load, in pounds of a vehicle or combination of vehicles may not exceed seventy-three thousand two hundred eighty (73,280) pounds.

(2) The total weight concentrated on the roadway surface from a tandem axle group may not exceed sixteen thousand (16,000) pounds for each axle of a tandem assembly.

(3) A vehicle may not have a maximum wheel weight, unladen or with load, in excess of eight hundred (800) pounds per inch width of tire, measured between the flanges of the rim, or an axle weight greater than eighteen thousand (18,000) pounds.

SECTION 4. IC 9-21-8-49, AS AMENDED BY P.L.40-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 49. Except as provided in sections 50, 51, 52, 54, 55, ~~and~~ 56, **and 58** of this chapter, a person who violates this chapter commits a Class C infraction.

SECTION 5. IC 9-21-8-58 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 58. (a) This section applies only to intrastate carriers of metal coils.**

(b) 49 CFR 393.120 is adopted as Indiana law.

(c) A motor carrier (as defined in IC 8-2.1-17-10) may not initiate or terminate the commercial transport within Indiana by commercial motor vehicle of one (1) or more metal coils that, individually or grouped together, weigh at least two thousand two hundred sixty-eight (2,268) kilograms (five thousand (5,000) pounds), as provided in 49 CFR 393.120, unless the operator of the commercial motor vehicle transporting the metal coil or coils is certified in proper load securement as provided in 49 CFR 393.120.

(d) An operator of a commercial motor vehicle may not initiate or terminate the commercial transport within Indiana by the commercial motor vehicle of one (1) or more metal coils that, individually or grouped together, weigh at least two thousand two hundred sixty-eight (2,268) kilograms (five thousand (5,000) pounds), as provided in 49 CFR 393.120, unless the operator of the commercial motor vehicle transporting the metal coil or coils is certified in proper load securement as provided in 49 CFR 393.120.

(e) The department of revenue shall adopt and enforce rules under IC 4-22-2 concerning the certification in proper load securement (as provided in 49 CFR 393.120) of operators of commercial motor vehicles engaged in the commercial transport of one (1) or more metal coils, as provided in 49 CFR 393.120. The

rules adopted under this subsection must recognize metal coil shipping certificates issued by other states.

(f) A person who knowingly or intentionally violates subsection (c) or (d) commits a Class A misdemeanor.

SECTION 6. IC 9-24-6-2, AS AMENDED BY P.L.76-2009, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) The bureau shall adopt rules under IC 4-22-2 to regulate persons required to hold a commercial driver's license.

(b) The rules must carry out 49 U.S.C. 521, 49 U.S.C. 31104, 49 U.S.C. 31301 through 31306, 49 U.S.C. 31308 through 31317, and 49 CFR 383 through 384, and may not be more restrictive than the federal Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Public Law 106-159, 113 Stat. 1748).

(c) Rules adopted under this section must include the following:

(1) Establishment of classes and periods of validation of commercial driver's licenses, including the period set forth in IC 9-24-12-6(e).

(2) Standards for commercial driver's licenses, including suspension and revocation procedures.

(3) Requirements for documentation of eligibility for legal employment, as set forth in 8 CFR 274a.2, and proof of Indiana residence.

(4) Development of written or oral tests, driving tests, and fitness requirements.

(5) Defining the commercial driver's licenses by classification and the information to be contained on the licenses, including a unique identifier of the holder.

(6) Establishing fees for the issuance of commercial driver's licenses, including fees for testing and examination.

(7) Procedures for the notification by the holder of a commercial driver's license to the bureau and the driver's employer of pointable traffic offense convictions.

(8) Conditions for reciprocity with other states, including requirements for a written commercial driver's license test and operational skills test, and a hazardous materials endorsement written test and operational skills test, before a license may be issued.

(9) Certification of commercial motor vehicle operators who transport one (1) or more metal coils that, individually or grouped together, weigh at least two thousand two hundred sixty-eight (2,268) kilograms (five thousand (5,000) pounds), as to proper load securement of the metal coil or coils as provided in 49 CFR 393.120.

~~(9)~~ **(10)** Other rules necessary to administer this chapter.

(d) 49 CFR 383 through 384 **and 49 CFR 393.120** are adopted as Indiana law.

SECTION 7. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "bureau" refers to the bureau of motor vehicles created by IC 9-14-1-1.**

(b) Notwithstanding IC 9-21-8-58, as added by this act, and IC 9-24-6-2(c)(9), as amended by this act:

(1) the bureau shall carry out the duties imposed upon the bureau under IC 9-24-6-2(c)(9), as amended by this act, under interim written guidelines approved by the commissioner of the bureau; and

(2) the department of revenue shall carry out the duties imposed upon the department of revenue under IC 9-21-8-58, as added by this act, under interim written guidelines approved by the commissioner of the department of revenue.

(c) This SECTION expires on the earlier of the following:

(1) The date rules are adopted under IC 9-21-8-58, as added by this act, and IC 9-24-6-2(c)(9), as amended by this act.

(2) December 31, 2011.

SECTION 8. **An emergency is declared for this act.**

P.L.66-2010
[H.1109. Approved March 17, 2010.]

AN ACT to amend the Indiana Code concerning elections.

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

SECTION 1. IC 3-7-32-4, AS AMENDED BY P.L.164-2006, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. A voter may not submit a registration application by fax or an electronic transmission except: ~~as provided in:~~

(1) ~~IC 3-11-4 concerning~~ **a voter who is** an absent uniformed services voter or overseas voter submitting a registration application on the ~~standard~~ **combined absentee registration** form **and absentee ballot request** approved under 42 U.S.C. 1973ff(b); ~~or~~

(2) **as provided in** IC 3-7-26.3; **or**

(3) as provided in IC 3-7-26.7.

SECTION 2. IC 3-7-36-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) This section does not apply to a voter who files a combined absentee registration form and absentee ballot request.

(b) When a ~~circuit court clerk or board of~~ **county voter** registration **office** receives an application for ~~absentee~~ registration **from an absent uniformed services voter or an overseas voter,** the ~~clerk or board~~ **office** shall promptly mail or deliver to the applicant the affidavit prescribed by this title for the registration of ~~an absentee~~ **a** voter. ~~by absentee process.~~ **The county voter registration office shall transmit the voter registration application to the applicant by electronic mail or fax if:**

(1) requested by the applicant; and

(2) the applicant provides an electronic mail address or a fax number that permits the county voter registration office to send an application not later than the end of the first business

day after the county voter registration office receives the communication from the voter.

If the electronic mail address or the fax number provided by the voter does not permit the county voter registration office to send the voter an application not later than the end of the first business day after the county voter registration office receives the communication, the county voter registration office shall send the application to the voter by United States mail.

(c) When the properly executed and certified affidavit is returned to the ~~clerk or board,~~ **voter registration office and approved under this article,** the applicant becomes a registered voter in the precinct of residence.

SECTION 3. IC 3-7-36-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. **(a) This section does not apply to a voter who files a combined absentee registration form and absentee ballot request.**

(b) When a board of registration receives an application for ~~absentee~~ registration under section 5 of this chapter **and a request for an absentee ballot application,** the board shall ~~also record the name, address, and other pertinent information on a suitable record form and then~~ promptly ~~mail or~~ deliver the applicant's ~~affidavit or form~~ **request** to the circuit court clerk for the ~~use of the clerk in~~ mailing ~~applications~~ **of an application** for **an** absentee ~~ballots.~~ **ballot.**

SECTION 4. IC 3-7-36-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. (a) If the election division receives an ~~affidavit or a form for absentee~~ **application for** registration **from an absent uniformed services voter or an overseas voter** under this chapter, the election division shall promptly forward the ~~affidavit or form~~ **application** to the county voter registration office of the county where the applicant resides according to the address on the ~~affidavit or form.~~ **application.**

(b) If the application is ~~both an~~ **a combined** application for voter registration and an application for an absentee ballot, the election division shall promptly forward the application to the county voter registration office.

SECTION 5. IC 3-7-36-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8. (a) This section does not apply to a combined absentee registration and request for an absentee ballot.

(b) When a circuit court clerk receives ~~an affidavit or~~ a ~~form~~ **request** for **an** absentee ~~registration,~~ **ballot application,** the clerk shall promptly mail the absentee ballot ~~applications as soon as the applications are available.~~ **application (or transmit the application to the voter by electronic mail or fax if requested by the voter).**

SECTION 6. IC 3-7-36-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9. (a) If ~~an affidavit or a form is mailed~~ **a voter registration application is delivered** to the circuit court clerk in a county where there is a board of registration, the clerk shall promptly ~~mail or~~ deliver to the board the ~~affidavit or form~~ **application** requesting registration.

(b) If the application is ~~both an~~ **a combined** application for registration and an application for an absentee ballot, the clerk shall record the name, address, and other necessary information ~~on a suitable record~~ for the use of the ~~clerk's office~~ **county election board or board of elections and registration** in mailing an application for an absentee ballot.

(c) The requested application for an absentee ballot shall be mailed ~~as soon as the applications are available. After making the required record,~~ **or transmitted to the applicant by electronic mail or fax if:**

(1) requested by the applicant; and

(2) the applicant provides an electronic mail address or a fax number that permits the board to send an application not later than the end of the first business day after the board receives the communication from the voter.

If the electronic mail address or fax number provided by the applicant does not permit the board to send the application not later than the end of the first business day after the board receives the communication, the board shall send the application by United States mail.

(d) The clerk shall promptly ~~mail or~~ deliver ~~the dual~~ **a combined** application to the board. The board shall promptly mail the ~~absentee~~ registration ~~affidavits~~ **application** to the applicant at the address appearing on the ~~affidavit or form~~ **application** submitted by the applicant **or transmit the application to the applicant by electronic mail or fax if:**

(1) requested by the applicant; and

(2) the applicant provides an electronic mail address or a fax

number that permits the board to send an application not later than the end of the first business day after the board receives the communication from the voter.

If the electronic mail address or fax number provided by the applicant does not permit the board to send the application not later than the end of the first business day after the board receives the communication, the board shall send the application by United States mail.

SECTION 7. IC 3-8-8-3, AS ADDED BY P.L.230-2005, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) An individual who challenges the qualification of a candidate for election to an office must be a registered voter of the election district the candidate seeks to represent.

(b) A challenge under this chapter must be filed with the election division not later than ~~forty (40)~~ **noon seventy-four (74)** days before the date of the general election at which a candidate to the office is to be elected.

(c) The challenger must file a sworn statement with the election division:

(1) questioning the qualification of a candidate to seek the office; and

(2) setting forth the facts known to the voter concerning this question.

SECTION 8. IC 3-8-8-7, AS ADDED BY P.L.230-2005, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. (a) Regardless of the status of a challenge before the commission or the court of appeals, at noon ~~thirty (30)~~ **sixty (60)** days before the general election the following apply:

(1) The challenge is terminated.

(2) The name of the challenged candidate may not be removed from the ballot.

(3) The name of another individual may not replace the name of the challenged candidate on the ballot.

(4) Any votes cast for the challenged candidate shall be canvassed, counted, and reported under the name of the challenged candidate.

(b) All of the following apply if a candidate attempts to withdraw as a candidate after noon ~~thirty (30)~~ **sixty (60)** days before the general

election:

(1) The name of the candidate may not be removed from the ballot.

(2) The name of another individual may not replace the name of the candidate on the ballot.

(3) Any votes cast for the candidate shall be canvassed, counted, and reported under the name of the candidate.

SECTION 9. IC 3-11-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) A voter who is otherwise qualified to vote in person is entitled to vote by absentee ballot. Except as otherwise provided in this article, a voter voting by absentee ballot must vote in the office of the circuit court clerk (or board of elections and registration in a county subject to IC 3-6-5.2) or at a satellite office established under IC 3-11-10-26.3.

(b) A county election board, by unanimous vote of its entire membership, may authorize a person who is otherwise qualified to vote in person to vote by absentee ballot if the board determines that the person has been hospitalized or suffered an injury following the final date and hour for applying for an absentee ballot that would prevent the person from voting in person at the polls.

(c) The commission, by unanimous vote of its entire membership, may authorize a person who is otherwise qualified to vote in person to vote by absentee ballot if the commission determines that an emergency prevents the person from voting in person at a polling place.

(d) The absentee ballots used in subsection (b) or (c) must be the same official absentee ballots as described in section ~~12 and 13~~ **12.5** of this chapter. Taking into consideration the amount of time remaining before the election, the commission shall determine whether the absentee ballots are transmitted to and from the voter by mail or personally delivered. An absentee ballot that is personally delivered shall comply with the requirements in sections 19, 20, and 21 of this chapter.

SECTION 10. IC 3-11-4-3, AS AMENDED BY P.L.103-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. Except as provided in section 6 of this chapter, an application for an absentee ballot must be received by the circuit court clerk (or, in a county subject to IC 3-6-5.2, the director of the board of elections and registration) not earlier than ~~ninety (90) days~~

~~before election day~~ **the date the registration period resumes following a primary election under IC 3-7-13-10** nor later than the following:

(1) Noon on election day if the voter registers to vote under IC 3-7-36-14.

(2) Noon on the day before election day if the voter completes the application in the office of the circuit court clerk or is an absent uniformed services voter or overseas voter who requests that the ballot be transmitted by **electronic mail or** fax under section 6(h) of this chapter.

(3) Noon on the day before election day if:

(A) the application is a mailed, transmitted by fax, or hand delivered application from a confined voter or voter caring for a confined person; and

(B) the applicant requests that the absentee ballots be delivered to the applicant by an absentee voter board.

(4) Midnight on the eighth day before election day if the application:

(A) is a mailed application; or

(B) was transmitted by fax;

from other voters.

SECTION 11. IC 3-11-4-4, AS AMENDED BY P.L.120-2009, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) Applications may be made on application forms approved by the commission by any of the following means:

(1) In person.

(2) By fax transmission.

(3) By mail **(including United States mail or bonded courier).**

(4) By electronic mail with a scanned image of the application and signature of the applicant, if transmitted by an **absent uniformed services voter or an** overseas voter acting under section 6 of this chapter.

(b) Application forms shall:

(1) be furnished to a central committee of the county at the request of the central committee;

(2) be:

(A) mailed;

(B) transmitted by fax; or

(C) transmitted by electronic mail with a scanned image of the application;

upon request, to a voter applying by mail, by telephone, by electronic mail, or by fax; and

(3) be delivered to a voter in person who applies at the circuit court clerk's office.

(c) ~~The county election board shall:~~

~~(1) accept; and~~

~~(2) transmit;~~

~~applications for absentee ballots under subsection (a) by fax or electronic mail; if the county election board has access to a fax machine or electronic mail.~~ A county election board shall accept an application for an absentee ballot transmitted by fax even though the application is delivered to the county election board by a person other than the person submitting the application.

(d) When an application is received under subsection (a)(4), the circuit court clerk's office (or, in a county subject to IC 3-6-5.2 or IC 3-6-5.4, the office of the board of elections and registration) shall send an ~~automatic~~ electronic mail receipt acknowledging receipt of the voter's application.

SECTION 12. IC 3-11-4-5.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5.5. In accordance with 42 U.S.C. 1973ff-1(b), **but subject to section 5.7 of this chapter,** the election division is designated as the single office in Indiana responsible for providing information regarding voter registration procedures under IC 3-7 and absentee ballot procedures under this chapter to be used by absent uniformed services voters and overseas voters who wish to register to vote or vote in any jurisdiction in Indiana.

SECTION 13. IC 3-11-4-5.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 5.7. (a) As used in this section, "MOVE" refers to the Military and Overseas Voter Empowerment Act (Sections 577 through 589 of the National Defense Authorization Act for Fiscal Year 2010).**

(b) Except as expressly provided by law, the state delegates its responsibilities to carry out the requirements of MOVE to each county election board (or board of elections and registration

established under IC 3-6-5.2 or IC 3-6-5.4).

(c) To implement 42 U.S.C. 1973ff-1, electronic mail, fax, and web publication are designated as means of communication for an absent uniformed services voter or an overseas voter to request a voter registration application and an absentee ballot application from the election division, a county election board, or a county voter registration office.

(d) An office described in subsection (c) that receives an electronic mail or fax from a voter shall provide an absentee ballot application or a voter registration application by electronic mail or fax to the voter if:

(1) requested by the voter; and

(2) the voter provides an electronic mail address or a fax number that permits the office to send an application not later than the end of the first business day after the office receives the communication from the voter.

If the electronic mail address or the fax number provided by the voter does not permit the office to send the voter an application not later than the end of the first business day after the office receives the communication, the office shall send the application to the voter by United States mail.

(e) As required by 42 U.S.C. 1973ff-1, to the extent practicable and permitted under state law (including IC 3-7 and IC 5-14-3), an office described in subsection (c) shall ensure that the procedures used to transmit an absentee ballot application or a voter registration application to an absent uniformed services voter or overseas voter protect the security and integrity of the application request processes, and that the privacy of the identity and other personal data of the voter who requests or is sent an application under subsection (d) is protected throughout the process of making the request or being sent the application.

(f) As required under 42 U.S.C. 1973ff-1, an office described in subsection (c) shall include information regarding the use of electronic mail, fax, and web publication with all informational and instructional materials that are sent with an absentee ballot application or an absentee ballot to an absent uniformed services voter or overseas voter.

(g) To implement Section 580 of MOVE, and in accordance with IC 3-7-26.3-3, the secretary of state, with the approval of the

election division, shall develop a free access system that permits an absent uniformed services voter or overseas voter to determine whether the voter's absentee ballot has been received by the appropriate county election board (or board of elections and registration), regardless of the manner in which the absentee ballot was transmitted by the voter to the board. To the extent permitted by IC 3-7 and IC 5-14-3, the system must contain reasonable procedures to protect the security, confidentiality, and integrity of personal information collected, stored, or otherwise used on the system.

SECTION 14. IC 3-11-4-6, AS AMENDED BY P.L.198-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) This section applies, notwithstanding any other provision of this title, to absentee ballot applications for the following:

(1) An absent uniformed services voter.

(2) An address confidentiality program participant (as defined in IC 5-26.5-1-6).

(3) An overseas voter.

(b) A county election board shall make blank absentee ballot applications available for persons covered by this section after November 20 preceding the election to which the application applies. Except as provided in subsection (c), the person may apply for an absentee ballot at any time after the applications are made available.

(c) A person covered by this section may apply for an absentee ballot for the next scheduled primary, general, or special election at any time by filing **either of the following:**

(1) A ~~standard~~ **combined absentee registration** form **and absentee ballot request** approved under ~~42 U.S.C. 1973ff(b)~~ **42 U.S.C. 1973ff(b)(2).**

(2) A form prescribed under IC 3-5-4-8 that identifies the applicant as an absent uniformed services voter or an overseas voter. A form prescribed under this subdivision must permit the applicant to designate whether the applicant wishes to receive the absentee ballot by electronic mail, fax, or United States mail.

(d) If the county election board receives an absentee ballot application from a person described by ~~this section,~~ **subsection (c),** the

circuit court clerk shall mail to the person, free of postage as provided by 39 U.S.C. 3406, all ballots for the election immediately upon receipt of the ballots under ~~sections 13 and~~ **section** 15 of this chapter, **unless the person has indicated under subsection (c) that the person wishes to receive the absentee ballot by electronic mail or fax.**

(e) ~~In accordance with 42 U.S.C. 1973ff-3,~~ Whenever a voter files an application for an absentee ballot and indicates on the application that the voter:

(1) is an absent uniformed services voter or an overseas voter; and

(2) does not expect to be in the county ~~on the next general election day following the date the application is filed and expects to remain absent from the county until at least the date of the second general election~~ **during the twelve (12) months** following the date the application is filed;

the application is an adequate application for an absentee ballot for both subsequent general elections and any municipal or special election conducted during that period, **unless an absentee ballot mailed to the voter at the address set forth in the application is returned to the county election board during that period as undeliverable.** The circuit court clerk and county election board shall process this application and send general election absentee ballots to the voter in the same manner as other general election and special election absentee ballot applications and ballots are processed and sent under this chapter.

(f) Whenever a voter described in subsection (a)(2) files an application for a primary election absentee ballot and indicates on the application that the voter is an address confidentiality program participant, the application is an adequate application for a general election absentee ballot under this chapter and an absentee ballot for a special election conducted during the twelve (12) months following the date of the application. The circuit court clerk and county election board shall process this application and send general election and special election absentee ballots to the voter in the same manner as other general election and special election absentee ballot applications and ballots are processed and sent under this chapter.

(g) The name, address, telephone number, and any other identifying information relating to a program participant (as defined in IC 5-26.5-1-6) in the address confidentiality program, as contained in

a voting registration record, is declared confidential for purposes of IC 5-14-3-4(a)(1). The county voter registration office may not disclose for public inspection or copying a name, an address, a telephone number, or any other information described in this subsection, as contained in a voting registration record, except as follows:

(1) To a law enforcement agency, upon request.

(2) As directed by a court order.

(h) The county election board shall by fax or electronic mail ~~when authorized under this section)~~ transmit an absentee ballot to and receive an absentee ballot from an absent uniformed services voter or an overseas voter **by electronic mail or fax** at the request of the voter **indicated in the application filed under this section.** If the voter wants to submit absentee ballots by fax or electronic mail, the voter must separately sign and date a statement ~~on the cover of~~ **submitted with the electronic mail or** the fax transmission that states substantively the following: "I understand that by faxing or e-mailing my voted ballot I am voluntarily waiving my right to a secret ballot.".

(i) The county election board shall send confirmation to a voter described in subsection (h) that the voter's absentee ballot has been received as follows:

(1) If the voter provides a fax number to which a confirmation may be sent, the county election board shall send the confirmation to the voter at the fax number provided by the voter.

(2) If the voter provides an electronic mail address to which a confirmation may be sent, the county election board shall send the confirmation to the voter at the electronic mail address provided by the voter.

(3) If:

(A) the voter does not provide a fax number or an electronic mail address; or

(B) the number or address provided does not permit the board to send the confirmation not later than the end of the first business day after the board receives the voter's absentee ballot;

the county election board shall send the confirmation by United States mail.

The county election board shall send the confirmation required by this subsection not later than the end of the first business day after the

county election board receives the voter's absentee ballot.

(j) A county election board may transmit an absentee ballot to an absent uniformed services voter or an overseas voter by electronic mail under a program authorized and administered by the Federal Voting Assistance Program of the United States Department of Defense **or directly to the voter at the voter's electronic mail address, if requested to do so by the voter.** A voter described by this section may transmit the voted absentee ballot to a county election board by electronic mail in accordance with the procedures established under this program. An electronic mail message transmitting a voted absentee ballot under this subsection must include an optically scanned image of the voter's signature on the statement required under subsection (h).

SECTION 15. IC 3-11-4-6.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 6.1. (a) This section applies to a voter who:**

(1) filed an application for an absentee ballot under section 6(e) of this chapter not later than June 30, 2010; and

(2) indicated on the application that the voter:

(A) was an absent uniformed services voter or overseas voter;

(B) did not expect to be in the county on the next general election day following the date the application is filed; and

(C) expects to remain absent from the county until at least the date of the second general election following the date the application is filed.

(b) Notwithstanding section 6 of this chapter, the application is an adequate application for an absentee ballot for both subsequent general elections and any municipal or special election conducted during the period described in subsection (a) unless an absentee ballot mailed to the voter at the address set forth in the application has been or is returned to the county election board during that period as undeliverable.

(c) This section expires June 30, 2012.

SECTION 16. IC 3-11-4-12.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 12.5. (a) This section applies to an absent uniformed services voter or overseas voter.**

(b) If a voter makes a timely application for and does not receive

an absentee ballot from a county election board, the voter may use a federal write-in absentee ballot in the form prescribed by the Federal Voting Assistance Program of the United States Department of Defense and in accordance with the requirements set forth in 42 U.S.C. 1973ff-2 to cast a vote for any of the following:

(1) Any candidate for nomination at a primary election.

(2) Any candidate, political party, or public question on a general election, municipal election, or special election ballot.

SECTION 17. IC 3-11-4-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 14. (a) All absentee ballots other than those specified in section ~~12~~ **12.5** of this chapter shall be prepared and printed under the direction of each county election board. After completing the estimate required by section 10 of this chapter and receiving all certifications from the election division required under IC 3-8 or IC 3-10, the county election board shall immediately proceed to prepare and have printed the ballots.

(b) Except as provided in subsection (c), ballots prepared by the county election board under this section must provide space for the voter to cast a write-in ballot.

(c) Space for write-in voting for an office is not required if there are no declared write-in candidates for that office. However, procedures must be implemented to permit write-in voting for candidates for federal offices.

SECTION 18. IC 3-11-4-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 15. ~~(a) Except as provided in subsection (b),~~ The absentee ballots that are prepared and printed under the direction of a county election board shall be delivered to the circuit court clerk (or the board acting under IC 3-6-5.2) at least

~~(1) forty-five (45)~~ **fifty (50)** days before a general, primary, **special,** or municipal election.

~~(2) thirty-two (32) days before a special election.~~

~~(b) This subsection applies to the printing of absentee ballots for a general election in which the names of nominees for President and Vice President of the United States are to be printed on the ballot. The absentee ballots that are prepared and printed under the direction of a county election board shall be delivered to the circuit court clerk (or the board acting under IC 3-6-5.2) not later than thirty-eight (38) days~~

~~before the general election.~~

SECTION 19. IC 3-11-4-18, AS AMENDED BY P.L.164-2006, SECTION 93, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 18. (a) If a voter satisfies any of the qualifications described in IC 3-11-10-24 that entitle a voter to cast an absentee ballot by mail, the county election board shall, at the request of the voter, mail the official ballot, postage fully prepaid, to the voter at the address stated in the application.

(b) If the county election board mails an absentee ballot to a voter required to file additional documentation with the county voter registration office before voting by absentee ballot under this chapter, the board shall include a notice to the voter in the envelope mailed to the voter under section 20 of this chapter. The notice must inform the voter that the voter must file the additional documentation required under IC 3-7-33-4.5 with the county voter registration office not later than noon on election day for the absentee ballot to be counted as an absentee ballot, and that, if the documentation required under IC 3-7-33-4.5 is filed after noon and before 6 p.m. on election day, the ballot will be processed as a provisional ballot. The commission shall prescribe the form of this notice under IC 3-5-4-8.

(c) Except as provided in section 18.5 of this chapter, the ballot shall be mailed:

(1) on the day of the receipt of the voter's application; or

(2) not more than five (5) days after the date of delivery of the ballots under section 15 of this chapter;

whichever is later.

~~(d) In addition to the ballot mailed under subsection (c), the county election board shall mail a special absentee ballot for overseas voters.~~

~~(e) Except as provided in section 18.5 of this chapter, the ballot described in subsection (d)~~

~~(1) must be mailed:~~

~~(A) on the day of the receipt of the voter's application: or~~

~~(B) not more than five (5) days after the latest date for delivery of the ballots under section 13(b) of this chapter applicable to that election;~~

~~whichever is later; and~~

~~(2) may not be mailed after the absentee ballots described by section 13(a) of this chapter have been delivered to the circuit~~

~~court clerk or the clerk's authorized deputy.~~

~~(f)~~ **(d)** As required by 42 U.S.C. 15481, an election board shall establish a voter education program (specific to a paper ballot or optical scan ballot card provided as an absentee ballot under this chapter) to notify a voter of the effect of casting multiple votes for a single office.

~~(g)~~ **(e)** As provided by 42 U.S.C. 15481, when an absentee ballot is mailed under this section, the mailing must include:

(1) information concerning the effect of casting multiple votes for an office; and

(2) instructions on how to correct the ballot before the ballot is cast and counted, including the issuance of replacement ballots.

SECTION 20. IC 3-11-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. This chapter applies to:

(1) each precinct; and ~~to~~

(2) absentee voting, **including the casting of an absentee ballot before an absentee voter board:**

(A) in the office of the:

(i) circuit court clerk; or

(ii) board of elections and registration in a county subject to IC 3-6-5.2 or IC 3-6-5.4; or

(B) at a satellite office established under IC 3-11-10-26.3.

SECTION 21. IC 3-11-9-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 6. (a) This section applies only to a voter with a disability.**

(b) This section does not apply to an absentee ballot cast by a voter before an absentee voter board visiting the voter's place of confinement or the voter's residence.

(c) A voter is entitled to vote on a direct record electronic voting system that complies with IC 3-11-8.

SECTION 22. IC 3-11-10-12, AS AMENDED BY P.L.164-2006, SECTION 106, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 12. (a) **Except as provided in section 12.5 of this chapter,** each county election board shall have all absentee ballots delivered to the precinct election boards at their respective polls on election day.

(b) The absentee ballots shall be delivered during the hours that the polls are open and in sufficient time to enable the precinct election boards to vote the ballots during the time the polls are open.

(c) Along with the absentee ballots delivered to the precinct election boards under subsection (a), each county election board shall provide a list certified by the circuit court clerk. This list must state the name of each voter subject to IC 3-7-33-4.5 who:

(1) filed the documentation required by IC 3-7-33-4.5 with the county voter registration office after the printing of the certified list under IC 3-7-29 or the poll list under IC 3-11-3; and

(2) as a result, is entitled to have the voter's absentee ballot counted if the ballot otherwise complies with this title.

(d) If the county election board is notified not later than 3 p.m. on election day by the county voter registration office that a voter subject to IC 3-7-33-4.5 and not identified in the list certified under subsection (c) has filed documentation with the office that complies with IC 3-7-33-4.5, the county election board shall transmit a supplemental certified list to the appropriate precinct election board. If the board determines that the supplemental list may not be received before the closing of the polls, the board shall:

(1) attempt to contact the precinct election board to inform the board regarding the content of the supplemental list; and

(2) file a copy of the supplemental list for that precinct as part of the permanent records of the board.

~~(e) This subsection applies to a special write-in absentee ballot described in:~~

~~(1) 42 U.S.C. 1973ff for federal offices; and~~

~~(2) IC 3-11-4-12(a) for state offices.~~

~~If the county election board receives both a special write-in absentee ballot and the regular absentee ballot described by IC 3-11-4-12 from the same voter, the county election board shall reject the special write-in ballot and deliver only the regular absentee ballot to the precinct election board.~~

SECTION 23. IC 3-11-10-12.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 12.5. (a) This section applies to absentee ballots cast:**

(1) under section 26 or 26.3 of this chapter; and

(2) on a direct record electronic voting system.

(b) Notwithstanding section 12 of this chapter, a county election board is not required to deliver absentee ballots described in subsection (a) to the precincts for counting. However, the county election board shall deliver to each precinct a list of the names of voters who have cast absentee ballots described in subsection (a). The county election board shall deliver this list at the same time the county election board delivers other absentee ballots to the precinct. Absentee ballots described in subsection (a) may be challenged using the same procedure that applies to other absentee ballots. The judges shall mark the poll list to indicate that each voter on the list sent by the county election board has voted by absentee ballot. If a voter has already voted at the precinct or if the absentee ballot is challenged, the judges shall note that fact on the list sent by the county election board and return the list to the county election board with the precinct's other election materials. The county election board shall delete the absentee votes of a voter described in subsection (a) whose name has been noted by the judges as having voted at the precinct. The county election board shall count the absentee ballots described in subsection (a) using the procedures in IC 3-11.5 for counting absentee ballots at a central location, including the procedures for challenging absentee ballots and eliminating the absentee ballots of individuals voting in person at the polls, to assure that the ballots cast on the direct record electronic voting system may be counted.

(c) A county election board acting under this section:

(1) may count all absentee ballots described in subsection (a) at a central location; and

(2) shall adjust the vote totals for each precinct based on the count of absentee ballots under subdivision (1).

(d) This section does not require a county election board to count absentee ballots not described in subsection (a) at a central location under this section or IC 3-11.5.

SECTION 24. IC 3-11-10-26, AS AMENDED BY P.L.164-2006, SECTION 109, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 26. (a) As an alternative to voting by mail, a voter is entitled to cast an absentee ballot before an absentee voter board:

(1) in the office of the circuit court clerk (or board of elections

and registration in a county subject to IC 3-6-5.2); or

(2) at a satellite office established under section 26.3 of this chapter.

(b) The voter must:

(1) sign an application on the form prescribed by the commission under IC 3-11-4-5.1; and

(2) provide proof of identification;

before being permitted to vote. The application must be received by the circuit court clerk not later than the time prescribed by IC 3-11-4-3.

(c) The voter may vote before the board not more than twenty-nine (29) days nor later than noon on the day before election day.

(d) An absent uniformed services voter who is eligible to vote by absentee ballot in the circuit court clerk's office under IC 3-7-36-14 may vote before the board not earlier than twenty-nine (29) days before the election and not later than noon on election day. If a voter described by this subsection wishes to cast an absentee ballot during the period beginning at noon on the day before election day and ending at noon on election day, the county election board or absentee voter board may receive and process the ballot at a location designated by resolution of the county election board.

(e) The absentee voter board in the office of the circuit court clerk must permit voters to cast absentee ballots under this section for at least seven (7) hours on each of the two (2) Saturdays preceding election day.

(f) Notwithstanding subsection (e), in a county with a population of less than twenty thousand (20,000), the absentee voter board in the office of the circuit court clerk, with the approval of the county election board, may reduce the number of hours available to cast absentee ballots under this section to a minimum of four (4) hours on each of the two (2) Saturdays preceding election day.

(g) As provided by 42 U.S.C. 15481, a voter casting an absentee ballot under this section must be:

(1) permitted to verify in a private and independent manner the votes selected by the voter before the ballot is cast and counted;

(2) provided with the opportunity to change the ballot or correct any error in a private and independent manner before the ballot is cast and counted, including the opportunity to receive a replacement ballot if the voter is otherwise unable to change or

correct the ballot; and

(3) notified before the ballot is cast regarding the effect of casting multiple votes for the office and provided an opportunity to correct the ballot before the ballot is cast and counted.

(h) As provided by 42 U.S.C. 15481, when an absentee ballot is provided under this section, the board must also provide the voter with:

(1) information concerning the effect of casting multiple votes for an office; and

(2) instructions on how to correct the ballot before the ballot is cast and counted, including the issuance of replacement ballots.

(i) If:

(1) the voter is unable or declines to present the proof of identification; or

(2) a member of the board determines that the proof of identification provided by the voter does not qualify as proof of identification under IC 3-5-2-40.5;

the voter shall be permitted to cast an absentee ballot and the voter's absentee ballot shall be treated as a provisional ballot.

(j) A voter casting an absentee ballot under this section is entitled to cast the voter's ballot in accordance with IC 3-11-9.

SECTION 25. IC 3-11-10-26.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 26.3. (a) A county election board may adopt a resolution to authorize the circuit court clerk to establish satellite offices in the county where voters may cast absentee ballots before an absentee voter board.

(b) To be adopted under this section, a resolution must be adopted by the unanimous vote of the board's entire membership.

(c) A resolution adopted under this section must do the following:

(1) State the locations of the satellite offices.

(2) State the hours at which absentee voting may occur at the satellite offices.

(d) The resolution may contain other provisions the board considers useful.

(e) If a resolution is adopted under this section, the procedure for casting an absentee ballot at a satellite office must, except as provided in this section, be substantially the same as the procedure for casting an absentee ballot in the office of the circuit court clerk.

(f) A voter casting an absentee ballot under this section is

entitled to cast the voter's ballot in accordance with IC 3-11-9.

(g) A satellite office established by a circuit court clerk under this section must comply with the polling place accessibility requirements of IC 3-11-8.

SECTION 26. IC 3-11.5-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. To the extent that they are in conflict with this article, the following statutes do not apply to a county that has adopted a resolution described by section 1 of this chapter:

(1) IC 3-11-4-22.
(2) IC 3-11-10-1.5.
(3) IC 3-11-10-3.
(4) IC 3-11-10-5.
(5) IC 3-11-10-6.
(6) IC 3-11-10-7.
(7) IC 3-11-10-8.
(8) IC 3-11-10-9.
(9) IC 3-11-10-11.
(10) IC 3-11-10-12.
(11) IC 3-11-10-12.5.
~~(11)~~ **(12)** IC 3-11-10-13.
~~(12)~~ **(13)** IC 3-11-10-14.
~~(13)~~ **(14)** IC 3-11-10-15.
~~(14)~~ **(15)** IC 3-11-10-16.
~~(15)~~ **(16)** IC 3-11-10-17.
~~(16)~~ **(17)** IC 3-11-10-18.
~~(17)~~ **(18)** IC 3-11-10-20.
~~(18)~~ **(19)** IC 3-11-10-21.
~~(19)~~ **(20)** IC 3-11-10-22.
~~(20)~~ **(21)** IC 3-11-10-23.
~~(21)~~ **(22)** IC 3-11-10-31.
~~(22)~~ **(23)** IC 3-11-10-32.
~~(23)~~ **(24)** IC 3-11-10-33.
~~(24)~~ **(25)** IC 3-11-10-34.
~~(25)~~ **(26)** IC 3-11-10-35.
~~(26)~~ **(27)** IC 3-11-10-36.
~~(27)~~ **(28)** IC 3-11-10-37.
~~(28)~~ **(29)** IC 3-12-2.

~~(29)~~ **(30)** IC 3-12-3-12.

SECTION 27. IC 3-11.5-5-14, AS AMENDED BY P.L.198-2005, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 14. (a) This section applies to the counting of **federal** write-in absentee ballots ~~for~~

~~(1) a federal office received under 42 U.S.C. 1973ff and~~

~~(2) a federal office, state office, or public question under IC 3-11-4-12(a).~~

described in IC 3-11-4-12.5.

(b) If a voter writes an abbreviation, a misspelling, or other minor variation instead of the correct name of a candidate or political party, that vote shall be counted if the intent of the voter can be determined.

(c) If a voter casts a ballot under this section for President or Vice President and writes in the name of a candidate or political party that has not certified a list of electors under IC 3-10-4-5, the vote for President or Vice President is void. The remaining votes on the ballot may be counted.

(d) IC 3-12-1-7 applies to a ballot subject to this section.

(e) A ballot subject to this section may not be counted if:

(1) the ballot was submitted from within the United States;

(2) the voter's application for a regular absentee ballot was received by the circuit court clerk or board of registration less than thirty (30) days before the election;

(3) the voter's completed regular state absentee ballot was received by the circuit court clerk or board of registration by the deadline for receiving absentee ballots under IC 3-11.5-4-7; or

(4) the ballot subject to this section was not received by the circuit court clerk or board of registration by the deadline for receiving absentee ballots under IC 3-11.5-4-7.

SECTION 28. IC 3-12-1-18 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 18. (a) This section applies to a federal write-in absentee ballot cast in a primary election as provided in IC 3-11-4-12.5(b)(1) by an absent uniformed services voter or overseas voter.**

(b) If a voter does any of the following, the voter's vote is void:

(1) The voter votes for more than one (1) candidate, and the candidates are not on the official primary ballot of the same

political party.

(2) The voter votes for a candidate who is not on the official primary ballot of any political party.

(3) The voter votes for a candidate who is on the official primary ballot of a political party, but the voter does not indicate the office for which the candidate seeks to be nominated.

(c) If the voter votes for a political party, but the voter does not vote for any individual candidates who are on that political party's official primary ballot, the voter's vote is void.

SECTION 29. IC 3-12-1-19 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 19. (a) This section applies to a federal write-in absentee ballot cast in a general election, municipal election, or special election as provided in IC 3-11-4-12.5(b)(2) by an absent uniformed services voter or overseas voter.**

(b) If a voter designates a candidate by writing in the name of a political party on the ballot, the voter's vote shall be counted for all candidates of that political party on the ballot.

(c) If a voter writes an abbreviation, misspelling, or other minor variation instead of the correct name of a candidate or a political party, the voter's vote shall be counted if the intent of the voter can be determined.

SECTION 30. IC 3-12-2-7.5, AS AMENDED BY P.L.198-2005, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7.5. (a) This section applies to the counting of **federal** write-in absentee ballots ~~for~~

~~(1) a federal office received under 42 U.S.C. 1973ff and~~

~~(2) a federal office, state office, or public question under IC 3-11-4-12.~~

described in IC 3-11-4-12.5.

(b) If a voter writes an abbreviation, misspelling, or other minor variation instead of the correct name of a candidate or political party, that vote shall be counted if the intent of the voter can be determined.

(c) If a voter casts a ballot under this section for President or Vice President of the United States and writes in the name of a candidate or political party that has not:

(1) certified a list of electors under IC 3-10-4-5; or

(2) included a list of electors on the declaration for candidacy filed by a write-in candidate under IC 3-8-2-2.5;

the vote for President or Vice President is void. The remaining votes on the ballot may be counted.

(d) IC 3-12-1-7 applies to a ballot subject to this section.

(e) A ballot subject to this section may not be counted if:

(1) the ballot was submitted:

(A) by an overseas voter who is not an absent uniformed services voter; and

(B) from within the United States;

(2) the voter's completed regular state absentee ballot was received by the county election board by the deadline for receiving absentee ballots under IC 3-11-10-11; or

(3) the ballot subject to this section was not received by the county election board by the deadline for receiving absentee ballots under IC 3-11-10-11.

SECTION 31. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2010]: IC 3-11-4-12; IC 3-11-4-13.

P.L.67-2010

[H.1116. Approved March 17, 2010.]

AN ACT to amend the Indiana Code concerning labor and safety.

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

SECTION 1. IC 22-3-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) After an injury and prior to an adjudication of permanent impairment, the employer shall furnish or cause to be furnished, free of charge to the employee, an attending physician for the treatment of ~~his~~ **the employee's** injuries, and in addition thereto such surgical, hospital and nursing services and

supplies as the attending physician or the worker's compensation board may deem necessary. If the employee is requested or required by the employer to submit to treatment outside the county of employment, the employer shall also pay the reasonable expense of travel, food, and lodging necessary during the travel, but not to exceed the amount paid at the time of the travel by the state to its employees under the state travel policies and procedures established by the department of administration and approved by the state budget agency. If the treatment or travel to or from the place of treatment causes a loss of working time to the employee, the employer shall reimburse the employee for the loss of wages using the basis of the employee's average daily wage.

(b) During the period of temporary total disability resulting from the injury, the employer shall furnish the physician services, and supplies, and the worker's compensation board may, on proper application of either party, require that treatment by the physician and services and supplies be furnished by or on behalf of the employer as the worker's compensation board may deem reasonably necessary.

(c) After an employee's injury has been adjudicated by agreement or award on the basis of permanent partial impairment and within the statutory period for review in such case as provided in section 27 of this chapter, the employer may continue to furnish a physician or surgeon and other medical services and supplies, and the worker's compensation board may within the statutory period for review as provided in section 27 of this chapter, on a proper application of either party, require that treatment by that physician and other medical services and supplies be furnished by and on behalf of the employer as the worker's compensation board may deem necessary to limit or reduce the amount and extent of the employee's impairment. The refusal of the employee to accept such services and supplies, when provided by or on behalf of the employer, shall bar the employee from all compensation otherwise payable during the period of the refusal, and ~~his~~ **the employee's** right to prosecute any proceeding under IC 22-3-2 through IC 22-3-6 shall be suspended and abated until the employee's refusal ceases. The employee must be served with a notice setting forth the consequences of the refusal under this section. The notice must be in a form prescribed by the worker's compensation board. No compensation for permanent total impairment, permanent

partial impairment, permanent disfigurement, or death shall be paid or payable for that part or portion of the impairment, disfigurement, or death which is the result of the failure of the employee to accept the treatment, services, and supplies required under this section. However, an employer may at any time permit an employee to have treatment for ~~his~~ **the employee's** injuries by spiritual means or prayer in lieu of the physician or surgeon and other medical services and supplies required under this section.

(d) If, because of an emergency, or because of the employer's failure to provide an attending physician or surgical, hospital, or nursing services and supplies, or treatment by spiritual means or prayer, as required by this section, or because of any other good reason, a physician other than that provided by the employer treats the injured employee during the period of the employee's temporary total disability, or necessary and proper surgical, hospital, or nursing services and supplies are procured within the period, the reasonable cost of those services and supplies shall, subject to the approval of the worker's compensation board, be paid by the employer.

(e) An employer or employer's insurance carrier may not delay the provision of emergency medical care whenever emergency medical care is considered necessary in the professional judgment of the attending health care facility physician.

~~(e)~~ **(f)** Regardless of when it occurs, where a compensable injury results in the amputation of a body part, the enucleation of an eye, or the loss of natural teeth, the employer shall furnish an appropriate artificial member, braces, and prosthodontics. The cost of repairs to or replacements for the artificial members, braces, or prosthodontics that result from a compensable injury pursuant to a prior award and are required due to either medical necessity or normal wear and tear, determined according to the employee's individual use, but not abuse, of the artificial member, braces, or prosthodontics, shall be paid from the second injury fund upon order or award of the worker's compensation board. The employee is not required to meet any other requirement for admission to the second injury fund.

~~(f)~~ **(g)** If an accident arising out of and in the course of employment after June 30, 1997, results in the loss of or damage to an artificial member, a brace, an implant, eyeglasses, prosthodontics, or other medically prescribed device, the employer shall repair the artificial

member, brace, implant, eyeglasses, prosthodontics, or other medically prescribed device or furnish an identical or a reasonably equivalent replacement.

~~(g)~~ **(h)** This section may not be construed to prohibit an agreement between an employer and the employer's employees that has the approval of the board and that binds the parties to:

(1) medical care furnished by health care providers selected by agreement before or after injury; or

(2) the findings of a health care provider who was chosen by agreement.

SECTION 2. IC 22-3-3-13, AS AMENDED BY P.L.173-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 13. (a) As used in this section, "board" refers to the worker's compensation board created under IC 22-3-1-1.

(b) If an employee who from any cause, had lost, or lost the use of, one (1) hand, one (1) arm, one (1) foot, one (1) leg, or one (1) eye, and in a subsequent industrial accident becomes permanently and totally disabled by reason of the loss, or loss of use of, another such member or eye, the employer shall be liable only for the compensation payable for such second injury. However, in addition to such compensation and after the completion of the payment therefor, the employee shall be paid the remainder of the compensation that would be due for such total permanent disability out of a special fund known as the second injury fund, and created in the manner described in subsection (c).

(c) Whenever the board determines under the procedures set forth in subsection (d) that an assessment is necessary to ensure that fund beneficiaries, including applicants under section ~~4(c)~~ **4(f)** of this chapter, continue to receive compensation in a timely manner for a reasonable prospective period, the board shall send notice not later than November 1 in any year to:

(1) all insurance carriers and other entities insuring or providing coverage to employers who are or may be liable under this article to pay compensation for personal injuries to or the death of their employees under this article; and

(2) each employer carrying the employer's own risk;

stating that an assessment is necessary. Not later than January 31 of the following year, each entity identified in subdivisions (1) and (2) shall send to the board a statement of total paid losses and premiums (as

defined in subsection (d)(4)) paid by employers during the previous calendar year. The board may conduct an assessment under this subsection not more than one (1) time annually. The total amount of the assessment may not exceed two and one-half percent (2.5%) of the total amount of all worker's compensation paid to injured employees or their beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar year next preceding the due date of such payment. The board shall assess a penalty in the amount of ten percent (10%) of the amount owed if payment is not made under this section within thirty (30) days from the date set by the board. If the amount to the credit of the second injury fund on or before November 1 of any year exceeds one hundred thirty-five percent (135%) of the previous year's disbursements, the assessment allowed under this subsection shall not be assessed or collected during the ensuing year. But when on or before November 1 of any year the amount to the credit of the fund is less than one hundred thirty-five percent (135%) of the previous year's disbursements, the payments of not more than two and one-half percent (2.5%) of the total amount of all worker's compensation paid to injured employees or their beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar year next preceding that date shall be resumed and paid into the fund. The board may not use an assessment rate greater than twenty-five hundredths of one percent (0.25%) above the amount recommended by the study performed before the assessment.

(d) The board shall assess all employers for the liabilities, including administrative expenses, of the second injury fund. The assessment also must provide for the repayment of all loans made to the second injury fund for the purpose of paying valid claims. The following applies to assessments under this subsection:

(1) The portion of the total amount that must be collected from self-insured employers equals:

(A) the total amount of the assessment as determined by the board; multiplied by

(B) the quotient of:

(i) the total paid losses on behalf of all self-insured employers during the preceding calendar year; divided by

(ii) the total paid losses on behalf of all self-insured employers and insured employers during the preceding calendar year.

(2) The portion of the total amount that must be collected from insured employers equals:

(A) the total amount of the assessment as determined by the board; multiplied by

(B) the quotient of:

(i) the total paid losses on behalf of all insured employers during the preceding calendar year; divided by

(ii) the total paid losses on behalf of all self-insured employers and insured employers during the preceding calendar year.

(3) The total amount of insured employer assessments under subdivision (2) must be be collected by the insured employers' worker's compensation insurers. The amount of employer assessments each insurer shall collect equals:

(A) the total amount of assessments allocated to insured employers under subdivision (2); multiplied by

(B) the quotient of:

(i) the worker's compensation premiums paid by employers to the carrier during the preceding calendar year; divided by

(ii) the worker's compensation premiums paid by employers to all carriers during the preceding calendar year.

(4) For purposes of the computation made under subdivision (3), "premium" means the direct written premium.

(5) The amount of the assessment for each self-insured employer equals:

(A) the total amount of assessments allocated to self-insured employers under subdivision (1); multiplied by

(B) the quotient of:

(i) the paid losses attributable to the self-insured employer during the preceding calendar year; divided by

(ii) paid losses attributable to all self-insured employers during the preceding calendar year.

An employer that has ceased to be a self-insurer continues to be liable for prorated assessments based on paid losses made by the employer in the preceding calendar year during the period that the employer was self-insured.

(e) The board may employ a qualified employee or enter into a contract with an actuary or another qualified firm that has experience

in calculating worker's compensation liabilities. Not later than December 1 of each year, the actuary or other qualified firm shall calculate the recommended funding level of the fund and inform the board of the results of the calculation. If the amount to the credit of the fund is less than the amount required under subsection (c), the board may conduct an assessment under subsection (c). The board shall pay the costs of the contract under this subsection with money in the fund.

(f) An assessment collected under subsection (c) on an employer who is not self-insured must be assessed through a surcharge based on the employer's premium. An assessment collected under subsection (c) does not constitute an element of loss, but for the purpose of collection shall be treated as a separate cost imposed upon insured employers. A premium surcharge under this subsection must be collected at the same time and in the same manner in which the premium for coverage is collected, and must be shown as a separate amount on a premium statement. A premium surcharge under this subsection must be excluded from the definition of premium for all purposes, including the computation of insurance producer commissions or premium taxes. However, an insurer may cancel a worker's compensation policy for nonpayment of the premium surcharge. A cancellation under this subsection must be carried out under the statutes applicable to the nonpayment of premiums.

(g) The sums shall be paid by the board to the treasurer of state, to be deposited in a special account known as the second injury fund. The funds are not a part of the general fund of the state. Any balance remaining in the account at the end of any fiscal year shall not revert to the general fund. The funds shall be used only for the payment of awards of compensation ordered by the board and chargeable against the fund pursuant to this section, and shall be paid for that purpose by the treasurer of state upon award or order of the board.

(h) If an employee who is entitled to compensation under IC 22-3-2 through IC 22-3-6 either:

(1) exhausts the maximum benefits under section 22 of this chapter without having received the full amount of award granted to the employee under section 10 of this chapter; or

(2) exhausts the employee's benefits under section 10 of this chapter;

then such employee may apply to the board, who may award the

employee compensation from the second injury fund established by this section, as follows under subsection (i).

(i) An employee who has exhausted the employee's maximum benefits under section 10 of this chapter may be awarded additional compensation equal to sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wage at the time of the employee's injury, not to exceed the maximum then applicable under section 22 of this chapter, for a period of not to exceed one hundred fifty (150) weeks upon competent evidence sufficient to establish:

(1) that the employee is totally and permanently disabled from causes and conditions of which there are or have been objective conditions and symptoms proven that are not within the physical or mental control of the employee; and

(2) that the employee is unable to support the employee in any gainful employment, not associated with rehabilitative or vocational therapy.

(j) The additional award may be renewed during the employee's total and permanent disability after appropriate hearings by the board for successive periods not to exceed one hundred fifty (150) weeks each. The provisions of this section apply only to injuries occurring subsequent to April 1, 1950, for which awards have been or are in the future made by the board under section 10 of this chapter. Section 16 of this chapter does not apply to compensation awarded from the second injury fund under this section.

(k) All insurance carriers subject to an assessment under this section are required to provide to the board:

(1) not later than January 31 each calendar year; and

(2) not later than thirty (30) days after a change occurs;

the name, address, and electronic mail address of a representative authorized to receive the notice of an assessment.

SECTION 3. IC 22-3-7-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 17. (a) During the period of disablement, the employer shall furnish or cause to be furnished, free of charge to the employee, an attending physician for the treatment of ~~his~~ **the employee's** occupational disease, and in addition thereto such surgical, hospital, and nursing services and supplies as the attending physician or the worker's compensation board may deem necessary. If the employee is requested or required by the

employer to submit to treatment outside the county of employment, the employer shall also pay the reasonable expense of travel, food, and lodging necessary during the travel, but not to exceed the amount paid at the time of the travel by the state of Indiana to its employees. If the treatment or travel to or from the place of treatment causes a loss of working time to the employee, the employer shall reimburse the employee for the loss of wages using the basis of the employee's average daily wage.

(b) During the period of disablement resulting from the occupational disease, the employer shall furnish such physician, services, and supplies, and the worker's compensation board may, on proper application of either party, require that treatment by such physician and such services and supplies be furnished by or on behalf of the employer as the board may deem reasonably necessary. After an employee's occupational disease has been adjudicated by agreement or award on the basis of permanent partial impairment and within the statutory period for review in such case as provided in section 27(i) of this chapter, the employer may continue to furnish a physician or a surgeon and other medical services and supplies, and the board may, within such statutory period for review as provided in section 27(i) of this chapter, on a proper application of either party, require that treatment by such physician or surgeon and such services and supplies be furnished by and on behalf of the employer as the board may deem necessary to limit or reduce the amount and extent of such impairment. The refusal of the employee to accept such services and supplies when so provided by or on behalf of the employer, shall bar the employee from all compensation otherwise payable during the period of such refusal and ~~his~~ **the employee's** right to prosecute any proceeding under this chapter shall be suspended and abated until such refusal ceases. The employee must be served with a notice setting forth the consequences of the refusal under this section. The notice must be in a form prescribed by the worker's compensation board. No compensation for permanent total impairment, permanent partial impairment, permanent disfigurement, or death shall be paid or payable for that part or portion of such impairment, disfigurement, or death which is the result of the failure of such employee to accept such treatment, services, and supplies, provided that an employer may at any time permit an employee to have treatment for ~~his~~ **the employee's**

disease or injury by spiritual means or prayer in lieu of such physician, services, and supplies.

(c) Regardless of when it occurs, where a compensable occupational disease results in the amputation of a body part, the enucleation of an eye, or the loss of natural teeth, the employer shall furnish an appropriate artificial member, braces, and prosthodontics. The cost of repairs to or replacements for the artificial members, braces, or prosthodontics that result from a compensable occupational disease pursuant to a prior award and are required due to either medical necessity or normal wear and tear, determined according to the employee's individual use, but not abuse, of the artificial member, braces, or prosthodontics, shall be paid from the second injury fund upon order or award of the worker's compensation board. The employee is not required to meet any other requirement for admission to the second injury fund.

(d) If an emergency or because of the employer's failure to provide such attending physician or such surgical, hospital, or nurse's services and supplies or such treatment by spiritual means or prayer as specified in this section, or for other good reason, a physician other than that provided by the employer treats the diseased employee within the period of disability, or necessary and proper surgical, hospital, or nurse's services and supplies are procured within the period, the reasonable cost of such services and supplies shall, subject to approval of the worker's compensation board, be paid by the employer.

(e) An employer or employer's insurance carrier may not delay the provision of emergency medical care whenever emergency medical care is considered necessary in the professional judgment of the attending health care facility physician.

~~(e)~~ **(f)** This section may not be construed to prohibit an agreement between an employer and employees that has the approval of the board and that:

(1) binds the parties to medical care furnished by providers selected by agreement before or after disablement; or

(2) makes the findings of a provider chosen in this manner binding upon the parties.

~~(f)~~ **(g)** The employee and the employee's estate do not have liability to a health care provider for payment for services obtained under this section. The right to order payment for all services provided under this

chapter is solely with the board. All claims by a health care provider for payment for services are against the employer and the employer's insurance carrier, if any, and must be made with the board under this chapter.

P.L.68-2010
[H.1122. Approved March 17, 2010.]

AN ACT to amend the Indiana Code concerning property.

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

SECTION 1. IC 24-5.5-1-1, AS AMENDED BY P.L.105-2009, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. ~~Except for IC 24-5.5-3-1,~~ This article does not apply to the following:

(1) A person organized or chartered under the laws of this state, any other state, or the United States that relate to a bank, a trust company, a savings association, a savings bank, a credit union, or an industrial loan and investment company.

(2) The Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, or a Federal Home Loan Bank.

(3) A department or agency of the United States or of Indiana.

(4) A person that is servicing or enforcing a loan that it owns.

(5) A person that is servicing a loan:

(A) for a person described in subdivisions (1) through (4); or

(B) insured by the Department of Housing and Urban Development or guaranteed by the Veterans Administration.

(6) An attorney licensed to practice law in Indiana who is representing a mortgagor.

SECTION 2. IC 32-29-7-3, AS AMENDED BY P.L.100-2008, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2010]: Sec. 3. (a) In a proceeding for the foreclosure of a mortgage executed on real estate, process may not issue for the execution of a judgment or decree of sale for a period of three (3) months after the filing of a complaint in the proceeding. However:

(1) the period is:

(A) twelve (12) months in a proceeding for the foreclosure of a mortgage executed before January 1, 1958; and

(B) six (6) months in a proceeding for the foreclosure of a mortgage executed after December 31, 1957, but before July 1, 1975; and

(2) if the court **or an enforcement authority (as defined in IC 36-7-9-2)** finds that the mortgaged real estate is residential real estate and has been abandoned, a judgment or decree of sale may be executed on the date the judgment of foreclosure or decree of sale is entered, regardless of the date the mortgage is executed.

(b) A judgment and decree in a proceeding to foreclose a mortgage that is entered by a court having jurisdiction may be filed with the clerk in any county as provided in IC 33-32-3-2. After the period set forth in subsection (a) expires, a person who may enforce the judgment and decree may file a praecipe with the clerk in any county where the judgment and decree is filed, and the clerk shall promptly issue and certify to the sheriff of that county a copy of the judgment and decree under the seal of the court. **However, if:**

(1) a praecipe is not filed with the clerk within one hundred eighty (180) days after the later of the dates on which:

(A) the period specified in subsection (a) expires; or

(B) the judgment and decree is filed; and

(2) the sale is not:

(A) otherwise prohibited by law;

(B) subject to a voluntary statewide foreclosure moratorium; or

(C) subject to a written agreement that:

(i) provides for a delay in the sale of the mortgaged real estate; and

(ii) is executed by and between the owner of the mortgaged real estate and a party entitled to enforce the judgment and decree;

an enforcement authority that has issued an abatement order under IC 36-7-36-9 with respect to the mortgaged real estate may file a praecipe with the clerk in any county where the judgment and decree is filed. If an enforcement authority files a praecipe under this subsection, the clerk of the county in which the praecipe is filed shall promptly issue and certify to the sheriff of that county a copy of the judgment and decree under the seal of the court.

(c) Upon receiving a certified judgment under subsection (b), the sheriff shall, subject to section 4 of this chapter, sell the mortgaged premises or as much of the mortgaged premises as necessary to satisfy the judgment, interest, and costs at public auction at the office of the sheriff or at another location that is reasonably likely to attract higher competitive bids. The sheriff shall schedule the date and time of the sheriff's sale for:

(1) a date not later than one hundred twenty (120) days after the date on which the judgment and decree under seal of the court are certified to the sheriff by the clerk; and

(2) a time certain between the hours of 10 a.m. and 4 p.m. on any day of the week except Sunday.

(d) Before selling mortgaged property, the sheriff must advertise the sale by publication once each week for three (3) successive weeks in a daily or weekly newspaper of general circulation. The sheriff shall publish the advertisement in at least one (1) newspaper published and circulated in each county where the real estate is situated. The first publication shall be made at least thirty (30) days before the date of sale. At the time of placing the first advertisement by publication, the sheriff shall also serve a copy of the written or printed notice of sale upon each owner of the real estate. Service of the written notice shall be made as provided in the Indiana Rules of Trial Procedure governing service of process upon a person. The sheriff shall charge a fee of ten dollars ($10) to one (1) owner and three dollars ($3) to each additional owner for service of written notice under this subsection. The fee is:

(1) a cost of the proceeding;

(2) to be collected as other costs of the proceeding are collected; and

(3) to be deposited in the county general fund for appropriation for operating expenses of the sheriff's department.

(e) The sheriff also shall post written or printed notices of the sale

at the door of the courthouse of each county in which the real estate is located.

(f) If the sheriff is unable to procure the publication of a notice within the county, the sheriff may dispense with publication. The sheriff shall state that the sheriff was not able to procure the publication and explain the reason why publication was not possible.

(g) Notices under subsections (d) and (e) must contain a statement, for informational purposes only, of the location of each property by street address, if any, or other common description of the property other than legal description. A misstatement in the informational statement under this subsection does not invalidate an otherwise valid sale.

(h) The sheriff may charge an administrative fee of not more than two hundred dollars ($200) with respect to a proceeding referred to in subsection (b) for actual costs directly attributable to the administration of the sale under subsection (c). The fee is:

(1) payable by the person seeking to enforce the judgment and decree; and

(2) due at the time of filing of the praecipe;

under subsection (b).

SECTION 3. IC 32-30-10.5-8, AS ADDED BY P.L.105-2009, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011]: Sec. 8. (a) This section applies to a foreclosure action that is filed after June 30, 2009. Except as provided in subsection (e) and section 10(g) of this chapter, not later than thirty (30) days before a creditor files an action for foreclosure, the creditor shall send to the debtor by certified mail a presuit notice on a form prescribed by the Indiana housing and community development authority created by IC 5-20-1-3. ~~In prescribing the form required by this section, the Indiana housing and community development authority shall include in the notice the statement set forth in IC 24-5.5-3-1. In addition,~~ The notice required by this subsection must **do the following:**

(1) Inform the debtor that:

(A) the debtor is in default; ~~and~~

(B) the debtor is encouraged to obtain assistance from a mortgage foreclosure counselor; and

(C) if the creditor proceeds to file a foreclosure action and obtains a foreclosure judgment, the debtor has a right to do the following before a sheriff's sale is conducted:

(i) Appeal a finding of abandonment by a court under IC 32-29-7-3(a)(2).

(ii) Redeem the real estate from the judgment under IC 32-29-7-7.

(iii) Retain possession of the property under IC 32-29-7-11(b), subject to the conditions set forth in IC 32-29-7-11(b).

(2) Provide the contact information for the Indiana Foreclosure Prevention Network.

(3) Include the following statement printed in at least 14 point boldface type:

"NOTICE REQUIRED BY STATE LAW

Mortgage foreclosure is a complex process. People may approach you about "saving" your home. You should be careful about any such promises. There are government agencies and nonprofit organizations you may contact for helpful information about the foreclosure process. For the name and telephone number of an organization near you, please call the Indiana Foreclosure Prevention Network.".

(b) The notice required by subsection (a) shall be sent to:

(1) the address of the mortgaged property; or

(2) the last known mailing address of the debtor if the creditor's records indicate that the mailing address of the debtor is other than the address of the mortgaged property.

If the creditor provides evidence that the notice required by subsection (a) was sent by certified mail, return receipt requested, and as prescribed by this subsection, it is not necessary that the debtor accept receipt of the notice for an action to proceed as allowed under this chapter.

(c) Except as provided in subsection (e) and section 10(g) of this chapter, if a creditor files an action to foreclose a mortgage, the creditor shall include with the complaint served on the debtor a notice that informs the debtor of the debtor's right to participate in a settlement conference. The notice must be in a form prescribed by the Indiana housing and community development authority created by IC 5-20-1-3. The notice must inform the debtor that the debtor may schedule a settlement conference by notifying the court, not later than thirty (30)

days after the notice is served, of the debtor's intent to participate in a settlement conference.

(d) In a foreclosure action filed under IC 32-30-10-3 after June 30, 2009, the creditor shall attach to the complaint filed with the court a copy of the notices sent to the debtor under subsections (a) and (c).

(e) A creditor is not required to send the notices described in this section if:

(1) the ~~loan~~ **mortgage** is secured by a dwelling that is not the debtor's primary residence;

(2) the ~~loan~~ **mortgage** has been the subject of a prior foreclosure prevention agreement under this chapter and the debtor has defaulted with respect to the terms of that foreclosure prevention agreement; or

(3) bankruptcy law prohibits the creditor from participating in a settlement conference under this chapter with respect to the ~~loan.~~ **mortgage.**

SECTION 4. IC 36-7-9-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 12. (a) When action required by an order is performed by the enforcement authority or by a contractor acting under section 11 of this chapter, each person who held a fee interest, life estate interest, or equitable interest of a contract purchaser in the unsafe premises from the time when the order requiring the work performed was ~~recorded~~ **issued** to the time that the work was completed is jointly and severally responsible for the following costs:

(1) The actual cost of the work performed by the enforcement authority or the bid price of work accomplished by the contractor under section 11 of this chapter.

(2) An amount that represents a reasonable forecast of the average processing expense that will be incurred by the enforcement authority in taking the technical, administrative, and legal actions concerning typical unsafe premises that are necessary under this chapter so that the action required by an order may be performed by a contractor under section 11 of this chapter. In calculating the amount of the average processing expense, the following costs may be considered:

(A) The cost of obtaining reliable information about the identity and location of persons who own a substantial

property interest in the unsafe premises.

(B) The cost of notice of orders, notice of statements of rescission, notice of continued hearing, notice of statements that public bids are to be let or that the enforcement authority intends to accomplish the work, and notice that a hearing may be held on the amounts indicated in the record, in accordance with section 25 of this chapter.

(C) Salaries for employees.

(D) The cost of supplies, equipment, and office space.

(b) The board or commission having control over the department shall determine the amount of the average processing expense at the public hearing, after notice has been given in the same manner as is required for other official action of the board or commission. In determining the average processing expense, the board or commission may fix the amount at a full dollar amount that is an even multiple of ten (10).

SECTION 5. IC 24-5.5-3 IS REPEALED [EFFECTIVE JULY 1, 2010].

P.L.69-2010

[H.1125. Approved March 17, 2010.]

AN ACT to amend the Indiana Code concerning transportation.

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

SECTION 1. IC 8-23-8-10, AS ADDED BY P.L.182-2009(ss), SECTION 279, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) As used in this section, "designated highway" refers to the highway designated as a limited access facility under subsection (b).

(b) The department shall designate and do all acts necessary to establish the part of State Road 331 in St. Joseph County from the U.S.

Highway 20 bypass to State Road 23 as a limited access facility. The designated highway shall be in operation as a limited access facility beginning not later than January 1, 2009.

(c) Neither the department nor any political subdivision may authorize any additional curb cuts or intersections after January 1, 2009, on the designated highway. The department shall limit intersections on the designated highway to the following locations:

(1) U.S. Highway 20 bypass.

(2) Ireland Road.

~~(2)~~ **(3)** Dragoon Trail.

~~(3)~~ **(4)** Twelfth Street (also known as Harrison Road).

~~(4)~~ **(5)** Indiana 933 (also known as Lincoln Way).

~~(5)~~ **(6)** Jefferson Boulevard.

~~(6)~~ **(7)** McKinley Highway.

~~(7)~~ **(8)** Day Road.

(9) Douglas Road.

~~(8)~~ **(10)** Cleveland Road.

(11) Joseph D. Zappia Boulevard directly across from the Indiana Toll Road interchange.

~~(9)~~ **(12)** State Road 23.

(d) No traffic signal may be erected at the intersection described in subsection (c)(2).

SECTION 2. IC 36-4-3-2.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2.2. (a) This section does not apply to an annexation under section 4(a)(2), 4(a)(3), 4(b), 4(h), or 4.1 of this chapter or an annexation described in section 5.1 of this chapter.

(b) Before a municipality may annex territory, the municipality shall provide written notice of the hearing required under section 2.1 of this chapter. Except as provided in subsection ~~(c),~~ **(f),** the notice must be sent by certified mail at least sixty (60) days before the date of the hearing to each owner of real property, as shown on the county auditor's current tax list, whose real property is located within the territory proposed to be annexed.

(c) For purposes of an annexation of territory described in section 2.5 of this chapter, if the hearing required under section 2.1 of this chapter is conducted after June 30, 2010, the notice required by this section must also be sent to each owner of real property, as

shown on the county auditor's current tax list, whose real property is adjacent to contiguous areas of rights-of-way of the public highway that are only included in the annexation of territory by operation of IC 36-4-3-2.5 on the side of the public highway that is not part of the annexed territory.

~~(c)~~ **(d)** The notice required by this section must include the following:

(1) A legal description of the real property proposed to be annexed.

(2) The date, time, location, and subject of the hearing.

(3) A map showing the current municipal boundaries and the proposed municipal boundaries.

(4) Current zoning classifications for the area proposed to be annexed and any proposed zoning changes for the area proposed to be annexed.

(5) A detailed summary of the fiscal plan described in section 13 of this chapter.

(6) The location where the public may inspect and copy the fiscal plan.

(7) A statement that the municipality will provide a copy of the fiscal plan after the fiscal plan is adopted immediately to any landowner in the annexed territory who requests a copy.

(8) The name and telephone number of a representative of the municipality who may be contacted for further information.

~~(d)~~ **(e)** If the municipality complies with this section, the notice is not invalidated if the owner does not receive the notice.

~~(e)~~ **(f)** This subsection applies to an annexation under section 3 or 4 of this chapter in which all property owners within the area to be annexed provide written consent to the annexation. The written notice described in this section must be sent by certified mail not later than twenty (20) days before the date of the hearing to each owner of real property, as shown on the county auditor's current tax list, whose real property is located within the territory proposed to be annexed.

SECTION 3. **An emergency is declared for this act.**

P.L.70-2010
[H.1127. Approved March 17, 2010.]

AN ACT to amend the Indiana Code concerning pensions.

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

SECTION 1. IC 36-8-8-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 8.5. (a) This section applies to a fund member who, after June 30, 2010, completes service for which the 1977 fund gives credit.**

(b) As used in this section, "public retirement fund" refers to any of the following, either singly or collectively:

(1) The public employees' retirement fund (IC 5-10.3).

(2) The Indiana state teachers' retirement fund (IC 5-10.4).

(3) The state excise police, gaming agent, gaming control officer, and conservation enforcement officers' retirement fund (IC 5-10-5.5).

(4) The state police pension trust (IC 10-12).

(5) A sheriff's pension trust (IC 36-8-10-12).

(c) Subject to this section, a fund member may purchase service credit for the fund member's prior service in a position covered by a public retirement fund.

(d) To purchase the service credit described in subsection (c), a fund member must meet the following requirements:

(1) The fund member has at least one (1) year of creditable service in the 1977 fund.

(2) The fund member has not attained vested status in and is not an active member in the public retirement fund from which the fund member is purchasing service credit.

(3) Before the fund member retires, the fund member makes contributions to the 1977 fund as follows:

(A) Contributions that are equal to the product of the

following:

(i) The salary of a first class patrolman or firefighter at the time the fund member actually makes a contribution for the service credit.

(ii) A rate, determined by the actuary for the 1977 fund, that is based on the age of the fund member at the time the fund member actually makes a contribution for the service credit and that is computed to result in a contribution amount that approximates the actuarial present value of the retirement benefit attributable to the service credit purchased.

(iii) The number of years of service credit the fund member intends to purchase.

(B) Contributions for any accrued interest, at a rate determined by the actuary for the 1977 fund, for the period from the fund member's initial membership in the 1977 fund to the date payment is made by the fund member.

(e) At the request of the fund member purchasing service credit under this section, the amount a fund member is required to contribute under subsection (d)(3) may be reduced by a trustee to trustee transfer from the public retirement fund in which the fund member has an account that contains amounts attributable to member contributions (plus any credited earnings) to the 1977 fund. The fund member may direct the transfer of an amount only to the extent necessary to fund the service purchase under subsection (d)(3). The fund member shall complete any forms required by the public retirement fund from which the fund member is requesting a transfer or the 1977 fund before the transfer is made.

(f) A fund member must have at least twenty (20) years of service in the 1977 fund before a fund member may receive a retirement benefit based on service credit purchased under this section. A fund member's years of service may not exceed thirty-two (32) years with the inclusion of the service credit purchased under this section.

(g) A fund member who:

(1) terminates employment before satisfying the eligibility requirements necessary to receive a retirement benefit payment from the 1977 fund; or

(2) receives a retirement benefit for the same service from another tax supported governmental retirement plan other than the federal Social Security Act;

may withdraw the fund member's contributions made under this section plus accumulated interest after submitting a properly completed application for a refund to the 1977 fund.

(h) The following apply to the purchase of service credit under this section:

(1) The PERF board may allow a fund member to make periodic payments of the contributions required for the purchase of the service credit. The PERF board shall determine the length of the period during which the payments may be made.

(2) The PERF board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A fund member may not claim the service credit for purposes of determining eligibility or computing benefits unless the fund member has made all payments required for the purchase of the service credit.

(i) To the extent permitted by the Internal Revenue Code and applicable regulations, the 1977 fund may accept, on behalf of a fund member who is purchasing service credit under this section, a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or a political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or 408(b) of the Internal Revenue Code.

(j) To the extent permitted by the Internal Revenue Code and applicable regulations, the 1977 fund may accept, on behalf of a fund member who is purchasing service credit under this section, a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b)

of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

(k) The fund member's employer may pay all or a part of the fund member's contributions required for the purchase of service credit under this section. In that event, the actuary shall determine the amortization, and subsections (g), (h)(1), (h)(3), and (i) do not apply.

P.L.71-2010
[H.1154. Approved March 17, 2010.]

AN ACT to amend the Indiana Code concerning courts and court officers.

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

SECTION 1. IC 33-27-4-3, AS AMENDED BY SEA 36-2010, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) Except as provided in subsection (b), a person may not be certified under this section if:

(1) the person:

(A) has not served as a:

(i) judge;

(ii) justice; ~~or~~

(iii) magistrate; **or**

(iv) commissioner appointed under IC 33-33-49 who has all the powers and duties prescribed for a magistrate; or

(B) is still serving as a:

(i) judge;

(ii) justice; ~~or~~

(iii) magistrate; **or**

(iv) commissioner appointed under IC 33-33-49 who has

all the powers and duties prescribed for a magistrate;

of a court of record in Indiana;

(2) the person is not available for the minimum period of commitment for service as a senior judge specified by the supreme court under IC 33-24-3-7; or

(3) the combination of:

(A) the compensation for senior judges set under IC 33-23-3-5; and

(B) any retirement benefits that the person is receiving or is entitled to receive;

exceeds the minimum compensation to which judges of the circuit court are entitled under IC 33-38-5.

(b) A person who elects to forgo retirement benefits during the period of commitment as a senior judge may be certified as a senior judge under section 2 of this chapter upon verification by the judicial nominating commission of the availability to the person of the election.

SECTION 2. IC 33-33-49-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011]: Sec. 15. (a) The executive committee, with the approval of two-thirds (2/3) of the judges, shall determine the number of hearing judges, commissioners, referees, bail commissioners, court reporters, probation officers, and other personnel required to efficiently serve the court. The salaries of the personnel shall be fixed and paid as provided by law.

(b) The administrative officers shall perform the duties prescribed by the executive committee and shall operate under the jurisdiction of the executive committee and serve at the pleasure of the executive committee.

(c) The executive committee shall see that the court at all times is amply provided with supplies and sufficient clerical and other help, including extra reporters or bailiffs, when needed. Each judge shall appoint the judge's court reporters, bailiffs, secretary, commissioners, and clerks. In addition to the specified duties of this subsection, the executive committee shall exercise any other powers and duties that may be assigned to the executive committee by an order book entry signed by a two-thirds (2/3) majority of the judges. At least once each month, a general term conference of all superior division judges must be held, at which the presiding judge shall preside. A special order book must be kept for the court in which shall be entered all special

rules, proceedings, and similar matters. During an absence or a vacation of a judge who is a member of the executive committee, the senior superior court judge shall act for the absent member, if necessary.

(d) Notwithstanding any other law, a commissioner appointed under this chapter has all of the powers and duties prescribed for a magistrate under IC 33-23-5. However, the provisions of IC 33-23-5-11 requiring the state to pay the salary of a magistrate do not require the state to pay the salary of a commissioner appointed under this chapter.

(e) If a commissioner appointed under this chapter is appointed as a magistrate in Marion County, the salary of that magistrate shall be paid by the state under IC 33-23-5-11 in the same amount as other magistrates are paid.

(f) The allocation of appointments of commissioners under this chapter shall be determined by agreement between the judges of the superior court and the judge of the circuit court with consideration given to the case load of each court. However, notwithstanding any other law, at least two (2) of the commissioners appointed under this chapter shall be appointed by the judge of the circuit court.

(g) The:

(1) judge of the circuit court has exclusive authority to appoint commissioners allocated to the circuit court; and

(2) judges of the superior court have exclusive authority to appoint commissioners allocated to the superior court by a vote of the majority of the judges of the superior court.

(h) Not more than a simple majority of the commissioners appointed under this chapter may be from the same political party.

(i) Commissioners appointed by the:

(1) judge of the circuit court serve at the pleasure of the judge of the circuit court; and

(2) judges of the superior court continue in office until removed by the vote of a majority of the judges of the superior court.

SECTION 3. IC 34-28-5-4, AS AMENDED BY P.L.101-2009, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011]: Sec. 4. (a) A judgment of up to ten thousand dollars ($10,000) may be entered for a violation constituting a Class A

infraction.

(b) A judgment of up to one thousand dollars ($1,000) may be entered for a violation constituting a Class B infraction.

(c) A judgment of up to five hundred dollars ($500) may be entered for a violation constituting a Class C infraction.

(d) A judgment of up to twenty-five dollars ($25) may be entered for a violation constituting a Class D infraction.

(e) Subject to section 1(i) of this chapter, a judgment:

(1) up to the amount requested in the complaint; and

(2) not exceeding any limitation under IC 36-1-3-8;

may be entered for an ordinance violation.

(f) This subsection applies only to infraction judgments imposed in Marion County for traffic violations. In addition to any judgment otherwise entered under this section in Marion County for a traffic violation constituting an infraction, an additional judgment amount of not more than thirty-five dollars ($35) may be entered for the traffic violation. A judgment amount imposed under this subsection shall not be included in applying the maximum judgment amount under subsections (a) through (d).

SECTION 4. IC 34-28-5-5, AS AMENDED BY P.L.40-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011]: Sec. 5. (a) A defendant against whom a judgment is entered is liable for costs. Costs are part of the judgment and may not be suspended except under IC 9-30-3-12. Whenever a judgment is entered against a person for the commission of two (2) or more civil violations (infractions or ordinance violations), the court may waive the person's liability for costs for all but one (1) of the violations. This subsection does not apply to judgments entered for violations constituting:

(1) Class D infractions; or

(2) Class C infractions for unlawfully parking in a space reserved for a person with a physical disability under IC 5-16-9-5 or IC 5-16-9-8.

(b) If a judgment is entered:

(1) for a violation constituting:

(A) a Class D infraction; or

(B) a Class C infraction for unlawfully parking in a space reserved for a person with a physical disability under

IC 5-16-9-5 or IC 5-16-9-8; or

(2) in favor of the defendant in any case;

the defendant is not liable for costs.

(c) Except for costs, and except as provided in **subsection (e) and** IC 9-21-5-11(e), the funds collected as judgments for violations of statutes defining infractions shall be deposited in the state general fund.

(d) A judgment may be entered against a defendant under this section or section 4 of this chapter upon a finding by the court that the defendant:

(1) violated:

(A) a statute defining an infraction; or

(B) an ordinance; or

(2) consents to entry of judgment for the plaintiff upon a pleading of nolo contendere for a moving traffic violation.

(e) The funds collected under section 4(f) of this chapter for infraction judgments imposed in Marion County for traffic violations shall be transferred to a dedicated county fund. The money in the dedicated county fund does not revert to the county general fund or state general fund and may be used, after appropriation by the county fiscal body, only for the following purposes:

(1) To pay compensation of commissioners appointed under IC 33-33-49.

(2) To pay costs of the county's guardian ad litem program.

P.L.72-2010
[H.1169. Approved March 17, 2010.]

AN ACT to amend the Indiana Code concerning probate.

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

SECTION 1. IC 29-3-1-15.5, AS ADDED BY P.L.11-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 15.5. "Volunteer advocate for incapacitated adults" means an individual who:

(1) is a volunteer;

(2) has completed a ~~limited~~ guardian training program approved by a court;

(3) is supervised by a ~~community~~ volunteer advocates for **incapacitated** adults program **that is appointed by a court to serve as a guardian for an incapacitated person who is at least eighteen (18) years of age; and**

~~(4) is appointed by a court to serve as a limited guardian for an incapacitated person or protected person who is at least eighteen (18) years of age; and~~

~~(5)~~ **(4)** provides reports and makes recommendations to a court.

SECTION 2. IC 29-3-1-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 16. "Volunteer advocate for seniors" means an individual who:

(1) is a volunteer;

(2) has completed a ~~limited~~ guardian training program approved by a court;

(3) is supervised by a ~~community~~ volunteer advocates for seniors program **that is appointed by a court to serve as a guardian for an incapacitated person who is at least fifty-five (55) years of age; and**

~~(4) is appointed by a court to serve as a limited guardian for an incapacitated person or protected person who is at least fifty-five~~

~~(55) years of age; and~~

~~(5)~~ **(4)** provides reports and makes recommendations to a court.

SECTION 3. IC 29-3-1-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 17. "Volunteer advocates for incapacitated adults program" means:**

(1) an Indiana nonprofit or municipal corporation;

(2) a program of an Indiana nonprofit or municipal corporation; or

(3) a program operated by a county or court;

that is appointed by a court to serve as a guardian for an incapacitated person who is at least eighteen (18) years of age and trains and supervises volunteers in a court approved guardian program for incapacitated adults.

SECTION 4. IC 29-3-1-18 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 18. "Volunteer advocates for seniors program" means:**

(1) an Indiana nonprofit or municipal corporation;

(2) a program of an Indiana nonprofit or municipal corporation; or

(3) a program operated by a county or court;

that is appointed by a court to serve as a guardian for an incapacitated person who is at least fifty-five (55) years of age and trains and supervises volunteers in a court approved guardian program for incapacitated persons who are at least fifty-five (55) years of age.

SECTION 5. IC 29-3-8.5-1, AS AMENDED BY P.L.11-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. A court in a proceeding under this article may appoint a volunteer ~~advocate~~ **advocates** for seniors **program** or a volunteer ~~advocate~~ **advocates** for incapacitated adults **program.**

SECTION 6. IC 29-3-8.5-2, AS AMENDED BY P.L.11-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. A volunteer ~~advocate~~ **advocates** for seniors **program** or a volunteer ~~advocate~~ **advocates** for incapacitated adults **program** shall submit to the court:

(1) a progress report ~~fifteen (15)~~ **thirty (30)** days after the date of

appointment describing:

(A) the matters required by the court; and

(B) the:

(i) current physical and mental condition;

(ii) residential placement; and

(iii) property, and any property related issues;

of the senior or the incapacitated adult;

(2) a ~~final~~ **progress** report sixty (60) days after the date of appointment:

(A) describing the matters required by the court; and

(B) ~~making recommendations to the court as to whether a need exists for continued representation of the incapacitated or protected person.~~ **that includes a verified inventory describing the property, and any property related issues, of the incapacitated adult or senior;**

(3) a progress report or final report ninety (90) days after the date of appointment:

(A) describing the matters required by the court; and

(B) making recommendations to the court as to whether the need continues to exist for the appointment of a guardian of the incapacitated adult or senior;

(4) an annual progress report on the anniversary date of the appointment if the appointment of the volunteer advocate is continued by the court for more than one (1) year:

(A) describing the matters required by the court;

(B) describing the:

(i) current physical and mental condition;

(ii) residential placement; and

(iii) property, and any property related issues;

of the senior or the incapacitated adult; and

(C) making recommendations to the court as to whether the need continues to exist for the appointment of a guardian of the incapacitated adult or senior; and

(5) upon the death of the incapacitated person, a final report and financial accounting:

(A) describing the incapacitated person's:

(i) final physical and mental condition;

(ii) cause of death;

(iii) last residential placement; and

(iv) final burial arrangements;

(B) stating the actions taken by the program regarding the:

(i) person's care and custody; and

(ii) preservation of the person's property;

(C) making recommendations to the court to close the guardianship of the person; and

(D) containing all other matters required by the court.

SECTION 7. IC 29-3-8.5-3, AS AMENDED BY P.L.11-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. **(a)** A volunteer ~~advocate~~ **advocates** for seniors **program** or a volunteer ~~advocate~~ **advocates** for incapacitated adults **program** shall:

(1) serve as a ~~limited~~ guardian to represent and protect the **best** interests of an incapacitated ~~or protected~~ person **or senior including the person's property;**

(2) investigate and gather information regarding the health, welfare, and financial circumstances of the incapacitated ~~or protected~~ person **or senior,** as directed by a court;

(3) facilitate and authorize health care, social welfare, and residential placement services as needed by the incapacitated ~~or protected~~ person **or senior;**

(4) advocate for the rights of the incapacitated ~~or protected~~ person **or senior;**

(5) facilitate legal representation for the incapacitated ~~or protected~~ person **or senior;** ~~and~~

(6) provide the court with the required reports under section 2 of this chapter; and

~~(6)~~ **(7)** perform any other ~~duty~~ **responsibilities** required by ~~a~~ **the** court.

(b) A volunteer advocates for seniors program or a volunteer advocates for incapacitated adults program has the duties of the guardian of a minor listed in IC 29-3-8-1 and IC 29-3-8-3.

SECTION 8. IC 29-3-8.5-4, AS AMENDED BY P.L.11-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. **(a)** A volunteer ~~advocate~~ **advocates** for seniors **program** or a volunteer ~~advocate~~ **advocates** for incapacitated adults **program** may:

(1) consent to medical and other professional care and treatment for the incapacitated ~~or protected~~ person's **or senior's** health and welfare;

(2) secure the appointment of a guardian or coguardian in another state;

(3) take custody of the incapacitated ~~or protected~~ person **or senior** and establish the **incapacitated** person's ~~place of abode~~ **or senior's residence** within Indiana or another state in accordance with IC 29-3-9-2;

(4) institute proceedings or take other appropriate action to compel the performance by any person of a duty to support the incapacitated ~~or protected~~ person's **or senior's** health or welfare; ~~and~~

(5) protect and preserve the property of the incapacitated person or senior and preserve any property in excess of the incapacitated person's or senior's current needs; and

~~(5)~~ **(6)** delegate to the incapacitated ~~or protected~~ person **or senior** certain responsibilities for decisions affecting the **incapacitated** person's **or senior's** business affairs and well-being.

(b) A volunteer advocates for seniors program or a volunteer advocates for incapacitated adults program may exercise the powers of a guardian of a minor listed in IC 29-3-8-2 and IC 29-3-8-4.

SECTION 9. IC 29-3-8.5-5, AS AMENDED BY P.L.11-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. **(a)** If a court appoints ~~an individual to serve as~~ a volunteer ~~advocate~~ **advocates** for seniors **program** or a volunteer ~~advocate~~ **advocates** for incapacitated adults **program,** the **initial** appointment shall be for a period of ~~sixty (60)~~ **ninety (90)** days.

(b) After the initial ~~sixty (60)~~ **ninety (90)** day period, the court may, upon petition by the volunteer **advocates for seniors program or volunteer advocates for incapacitated adults program** or upon the court's own motion, extend the appointment for a period as determined by the court to be necessary to protect the **best** interests **and property** of the incapacitated ~~or protected~~ person **or senior.**

SECTION 10. IC 29-3-8.5-6, AS AMENDED BY P.L.11-2006, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. A volunteer ~~advocate~~ **advocates** for seniors

program or a volunteer ~~advocate~~ **advocates** for incapacitated adults **program** is considered an officer of the court for the purpose of representing the interests of an incapacitated ~~or protected~~ person **or senior.**

SECTION 11. IC 29-3-8.5-9, AS AMENDED BY P.L.11-2006, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9. A volunteer ~~advocate~~ **advocates** for seniors **program** or a volunteer ~~advocate~~ **advocates** for incapacitated adults **program** under this chapter is not authorized to consent to or refuse health care (as defined in IC 16-36-1-1) for an individual if:

(1) a spouse, a parent, an adult child, or an adult sibling of the individual or the individual's religious superior, if the individual is a member of a religious order, is available, capable, and suitable to consent to or refuse the health care on behalf of the individual; or

(2) the individual has previously:

(A) appointed a health care representative under IC 16-36-1;

(B) authorized health care under IC 16-36-1.5, IC 16-36-4, or IC 16-36-5;

(C) executed a power of attorney under IC 30-5-4; or

(D) had a guardian appointed by the court under IC 29-3.

SECTION 12. IC 29-3-8.5-9.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 9.5. IC 29-3-8-5 through IC 29-3-8-8 apply to a volunteer advocates for seniors program or a volunteer advocates for incapacitated adults program under this chapter.**

SECTION 13. IC 29-3-8.5-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 10. (a) A volunteer advocates for seniors program or a volunteer advocates for incapacitated adults program may petition the court for reasonable compensation for services provided or for expenditures made in good faith on behalf of the incapacitated adult or senior.**

(b) A court may grant reasonable compensation or expenditure reimbursement to a volunteer advocates for seniors program or a volunteer advocates for incapacitated adults program upon the court's own motion.

SECTION 14. IC 29-3-8.5-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 11. (a) Courts with probate jurisdiction that are located in adjacent counties may establish joint or multiple county volunteer advocates for seniors programs or volunteer advocates for incapacitated adults programs.**

(b) Courts with probate jurisdiction may contract with an Indiana nonprofit or municipal corporation to provide volunteer advocates for seniors programs or volunteer advocates for incapacitated adults programs.

SECTION 15. IC 29-3-8.5-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 12. (a) A volunteer advocates for seniors program or volunteer advocates for incapacitated adults program that is a program of an Indiana nonprofit corporation must establish policies and procedures to avoid a conflict of interest if the nonprofit corporation is also a provider of other necessary services to the incapacitated individual.**

(b) A volunteer advocates for seniors program or volunteer advocates for incapacitated adults program to which subsection (a) applies shall advise the court of the policies and procedures established to avoid a conflict of interest in the petition to the court for guardianship of the incapacitated individual.

P.L.73-2010
[H.1183. Approved March 17, 2010.]

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 6-1.1-24-1, AS AMENDED BY P.L.169-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) On or ~~before July 1 of each year or~~ **after January 1 of each calendar year in which a tax sale will be held in a county and not later than** fifty-one (51) days after the **first** tax payment due date **in that calendar year,** the county treasurer (or county executive, in the case of property described in subdivision (2)) shall certify to the county auditor a list of real property on which any of the following exist:

(1) In the case of real property other than real property described in subdivision (2), any property taxes or special assessments certified to the county auditor for collection by the county treasurer from the prior year's spring installment or before are delinquent as determined under IC 6-1.1-37-10.

(2) In the case of real property for which a county executive has certified to the county auditor that the real property is:

(A) vacant; or

(B) abandoned;

any property taxes or special assessments from the prior year's fall installment or before that are delinquent as determined under IC 6-1.1-37-10. The county executive must make a certification under this subdivision not later than sixty-one (61) days before the earliest date on which application for judgment and order for sale may be made.

(3) Any unpaid costs are due under section 2(b) of this chapter from a prior tax sale.

(b) The county auditor shall maintain a list of all real property

eligible for sale. Unless the taxpayer pays to the county treasurer the amounts in subsection (a), the taxpayer's property shall remain on the list. The list must:

(1) describe the real property by parcel number and common address, if any;

(2) for a tract or item of real property with a single owner, indicate the name of the owner; and

(3) for a tract or item with multiple owners, indicate the name of at least one (1) of the owners.

(c) Except as otherwise provided in this chapter, the real property so listed is eligible for sale in the manner prescribed in this chapter.

(d) Not later than fifteen (15) days after the date of the county treasurer's certification under subsection (a), the county auditor shall mail by certified mail a copy of the list described in subsection (b) to each mortgagee who requests from the county auditor by certified mail a copy of the list. Failure of the county auditor to mail the list under this subsection does not invalidate an otherwise valid sale.

SECTION 2. IC 6-1.1-24-6.1, AS AMENDED BY P.L.89-2007, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6.1. (a) The county executive may do the following:

(1) By resolution, identify properties:

(A) that are described in section 6.7(a) of this chapter; and

(B) concerning which the county executive desires to offer to the public the certificates of sale acquired by the county executive under section 6 of this chapter.

(2) In conformity with IC 5-3-1-4, publish:

(A) notice of the date, time, and place for a public sale; and

(B) a listing of parcels on which certificates will be offered by parcel number and minimum bid amount;

once each week for three (3) consecutive weeks, with the final advertisement being not less than thirty (30) days before the sale date. The expenses of the publication shall be paid out of the county general fund.

(3) Sell each certificate of sale covered by the resolution for a price that:

(A) is less than the minimum sale price prescribed by section 5(e) of this chapter; and

(B) includes any costs to the county executive directly attributable to the sale of the certificate of sale.

(b) Notice of the list of properties prepared under subsection (a) and the date, time, and place for the public sale of the certificates of sale shall be published in accordance with IC 5-3-1. The notice must:

(1) include a description of the property by parcel number and common address;

(2) specify that the county executive will accept bids for the certificates of sale for the price referred to in subsection (a)(3);

(3) specify the minimum bid for each parcel;

(4) include a statement that a person redeeming each tract or item of real property after the sale of the certificate must pay:

(A) the amount of the minimum bid under section 5(e) of this chapter for which the tract or item of real property was last offered for sale;

(B) ten percent (10%) of the amount for which the certificate is sold;

(C) the attorney's fees and costs of giving notice under IC 6-1.1-25-4.5;

(D) the costs of a title search or of examining and updating the abstract of title for the tract or item of real property; ~~and~~

(E) all taxes and special assessments on the tract or item of real property paid by the purchaser after the sale of the certificate plus interest at the rate of ten percent (10%) per annum on the amount of taxes and special assessments paid by the purchaser on the redeemed property; and

(F) all costs of sale, advertising costs, and other expenses of the county directly attributable to the sale of certificates of sale; and

(5) include a statement that, if the certificate is sold for an amount more than the minimum bid under section 5(e) of this chapter for which the tract or item of real property was last offered for sale and the property is not redeemed, the owner of record of the tract or item of real property who is divested of ownership at the time the tax deed is issued may have a right to the tax sale surplus.

SECTION 3. IC 6-1.1-24-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. (a) When real property is sold under this chapter, the purchaser at the sale shall

immediately pay the amount of the bid to the county treasurer. The county treasurer shall apply the payment in the following manner:

(1) first, to the taxes, special assessments, penalties, and costs described in section 5(e) of this chapter;

(2) second, to other delinquent property taxes in the manner provided in IC 6-1.1-23-5(b); and

(3) third, to a separate "tax sale surplus fund".

(b) The:

(1) owner of record of the real property at the time the tax deed is issued who is divested of ownership by the issuance of a tax deed; or

(2) tax sale purchaser or purchaser's assignee, upon redemption of the tract or item of real property;

may file a verified claim for money which is deposited in the tax sale surplus fund. If the claim is approved by the county auditor and the county treasurer, the county auditor shall issue a warrant to the claimant for the amount due.

(c) If the person **who claims money deposited in the tax sale surplus fund under subsection (b) is:**

(1) a person described in subsection (b)(1) **who** acquired the property from a delinquent taxpayer after the property was sold at a tax sale under this chapter; **or**

(2) a person not described in subsection (b)(1), including a person who acts under a power of attorney executed by the person described in subsection (b)(1);

the county auditor may ~~not~~ issue a warrant to the person ~~unless the person is named on a tax sale surplus fund disclosure form filed with the county auditor under IC 32-21-8.~~ **only as directed by the court having jurisdiction over the tax sale of the parcel for which the surplus claim is made.**

(d) A court may direct the issuance of a warrant only:

(1) on petition by the claimant; and

(2) within three (3) years after the date of sale of the parcel in the tax sale.

~~(d)~~ **(e)** An amount deposited in the tax sale surplus fund shall be transferred by the county auditor to the county general fund and may not be disbursed under subsection (b) if it is not claimed within the three (3) year period after the date of its receipt.

~~(e)~~ **(f)** If an amount applied to taxes under this section is later paid out of the county general fund to the purchaser or the purchaser's successor due to the invalidity of the sale, all the taxes shall be reinstated and recharged to the tax duplicate and collected in the same manner as if the property had not been offered for sale.

~~(f)~~ **(g)** When a refund is made to any purchaser or purchaser's successor by reason of the invalidity of a sale, the county auditor shall, at the December settlement immediately following the refund, deduct the amount of the refund from the gross collections in the taxing district in which the land lies and shall pay that amount into the county general fund.

SECTION 4. IC 6-1.1-24-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7.5. (a) For purposes of this section, "property owner" refers to the owner of record of real property at the time the tax deed is issued and who is divested of ownership by the issuance of the tax deed.**

(b) If a property owner enters into an agreement on or after May 1, 2010, that has the primary purpose of paying compensation to locate, deliver, recover, or assist in the recovery of money deposited in the tax sale surplus fund under section 7(a)(3) of this chapter with respect to real property as a result of a tax sale, the agreement is valid only if the agreement:

(1) requires payment of compensation of not more than ten percent (10%) of the amount collected from the tax sale surplus fund with respect to the real property, unless the amount collected is fifty dollars ($50) or less;

(2) is in writing;

(3) is signed by the property owner; and

(4) clearly sets forth:

(A) the amount deposited in the tax sale surplus fund under section 7(a)(3) of this chapter with respect to the real property; and

(B) the value of the property owner's share of the amount collected from the tax sale surplus fund with respect to the real property after the compensation is deducted.

SECTION 5. IC 6-1.1-24-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9. (a) Immediately after

a tax sale purchaser pays the bid, as evidenced by the receipt of the county treasurer, or immediately after the county acquires a lien under section 6 of this chapter, the county auditor shall deliver a certificate of sale to the purchaser or to the county or to the city. The certificate shall be signed by the auditor and registered in the auditor's office. The certificate shall contain:

(1) a description of real property that corresponds to the description used on the notice of sale;

(2) the name of:

(A) the owner of record at the time of the sale of real property with a single owner; or

(B) at least one (1) of the owners of real property with multiple owners;

(3) the mailing address of the owner of the real property sold as indicated in the records of the county auditor;

(4) the name of the purchaser;

(5) the date of sale;

(6) the amount for which the real property was sold;

(7) the amount of the minimum bid for which the tract or real property was offered at the time of sale as required by section 5 of this chapter;

(8) the date when the period of redemption specified in IC 6-1.1-25-4 will expire;

(9) the court cause number under which judgment was obtained; and

(10) the street address, if any, or common description of the real property.

(b) When a certificate of sale is issued under this section, the purchaser acquires a lien against the real property for the entire amount paid. The lien of the purchaser is superior to all liens against the real property which exist at the time the certificate is issued.

(c) A certificate of sale is assignable. However, an assignment is not valid unless it is endorsed on the certificate of sale, acknowledged before an officer authorized to take acknowledgments of deeds, and registered in the office of the county auditor. When a certificate of sale is assigned, the assignee acquires the same rights and obligations that the original purchaser acquired.

(d) Subject to IC 36-1-11-8, the county executive may assign a

certificate of sale held in the name of the county executive to any political subdivision during the life of the certificate. If an assignment is made under this subsection, the period of redemption of the real property under IC 6-1.1-25 is one hundred twenty (120) days after the date of the assignment.

SECTION 6. IC 6-1.1-25-4, AS AMENDED BY P.L.169-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) The period for redemption of real property sold under IC 6-1.1-24 is:

(1) one (1) year after the date of sale;

(2) one hundred twenty (120) days after the date of sale to a purchasing agency qualified under IC 36-7-17; or

(3) one hundred twenty (120) days after the date of sale of real property on the list prepared under IC 6-1.1-24-1(a)(2) or IC 6-1.1-24-1.5.

(b) **Subject to IC 6-1.1-24-9(d),** the period for redemption of real property:

(1) on which the county executive acquires a lien under IC 6-1.1-24-6; and

(2) for which the certificate of sale is not sold under IC 6-1.1-24-6.1;

is one hundred twenty (120) days after the date the county executive acquires the lien under IC 6-1.1-24-6.

(c) The period for redemption of real property:

(1) on which the county executive acquires a lien under IC 6-1.1-24-6; and

(2) for which the certificate of sale is sold under IC 6-1.1-24;

is one hundred twenty (120) days after the date of sale of the certificate of sale under IC 6-1.1-24.

(d) When a deed for real property is executed under this chapter, the county auditor shall cancel the certificate of sale and file the canceled certificate in the office of the county auditor. If real property that appears on the list prepared under IC 6-1.1-24-1.5 is offered for sale and an amount that is at least equal to the minimum sale price required under IC 6-1.1-24-5(e) is not received, the county auditor shall issue a deed to the real property, subject to this chapter.

(e) When a deed is issued to a county executive under this chapter, the taxes and special assessments for which the real property was

offered for sale, and all subsequent taxes, special assessments, interest, penalties, and cost of sale shall be removed from the tax duplicate in the same manner that taxes are removed by certificate of error.

(f) A tax deed executed under this chapter vests in the grantee an estate in fee simple absolute, free and clear of all liens and encumbrances created or suffered before or after the tax sale except those liens granted priority under federal law and the lien of the state or a political subdivision for taxes and special assessments which accrue subsequent to the sale and which are not removed under subsection (e). However, the estate is subject to:

(1) all easements, covenants, declarations, and other deed restrictions shown by public records;

(2) laws, ordinances, and regulations concerning governmental police powers, including zoning, building, land use, improvements on the land, land division, and environmental protection; and

(3) liens and encumbrances created or suffered by the grantee.

(g) A tax deed executed under this chapter is prima facie evidence of:

(1) the regularity of the sale of the real property described in the deed;

(2) the regularity of all proper proceedings; and

(3) valid title in fee simple in the grantee of the deed.

(h) A county auditor is not required to execute a deed to the county executive under this chapter if the county executive determines that the property involved contains hazardous waste or another environmental hazard for which the cost of abatement or alleviation will exceed the fair market value of the property. The county executive may enter the property to conduct environmental investigations.

(i) If the county executive makes the determination under subsection (h) as to any interest in an oil or gas lease or separate mineral rights, the county treasurer shall certify all delinquent taxes, interest, penalties, and costs assessed under IC 6-1.1-24 to the clerk, following the procedures in IC 6-1.1-23-9. After the date of the county treasurer's certification, the certified amount is subject to collection as delinquent personal property taxes under IC 6-1.1-23. Notwithstanding IC 6-1.1-4-12.4 and IC 6-1.1-4-12.6, the assessed value of such an interest shall be zero (0) until production commences.

(j) When a deed is issued to a purchaser of a certificate of sale sold under IC 6-1.1-24-6.1, the county auditor shall, in the same manner that taxes are removed by certificate of error, remove from the tax duplicate the taxes, special assessments, interest, penalties, and costs remaining due as the difference between the amount of the last minimum bid under IC 6-1.1-24-5(e) and the amount paid for the certificate of sale.

SECTION 7. IC 6-1.1-25-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 11. (a) Subsequent to the issuance of the order directing the county auditor to issue a tax deed to real property sold under IC 6-1.1-24, a county auditor shall refund the purchase money plus six percent (6%) interest per annum from the county treasury to the purchaser, the purchaser's successors or assigns, or the purchaser of the certificate of sale under IC 6-1.1-24 if it is found by the court that entered the order for the tax deed that:

(1) the real property described in the deed was not subject to the taxes for which it was sold;

(2) the delinquent taxes or special assessments for which the real property was sold were properly paid before the sale; or

(3) the legal description of the real property in the tax deed is void for uncertainty.

(b) The grantee of an invalid tax deed, including the county, to whom a refund is made under this section shall execute, acknowledge, and deliver to the owner a deed conveying whatever interest the purchaser may have acquired by the tax sale deed. If a county is required to execute a deed under this section, the deed shall be signed by the county board of commissioners and acknowledged by the clerk of the circuit court.

(c) A refund may not be made under this section while an action initiated under either section 14 or 16 of this chapter is pending.

(d) If a sale is declared invalid after a claim is submitted under IC 6-1.1-24-7 for money deposited in the tax sale surplus fund and the claim is paid, the county auditor shall:

(1) refund the purchase money plus six percent (6%) interest per annum from the county treasury to the purchaser, the purchaser's successors or assigns, or the purchaser of the certificate of sale under IC 6-1.1-24; and

(2) certify the amount paid to the property owner from the tax sale surplus fund as a lien against the property and as a civil

judgment against the property owner.

SECTION 8. IC 32-29-7-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 8.5. (a) Before the date of a sheriff's sale of property under section 3(c) of this chapter, the party that filed the praecipe for the sheriff's sale shall pay the following:**

(1) If a certificate of sale issued under IC 6-1.1-24 is outstanding:

(A) the amount necessary for redemption of the property under IC 6-1.1-25; and

(B) all delinquent property taxes, special assessments, penalties, and interest that:

(i) are not covered by the redemption referred to in clause (A); and

(ii) are due and owing on the property on the date of the sheriff's sale.

(2) If subdivision (1) does not apply, all delinquent property taxes, special assessments, penalties, and interest that are due and owing on the property on the date of the sheriff's sale.

(b) If the payments required under subsection (a) are not made in full by the date of the sale, the sheriff:

(1) shall cancel the sheriff's sale; and

(2) may conduct the sheriff's sale only:

(A) upon evidence that the payments required under subsection (a) have been made in full; and

(B) after a subsequent praecipe is filed, costs are paid, and the sheriff's sale is advertised under this chapter.

SECTION 9. IC 32-30-10-14, AS AMENDED BY P.L.182-2009(ss), SECTION 390, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 14. The proceeds of a sale described in IC 32-29-7 or section 8 or 12(b) of this chapter must be applied in the following order:

(1) Expenses of the offer and sale, including expenses incurred under IC 32-29-7-4 or section 9 of this chapter (or IC 34-1-53-6.5 or IC 32-15-6-6.5 before their repeal).

~~(2) The amount of any property taxes on the property sold:~~

~~(A) that are due and owing; and~~

~~(B) for which the due date has passed as of the date of the~~

~~sheriff's sale.~~

~~The sheriff shall transfer the amounts collected under this subdivision to the county treasurer not more than ten (10) days after the date of the sheriff's sale.~~

~~(3) Any amount of redemption where a certificate of sale is outstanding.~~

~~(4)~~ **(2)** The payment of the principal due, interest, and costs not described in subdivision (1).

~~(5)~~ **(3)** The residue secured by the mortgage and not due.

~~(6)~~ **(4)** If the residue referred to in subdivision ~~(5)~~ **(3)** does not bear interest, a deduction must be made by discounting the legal interest.

In all cases in which the proceeds of sale exceed the amounts described in subdivisions (1) through ~~(6),~~ **(4),** the surplus must be paid to the clerk of the court to be transferred, as the court directs, to the mortgage debtor, mortgage debtor's heirs, or other persons assigned by the mortgage debtor.

SECTION 10. IC 36-7-9-2, AS AMENDED BY P.L.88-2009, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. As used in this chapter:

"Community organization" means a citizen's group, neighborhood association, neighborhood development corporation, or similar organization that:

(1) has specific geographic boundaries defined in its bylaws or articles of incorporation and contains at least forty (40) households within those boundaries;

(2) is a nonprofit corporation that is representative of at least twenty-five (25) households or twenty percent (20%) of the households in the community, whichever is less;

(3) is operated primarily for the promotion of social welfare and general neighborhood improvement and enhancement;

(4) has been incorporated for at least two (2) years; and

(5) is exempt from taxation under Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code.

"Continuous enforcement order" means an order that:

(1) is issued for compliance or abatement and that remains in full force and effect on a property without further requirements to seek additional:

~~(i)~~ **(A)** compliance and abatement authority; or

~~(ii)~~ **(B)** orders for the same or similar violations;

(2) authorizes specific ongoing compliance and enforcement activities if a property requires reinspection or additional periodic abatement;

(3) can be enforced, including assessment of fees and costs, without the need for additional notice or hearing; and

(4) authorizes the enforcement authority to assess and collect ongoing costs for continuous enforcement order activities from any party that is subject to the enforcement authority's order.

"Department" refers to the executive department authorized by ordinance to administer this chapter. In a consolidated city, this department is the department of metropolitan development, subject to IC 36-3-4-23.

"Enforcement authority" refers to the chief administrative officer of the department, except in a consolidated city. In a consolidated city, the division of development services is the enforcement authority, subject to IC 36-3-4-23.

"Hearing authority" refers to a person or persons designated as such by the executive of a city or county, or by the legislative body of a town. However, in a consolidated city, the director of the department or a person designated by the director is the hearing authority. An employee of the enforcement authority may not be designated as the hearing authority.

"Known or recorded fee interest, life estate interest, or equitable interest of a contract purchaser" means any fee interest, life estate interest, or equitable interest of a contract purchaser held by a person whose identity and address may be determined from:

(1) an instrument recorded in the recorder's office of the county where the unsafe premises is located;

(2) written information or actual knowledge received by the department (or, in the case of a consolidated city, the enforcement authority); or

(3) a review of department (or, in the case of a consolidated city, the enforcement authority) records that is sufficient to identify information that is reasonably ascertainable.

"Known or recorded substantial property interest" means any right in real property, including a fee interest, a life estate interest, a future

interest, a mortgage interest, **a lien as evidenced by a certificate of sale issued under IC 6-1.1-24,** or an equitable interest of a contract purchaser, that:

(1) may be affected in a substantial way by actions authorized by this chapter; and

(2) is held by a person whose identity and address may be determined from:

(A) an instrument recorded in:

(i) the recorder's office of the county where the unsafe premises is located; **or**

(ii) the office of the county auditor of the county where the unsafe premises are located in the case of a lien evidenced by a certificate of sale issued under IC 6-1.1-24;

(B) written information or actual knowledge received by the department (or, in the case of a consolidated city, the enforcement authority); or

(C) a review of department (or, in the case of a consolidated city, the enforcement authority) records that is sufficient to identify information that is reasonably ascertainable.

"Substantial property interest" means any right in real property that may be affected in a substantial way by actions authorized by this chapter, including a fee interest, a life estate interest, a future interest, a mortgage interest, or an equitable interest of a contract purchaser.

SECTION 11. **An emergency is declared for this act.**

P.L.74-2010
[H.1193. Approved March 17, 2010.]

AN ACT to amend the Indiana Code concerning state and local administration.

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

SECTION 1. IC 5-2-6-3, AS AMENDED BY P.L.130-2009, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. The institute is established to do the following:

(1) Evaluate state and local programs associated with:

(A) the prevention, detection, and solution of criminal offenses;

(B) law enforcement; and

(C) the administration of criminal and juvenile justice.

(2) Improve and coordinate all aspects of law enforcement, juvenile justice, and criminal justice in this state.

(3) Stimulate criminal and juvenile justice research.

(4) Develop new methods for the prevention and reduction of crime.

(5) Prepare applications for funds under the Omnibus Act and the Juvenile Justice Act.

(6) Administer victim and witness assistance funds.

(7) Administer the traffic safety functions assigned to the institute under IC 9-27-2.

(8) Compile and analyze information and disseminate the information to persons who make criminal justice decisions in this state.

(9) Serve as the criminal justice statistical analysis center for this state.

(10) Identify grants and other funds that can be used by the department of correction to carry out its responsibilities concerning sex or violent offender registration under IC 11-8-8.

(11) Administer the application and approval process for

designating an area of a consolidated or second class city as a public safety improvement area under IC 36-8-19.5.

(12) Develop and maintain a meth watch program to inform retailers and the public about illicit methamphetamine production, distribution, and use in Indiana.

(13) Establish, maintain, and operate, subject to specific appropriation by the general assembly, a web site containing a list of properties (as defined in IC 5-2-6-19(b)) that have been used as the site of a methamphetamine laboratory.

(14) Develop and manage the gang crime witness protection program established by section 21 of this chapter.

(15) Identify grants and other funds that can be used to fund the gang crime witness protection program.

(16) After December 31, 2008, administer the licensing of:

(A) commercial driver training schools; and

(B) instructors at commercial driver training schools.

(17) Administer any sexual offense services.

(18) Administer domestic violence programs.

(19) Administer assistance to victims of human sexual trafficking offenses as provided in IC 35-42-3.5-4.

(20) Administer the domestic violence prevention and treatment fund under IC 5-2-6.7.

(21) Administer the family violence and victim assistance fund under IC 5-2-6.8.

(22) Administer and provide staff support to the law enforcement, school policing, and youth work group under IC 5-2-6.9.

SECTION 2. IC 5-2-6.9 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

Chapter 6.9. Law Enforcement, School Policing, and Youth Work Group

Sec. 1. (a) As used in this chapter, "institute" means the Indiana criminal justice institute established by IC 5-2-6-3.

(b) As used in this chapter, "work group" means the law enforcement, school policing, and youth work group established by section 2 of this chapter.

Sec. 2. (a) The law enforcement, school policing, and youth work group is established.

(b) The institute shall staff and administer the work group.

(c) The institute may adopt rules under IC 4-22-2 to administer the work group.

Sec. 3. (a) The work group consists of twenty-six (26) voting members, including:

(1) the executive director of the Indiana criminal justice institute or the executive director's designee;

(2) the executive director of the Indiana law enforcement academy or the executive director's designee;

(3) the state superintendent of public instruction or the state superintendent's designee;

(4) the executive director of the Indiana judicial center or the executive director's designee;

(5) the executive director of the public defender council of Indiana or the executive director's designee;

(6) the executive director of the prosecuting attorneys council of Indiana or the executive director's designee;

(7) the executive director of the Indiana sheriff's association or the executive director's designee;

(8) a judge having juvenile court jurisdiction, appointed by the governor;

(9) a chief of police, police officer, or town marshal, appointed by the attorney general;

(10) a pediatric physician, appointed by the chief justice of the supreme court;

(11) a psychologist who treats adolescent children, appointed by the speaker of the house of representatives;

(12) a law enforcement officer employed by a law enforcement agency who routinely works in a school, appointed by the minority leader of the house of representatives;

(13) an attorney licensed to practice law in Indiana who is a member of the Indiana State Bar Association, appointed by the president pro tempore of the senate;

(14) an individual who is less than nineteen (19) years of age, appointed by the minority leader of the senate;

(15) a school teacher who is employed by a junior high school, middle school, or high school, appointed by the governor;

(16) a school social worker, appointed by the attorney general;

(17) a school attorney, appointed by the chief justice of the supreme court;

(18) a school principal from an urban school district, appointed by the speaker of the house of representatives;

(19) a school principal from a suburban or rural school district, appointed by the minority leader of the house of representatives;

(20) an individual who represents or is employed by a child advocate organization, appointed by the president pro tempore of the senate;

(21) a special education teacher, appointed by the minority leader of the senate;

(22) a law school professor, appointed by the governor;

(23) a university or college professor who has studied or specializes in school discipline and racial equity issues of children, appointed by the attorney general;

(24) the director of a law enforcement training school or academy other than the Indiana law enforcement academy, appointed by the chief justice of the supreme court;

(25) a parent of a child who is enrolled in high school, appointed by the speaker of the house of representatives; and

(26) a parent of a child who is enrolled in high school, appointed by the president pro tempore of the senate.

(b) The work group also consists of four (4) members of the general assembly who shall serve as nonvoting members of the work group. The president pro tempore of the senate shall appoint two (2) senators, who may not be members of the same political party. The speaker of the house of representatives shall appoint two (2) representatives, who may not be members of the same political party.

(c) The individual appointed under subsection (a)(22) shall serve as the chairperson of the work group.

(d) The individuals appointing work group members under this section should strive for a diverse group of appointees reflecting a variety of ethnic groups and races and both men and women.

Sec. 4. The work group shall meet one (1) time per month at the call of the chairperson.

Sec. 5. Fourteen (14) voting members of the work group constitute a quorum. The work group is not prohibited from

conducting business as a result of a vacancy in the work group. In the case of a vacancy, a new appointee shall serve for the remainder of the unexpired term. A vacancy shall be filled from the same group that was represented by the outgoing member.

Sec. 6. All appointments of the work group's members are renewable.

Sec. 7. (a) A member of the work group who is not a state employee is not entitled to a minimum salary per diem provided by IC 4-10-11-2.1(b) and is not entitled to reimbursement for traveling expenses.

(b) A member of the work group who is a state employee is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 8. (a) Before July 1 of each year, the work group shall submit an annual report to the:

(1) legislative council;
(2) governor;
(3) department of education;
(4) Indiana law enforcement academy;
(5) commission on courts established by IC 33-23-10-1;
(6) education roundtable established by IC 20-19-4-2;
(7) chief justice of the supreme court; and
(8) board for the coordination of programs serving vulnerable individuals established by IC 4-23-30.2-8.

(b) The report must include the findings and recommendations of the board.

(c) The report submitted to the legislative council must be in an electronic format under IC 5-14-6.

Sec. 9. The institute shall:

(1) provide staff support to the work group; and
(2) post the work group's:
(A) meeting minutes; and
(B) reports;
on the institute's web site.

Sec. 10. (a) The work group shall:

(1) recommend legislation to the general assembly;

(2) study and recommend training curricula to the Indiana law enforcement academy concerning law enforcement officer interactions with juveniles;

(3) study and recommend training curricula concerning law enforcement, school policing, and juveniles, as described in subsection (b), for:

(A) school resources officers;

(B) teachers;

(C) school administrators;

(D) school corporation police officers; and

(E) privately contracted security officers who work in schools;

(4) study and make recommendations concerning methods by which law enforcement agencies may improve interactions with juveniles;

(5) study and recommend methods by which law enforcement agencies and schools may collaborate on reducing juvenile involvement in the juvenile justice system, including:

(A) when school administrators should be notified before a student is arrested;

(B) what types of arrests should not occur on school property;

(C) recommendations regarding school administrators and law enforcement agencies reviewing school safety policies;

(D) policies concerning parental notification of student arrests; and

(E) the use of alternatives to arrest;

(6) study and recommend pilot programs for school districts and law enforcement agencies to reduce juvenile involvement in the juvenile justice system based on best practices;

(7) study and recommend guidelines for school districts to adopt to reduce juvenile involvement in the juvenile justice system;

(8) study and recommend whether law enforcement agencies should employ juvenile justice specialists to:

(A) train law enforcement officers on appropriate law enforcement interactions with juveniles;

(B) collaborate with schools to reduce law enforcement interactions with juveniles; and

(C) develop alternatives to arresting juveniles;

(9) study and recommend educational curricula to the department of education for students regarding:

(A) the juvenile justice and criminal justice systems;

(B) the types of conduct that can lead to school discipline;

(C) the consequences of being arrested; and

(D) restorative justice principles;

(10) study and recommend training curricula for school employees concerning:

(A) the juvenile justice system;

(B) alternatives to student suspension, expulsion, and arrest;

(C) restorative justice; and

(D) the consequences of arresting a youth;

(11) study and recommend the use of school security guards by school corporations and whether additional training is recommended for school security guards to make arrests, conduct searches, and carry firearms on school corporation property;

(12) study the use of zero (0) tolerance policies by schools and the impact that zero (0) tolerance policies have for youth involvement in the juvenile justice system;

(13) study and recommend curriculum for the law enforcement training academy to adopt regarding training requirements for each person accepted for training at a law enforcement training school or academy regarding:

(A) interacting with juveniles; and

(B) de-escalation techniques appropriate for youth;

(14) study and recommend whether law enforcement agencies should provide continuing education to law enforcement officers regarding:

(A) interacting with juveniles; and

(B) de-escalation techniques appropriate for youth; and

(15) study and recommend whether school security guards should receive training before being allowed to carry a firearm on school corporation property.

(b) The recommendations under subsection (a)(3) may include recommendations for training concerning:

(1) adolescent development;

(2) adolescent psychology;

(3) children with disabilities and special needs;

(4) law enforcement interactions with youth in schools;

(5) relationship building;

(6) implications for asserting authority;

(7) cultural competency; and

(8) alternatives to referral, arrest, and detention.

(c) The work group shall make a recommendation regarding the issue stated in subsection (a)(11) by August 1, 2011.

Sec. 11. The work group shall conduct its first meeting by August 1, 2010.

Sec. 12. This chapter expires June 30, 2015.

SECTION 3. IC 20-34-6 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

Chapter 6. Student Safety Reporting

Sec. 1. (a) By July 1 of each year, each school corporation shall submit a report to the department detailing the following information for the current school year for each school in the school corporation and for the entire school corporation:

(1) The number of arrests of students on school corporation property, including arrests made by law enforcement officers, security guards, school safety specialists, and other school corporation employees, and any citizen arrests.

(2) The offenses for which students were arrested on school corporation property.

(3) The number of contacts with law enforcement personnel from a school corporation employee that have resulted in arrests of students not on school corporation property.

(4) Statistics concerning the age, race, and gender of students arrested on school corporation property and categorizing the statistics by offenses.

(5) Whether the school corporation has established and employs a school corporation police department under IC 20-26-16, and if so, report:

(A) the number of officers in the school corporation police department; and

(B) the training the officers must complete.

(6) If the school corporation employs private security guards

to enforce rules or laws on school property, a detailed explanation of the use of private security guards by the school corporation.

(7) If the school corporation has an agreement with a local law enforcement agency regarding procedures to arrest students on school property, a detailed explanation of the use of the local law enforcement agency by the school corporation.

(b) By August 1 of each year, the department shall submit a report to:

(1) the legislative council;

(2) the education roundtable established by IC 20-19-4-2;

(3) the board for the coordination of programs serving vulnerable individuals established by IC 4-23-30.2-8; and

(4) the criminal justice institute;

providing a summary of the reports submitted to the department under subsection (a). The report to the legislative council must be in an electronic format under IC 5-14-6.

(c) By August 1 of each year, the department must post the reports described in subsections (a) and (b) on the department's Internet web site.

P.L.75-2010

[H.1230. Approved March 17, 2010.]

AN ACT to amend the Indiana Code concerning agriculture and animals.

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

SECTION 1. IC 15-15-1-2, AS ADDED BY P.L.2-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this chapter, "agricultural seed" means the seeds of legume, grass, forage, cereal, ~~or~~ fiber, **or oil** crops. The term includes other kinds of seeds commonly recognized in Indiana as

agricultural seeds, lawn seeds, and mixtures of such seeds.

SECTION 2. IC 15-15-1-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5.5. As used in this chapter, "cool season lawn and turf grasses" includes:**

(1) Kentucky bluegrass, red fescue, chewings fescue, hard fescue, tall fescue, perennial ryegrass, intermediate ryegrass, annual ryegrass, colonial bentgrass, or creeping bentgrass; and

(2) mixtures of any of the grasses referred to in subdivision (1).

SECTION 3. IC 15-15-1-15.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 15.5. As used in this chapter, "permit" means a written authorization granted by the seed commissioner and required under this chapter before a person may distribute agricultural or vegetable seed in Indiana subject to this chapter.**

SECTION 4. IC 15-15-1-20.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 20.5. As used in this chapter, "special use permit" means authorization issued by the seed commissioner to a person subject to section 27(c) of this chapter for the use of seeds of plant species for the purpose of research, development, production, or education.**

SECTION 5. IC 15-15-1-27, AS ADDED BY P.L.2-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27. (a) The state seed commissioner shall administer this chapter. The state seed commissioner may authorize an agent to act for the state seed commissioner under this chapter.

(b) The state seed commissioner may do any of the following to administer this chapter:

(1) Sample, inspect, analyze, and test agricultural and vegetable seed distributed within Indiana for seeding and sowing purposes, when, where, and to the extent the state seed commissioner considers necessary to determine whether the agricultural or vegetable seed is in compliance with this chapter.

(2) Notify a seed distributor of any violations of this chapter.

(3) Adopt rules:

(A) governing:

(i) methods of sampling, inspecting, analyzing, testing, and examining agricultural and vegetable seed; and

(ii) tolerances to be followed in the administration of this chapter; and

(B) necessary for the efficient enforcement of this chapter.

(4) Adopt rules to establish lists of prohibited and restricted noxious weeds.

(5) Adopt rules to establish reasonable standards of germination (as defined by rule adopted under section 28 of this chapter) for vegetable seed.

(6) Adopt rules to establish standards for the effectiveness of legume inoculant applied to pre-inoculated seed.

(7) Adopt rules to govern the treatment of seed and the labeling and distribution of treated seed.

(8) Publish at least one (1) time each year, in the form the seed commissioner considers proper, information concerning:

(A) the sales of agricultural and vegetable seed; and

(B) the results of the analysis of official samples of agricultural and vegetable seed sold within Indiana as compared with the analysis guaranteed on the label.

Information concerning production and use of agricultural and vegetable seed may not disclose the operation of any person.

(9) Enter any:

(A) public or private property during regular business hours; or

(B) vehicle that transports seed, whether by land, water, or air, at any time the vehicle is accessible;

to inspect seed and the records relating to the seed, subject to this chapter and the rules adopted under this chapter.

(10) As used in this subdivision, "stop sale order" refers to a written order issued by the state seed commissioner to the owner or custodian of a lot of agricultural or vegetable seed that the state seed commissioner has found violates this chapter or rules adopted under this chapter. The state seed commissioner may issue and enforce stop sale orders. A stop sale order prohibits the future sale, processing, and movement of the seed until the state

seed commissioner issues a release from the stop sale order. The owner or custodian of the seed is entitled to appeal a stop sale order to a court with jurisdiction in the locality in which the seed is found, as provided in IC 4-21.5, seeking a judgment as to the justification for the order for the discharge of the seed from the stop sale order in accordance with the findings of the court. This subdivision does not limit the right of the state seed commissioner to proceed as otherwise authorized by this chapter.

(11) Establish and maintain or make provisions for seed testing facilities.

(12) Employ qualified persons.

(13) Incur necessary expenses.

(14) Test or provide for testing seed for purity and germination (as defined by rule adopted under section 28 of this chapter) for farmers and dealers on request of a farmer or dealer, prescribe rules governing such testing, and charge for the tests made.

(15) Cooperate with the United States Department of Agriculture and other agencies in seed law enforcement.

(16) Enter the property of a producer of hybrid seed to determine whether the seed produced is as the seed is represented.

(17) Issue a written special use permit to a person to use a prohibited noxious weed seed or a restricted noxious weed seed for purposes of research, development, production, or education, subject to subsection (c).

(18) Adopt rules under IC 4-22-2 to establish fees that are necessary for the administration of this chapter, including costs of inspections, analysis, and publications.

(19) Adopt rules under IC 4-22-2 to establish civil fines for the following:

(A) Failure to submit a report required under this chapter.

(B) Failure to pay a fee required under this chapter.

(c) The seed commissioner, in response to an application for the issuance of a special use permit under subsection (b)(17), may:

(1) issue a special use permit;

(2) issue a special use permit subject to conditions; or

(3) deny a special use permit request.

In determining whether to issue a special use permit, the seed commissioner shall consider each species of prohibited noxious

weed or restricted noxious weed separately. The seed commissioner may revoke a special use permit at any time if it appears that the permit holder is not complying with the conditions established under the special use permit.

SECTION 6. IC 15-15-1-32, AS ADDED BY P.L.2-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 32. (a) A container of agricultural seed of any size consisting of more than one (1) pound distributed in Indiana for sowing and seeding purposes must contain or have attached in a conspicuous place on the outside of the container a plainly written or printed tag or label in English giving the information required by this section. If the seed is distributed in bulk, the information required by this section must accompany delivery and be supplied to the purchaser at the time of delivery.

(b) The labeling required for seed sold in bags and packages, and in bulk as required by this section, must include the following statements on the labeling attached to the container:

(1) The commonly accepted name of each kind and variety of each agricultural seed component that exceeds five percent (5%) of the whole and the percentage by weight of each in the order of its predominance. However, the variety designation may be omitted if the label states the name of the kind and the words "variety not stated". If more than one (1) component is required to be named, the word "mixture" or the word "mixed" must be shown conspicuously on the label. A mixture consisting of two (2) or more varieties of the same kind may be designated as a "blend".

(2) Lot number or other lot identification.

(3) Origin (state or foreign country where grown) for all seed except hybrid corn. If the origin is unknown, that fact must be stated.

(4) The percentage of all weed seed.

(5) The name and rate of occurrence per pound of each kind of restricted noxious weed seed present.

(6) The percentage of all other agricultural or vegetable seed, which may be designated as "other crop seeds" or "crop seeds".

(7) The percentage of inert matter.

(8) For each named agricultural seed:

(A) the percentage of germination (as defined by rule adopted under section 28 of this chapter), exclusive of hard seed;

(B) the percentage of hard seed, if present; and

(C) the calendar month and year the test was completed to determine the percentages.

(9) The name and address of the person who labeled the seed or who distributed it within Indiana.

(10) For all seed named and treated (for which a separate label may be used):

(A) a word or statement indicating that the seed has been treated;

(B) the commonly accepted coined chemical or abbreviated chemical (generic) name of any applied pesticide;

(C) a description of the process or the commonly accepted name of the substance applied if other than a pesticide; and

(D) if the substance in the amount present with the seed is harmful to human or other vertebrate animals, a caution statement such as "Do Not Use For Food Or Feed Or Oil Purposes". A poison statement or symbol must be used as the caution for mercurials and similarly toxic substances.

(11) For pre-inoculated seed, in addition to other labeling requirements of this section (for which a separate label may be used):

(A) a word or statement indicating that the seed has been pre-inoculated; and

(B) the date beyond which the inoculant is not to be considered effective.

(12) For cool season lawn and turf grasses, the following statements on the labeling:

(A) For single kinds of grasses, the name of the kind or the kind and variety.

(B) For grass mixtures:

(i) the word "mix", "mixed", "mixture", or "blend" must be stated with the name of the mixture;

(ii) the headings "Pure Seed" and "Germination" or "Germ" must be used in the proper places; and

(iii) the commonly accepted name of the kind or the kind and variety of each agricultural seed component that

exceeds five percent (5%) of the whole, and the percentage by weight of pure seed in order of its predominance and in columnar form.

(C) The percentage by weight of agricultural seed other than those required to be named on the label (which must be designated as "crop seed").

(D) The percentage by weight of inert matter.

(E) The percentage by weight of all weed seeds. The maximum weed seed content may not exceed two and five-tenths percent (2.5%) by weight.

(F) The name and rate of occurrence per pound of each kind of restricted noxious weed seed present and listed under the heading "Noxious Weed Seeds". Restricted noxious weed seed may not exceed twenty-five hundredths of one percent (0.25%) by weight.

(G) For each agricultural seed named under clause (A) or (B), the following:

(i) The percentage of germination, exclusive of hard seed.

(ii) The percentage of hard seed, if present.

(iii) The calendar month and year the test was completed to determine the required percentages. The oldest test date must be used.

(iv) The statement "Sell by (month/year)". The date may not exceed fifteen (15) months from the date that must be stated on the labeling under item (iii), exclusive of the month of the test.

The total of the percentages by weight under clauses (B)(iii), (C), (D), and (E) must equal one hundred percent (100%).

(c) The statements required by this section may not be modified or denied.

(d) The total of the percentages that are stated on the labeling under subsection (b)(1), (b)(4), (b)(6), and (b)(7) must equal one hundred percent (100%).

SECTION 7. IC 15-15-1-33, AS ADDED BY P.L.2-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 33. ~~A container of vegetable seed of any size distributed within Indiana for sowing and seeding purposes must have attached in a conspicuous place on the outside of the container a plainly written or printed label in English giving~~ **(a) For vegetable seeds in**

packets as prepared for use in home gardens or household plantings or vegetable seeds in preplanted containers, mats, tapes, or other planting devices in containers that do not exceed one (1) pound, the labeling must include the following information:

(1) The name of the kind and variety of seed.

(2) The name and address of the person who labeled or who distributed the seed.

(3) For seed that germinates less than the standard most recently established under this chapter:

(A) the percentage of germination (as defined by rule adopted under section 28 of this chapter), exclusive of hard seed;

(B) the percentage of hard seed, if present;

(C) the calendar month and year the test was completed to determine the percentages; and

(D) the words "Below Standard" in not less than 8 point type.

(4) For seed that has been treated, the same labeling information required for agricultural seeds.

(5) The number of noxious weed seeds per pound of vegetable seed, if any weed seed is present.

(6) Lot number or other lot identification.

(7) Germination test information in any of the following forms:

(A) The calendar month and year the germination test was completed and the statement "Sell by (month/year)". The date may not exceed twelve (12) months from the date of the test, exclusive of the month of the test.

(B) The year for which the seed was packaged for sale, as "Packed for (year)". The date must be for a calendar year and include the statement "Sell by (month/year)". The date may not exceed twelve (12) months from the date of the test, exclusive of the month of the test.

(C) The percentage of germination and the calendar month and year the test was completed to determine the percentages. However, the germination test must have been completed within the previous twelve (12) months, exclusive of the month of the test.

(b) For vegetable seeds sold in containers that are more than one (1) pound, the labeling must include the following:

(1) The name of each kind and variety present that exceeds five percent (5%) and the percentage by weight of each in order of its predominance.

(2) Lot number or other lot identification.

(3) For each named vegetable seed:

(A) the percentage of germination, exclusive of hard seed;

(B) the percentage of hard seed, if present; and

(C) the calendar month and year the test was completed to determine the percentages. The date may not be later than twelve (12) months after the date of the test, exclusive of the month of the test.

(c) For seeds placed in a germination medium, mat, tape, or another device and in a way to make it difficult to determine the quantity of seed without removing the seed from the medium, mat, tape, or other device, the labeling must include a statement to indicate the minimum number of seeds in the container.

SECTION 8. IC 15-15-1-34, AS ADDED BY P.L.2-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 34. ~~(a) For the purpose of defraying the costs of inspection, analysis, publication, and other expenses incurred in the administration of this chapter, the state seed commissioner shall charge the amount set forth in this section for tags or labels required by sections 32 and 33 of this chapter.~~

~~(b) The charge for alfalfa, clover, vegetable, and grass seed or mixtures of any of these seeds is the following:~~

~~(1) Six cents ($0.06) for each twenty-five (25) pound tag or label.~~

~~(2) Twelve cents ($0.12) for each fifty (50) pound tag or label.~~

~~(3) Eighteen cents ($0.18) for each seventy-five (75) pound tag or label.~~

~~(4) Twenty-four cents ($0.24) for each one hundred (100) pound tag or label.~~

~~(c) The charge for seed other than seed described in subsection (b) is the following:~~

~~(1) Two and one-fourth cents ($0.0225) for each twenty-five (25) pound tag or label.~~

~~(2) Four and one-half cents ($0.045) for each fifty (50) pound tag or label.~~

~~(3) Six and three-fourths cents ($0.0675) for each seventy-five~~

~~(75) pound tag or label.~~

~~(4) Nine cents ($0.09) for each hundred (100) pound tag or label.~~

~~(5) Nine cents ($0.09) for one hundred (100) pounds for each tag or label that the state seed commissioner furnishes in denominations larger than one hundred (100) pounds.~~

~~(d) Tags furnished by the state seed commissioner must:~~

~~(1) contain the facsimile signature of the state seed commissioner;~~

~~(2) be referred to as state seed commissioner tags or labels;~~

~~(3) be completely filled out with the information required in sections 32 and 33 of this chapter; and~~

~~(4) be attached to containers or be delivered with sales of agricultural or vegetable seed distributed in bulk in quantities of more than one (1) pound.~~

~~(e) A distributor or the distributor's successor may return for credit any unused and obsolete state seed commissioner tags or labels. The state seed commissioner shall give credit for the return of obsolete tags or labels after deducting all costs of printing and handling.~~

~~(f) If the state seed commissioner grants a distributor a permit to report the quantity of seed sold and pay the inspection fee on the basis of this report instead of attaching or furnishing state seed commissioner tags or labels as provided in this section, the distributor may return for credit, not later than sixty (60) days after issuance of the permit, all unused state seed commissioner tags or labels whether obsolete or not. The state seed commissioner shall credit the distributor those tags or labels:~~

~~(1) submitted as blank at the purchase price; and~~

~~(2) that have been filled out at the purchase price less the cost of printing and handling.~~

~~(g)~~ **(a)** A distributor of agricultural seed in packages of not more than one (1) pound shall pay not later than January 15 of each year an annual fee of forty-five dollars ($45) for each brand of seed distributed. ~~The distributor is not required to affix state seed commissioner tags or labels to packages of not more than one (1) pound that bear a proper label.~~ Payment of an annual fee is not required of retailers who furnish quantities of not more than one (1) pound from a properly labeled container of seed on which the inspection fee has been paid.

~~(h)~~ **(b)** A person who distributes agricultural or vegetable seed in Indiana may apply to the state seed commissioner for a permit to use

the person's own labeling, report the quantity of seed sold, and pay the inspection fee on the basis of the report. ~~instead of attaching or furnishing state seed commissioner tags or labels. The inspection fee is the following:~~

~~(1) Twenty-four cents ($0.24) per one hundred (100) pounds of alfalfa, clover, vegetable, grass seed, and mixtures of such seeds, with a minimum payment of six cents ($0.06) for each package or container of more than one (1) pound.~~

~~(2) Nine cents ($0.09) per one hundred (100) pounds of all agricultural seed other than seeds described in subdivision (1), with a minimum payment of two and one-fourth cents ($0.0225) for each package or container of more than one (1) pound.~~

~~(3) One dollar and fifty cents ($1.50) for each assortment or unit of vegetable seed distributed in an assortment or other display unit, in packets of not more than one (1) pound.~~

~~(i)~~ **(c)** In making application for a permit under ~~subsection (h),~~ **subsection (b),** the distributor must agree to the following:

(1) Label the seed with the information required by law.

(2) Keep the records the state seed commissioner considers necessary to indicate accurately the number and size of containers of each kind of agricultural and vegetable seed distributed and the quantity of such seed distributed in bulk.

(3) Grant the state seed commissioner or the state seed commissioner's authorized representative permission to examine the records described in subdivision (2) and verify the statement of quantity of seed distributed.

(4) Report under oath to the state seed commissioner on forms furnished by the state seed commissioner the quantity of agricultural and vegetable seed sold during the period covered.

~~(j)~~ **(d)** The state seed commissioner may grant a permit under ~~subsection (h)~~ **subsection (b)** if the state seed commissioner determines that the applicant's proposed report of the quality of agricultural and vegetable seed sold will lead to efficient enforcement of this chapter. The state seed commissioner may revoke the permit at any time if it appears to the state seed commissioner that the distributor is not complying with the agreement described in subsection ~~(i)~~ **(c)** or this chapter. ~~The report of sales is due and the inspection fees payable quarterly, on the last day of the month following the end of the quarter.~~

If:

(1) the report is not filed and the inspection fee not paid before ten (10) days following the due date;

(2) the report of volume is false; or

(3) the labeling requirements of this chapter have not been complied with;

the state seed commissioner may revoke the permit. If the inspection fee is unpaid after the ten (10) day grace period, a penalty shall be assessed in the amount of ten percent (10%) in addition to the amount due.

(e) The report of quantity sold required under subsection (c)(4) is due, and the inspection fees required under this chapter are payable, semiannually on the last day of the month following the end of the semiannual period. The first half reporting period ends June 30 and the second half reporting period ends December 31.

SECTION 9. IC 15-15-1-41, AS ADDED BY P.L.2-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 41. A person may not do any of the following:

(1) Detach, alter, deface, or destroy any label provided for in this chapter or the rules adopted under this chapter.

(2) Alter or substitute seed in a manner that may defeat the purpose of this chapter.

(3) Disseminate false or misleading advertisements concerning agricultural or vegetable seed.

(4) Hinder or obstruct in any way an authorized person in the performance of the person's duties under this chapter.

(5) Fail to comply with a stop sale order issued under section 27 of this chapter.

(6) Use the word:

(A) "trace" as a substitute for any statement required by this chapter; or

(B) "type" in any labeling in connection with the name of any seed variety.

(7) Use a state seed commissioner tag or label more than once.

(8) Sell grain or other seed that has been treated to any person for any purpose unless the grain or seed is clearly labeled as required in sections 32 and 33 of this chapter.

(9) Distribute seed colored so that it does not contrast with the

natural color of the seed.

(10) Distribute noxious weed seed **without a special use permit issued by the seed commissioner under section 27(b)(17) of this chapter.**

(11) Assign the same brand designation to more than one (1) variety or blend of the same kind of seed, if not sold by variety name.

(12) Use relabeling stickers unless the relabeling stickers state:

(A) both the calendar month and year the germination test was completed and the sell-by date, as required under sections 32 and 33 of this chapter; and

(B) the lot number that matches the existing original lot number.

(13) Relabel a seed lot using stickers more than once.

SECTION 10. IC 26-3-7-2, AS AMENDED BY P.L.64-2009, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The following definitions apply throughout this chapter:

(1) "Agency" refers to the Indiana grain buyers and warehouse licensing agency established under section 1 of this chapter.

(2) "Anniversary date" means the date that is ninety (90) calendar days after the fiscal year end of a business licensed under this chapter.

(3) "Bin" means a bin, tank, interstice, or other container in a warehouse in which bulk grain may be stored.

(4) "Buyer-warehouse" means a person that operates both as a warehouse licensed under this chapter and as a grain buyer.

(5) "Claimant" means a person that is unable to secure satisfaction **within the twelve (12) months following delivery** of the financial obligations due from a licensee under this chapter for grain that has been delivered to the licensee for sale or for storage under a bailment.

(6) "Deferred pricing" or "price later" means a purchase by a buyer in which title to the grain passes to the buyer and the price to be paid to the seller is not determined:

(A) at the time the grain is received by the buyer; or

(B) ~~within ten (10)~~ **less than twenty-one (21)** days ~~of receipt.~~

after delivery.

(7) "Delayed payment" means a purchase by a buyer in which title to the grain passes to the buyer at a determined price and payment to the seller is not made in less than twenty-one (21) days after delivery.

~~(7)~~ **(8)** "Depositor" means any of the following:

(A) A person that delivers grain to a licensee under this chapter for storage or sale.

(B) A person that:

(i) owns or is the legal holder of a ticket or receipt issued by a licensee for grain received by the licensee; and

(ii) is the creditor of the issuing licensee for the value of the grain received in return for the ticket or receipt.

(C) A licensee that stores grain that the licensee owns solely, jointly, or in common with others in a warehouse owned or controlled by the licensee or another licensee.

~~(8)~~ **(9)** "Designated representative" means the person or persons designated by the director to act instead of the director in assisting in the administration of this chapter.

~~(9)~~ **(10)** "Director" means the director of the Indiana grain buyers and warehouse licensing agency appointed under section 1 of this chapter.

~~(10)~~ **(11)** "Facility" means a location or one (1) of several locations in Indiana that are operated as a warehouse or by a grain buyer.

~~(11)~~ **(12)** ~~"Failure"~~ **"Failed" or "failure"** means any of the following:

(A) The inability of a licensee to financially satisfy **fully all obligations due to** claimants.

(B) Public declaration of a licensee's insolvency.

(C) Revocation or suspension of a licensee's license, if the licensee has outstanding indebtedness owed to claimants.

(D) Nonpayment of a licensee's debts in the ordinary course of business, if there is not a good faith dispute.

(E) Voluntary surrender of a licensee's license, if the licensee has outstanding indebtedness to claimants.

(F) Involuntary or voluntary bankruptcy of a licensee.

~~(12)~~ **(13)** "Grain" means corn for all uses, popcorn, wheat, oats,

barley, rye, sorghum, soybeans, oil seeds, other agricultural commodities as approved by the agency, and seed as defined in this section. The term does not include canning crops for processing, sweet corn, or flint corn.

~~(13)~~ **(14)** "Grain assets" means any of the following:

(A) All grain owned or stored by a licensee, including grain that:

(i) is in transit following shipment by a licensee; and

(ii) has not been paid for.

(B) All proceeds, due or to become due, from the sale of a licensee's grain.

(C) Equity, less any secured financing directly associated with the equity, in hedging or speculative margin accounts of a licensee held by a commodity or security exchange, or a dealer representing a commodity or security exchange, and any money due the licensee from transactions on the exchange, less any secured financing directly associated with the money due the licensee from the transactions on the exchange.

(D) Any other unencumbered funds, property, or equity in funds or property, wherever located, that can be directly traced to the sale of grain by a licensee. However, funds, property, or equity in funds or property may not be considered encumbered unless:

(i) the encumbrance results from valuable consideration paid to the licensee in good faith by a secured party; and

(ii) the encumbrance did not result from the licensee posting the funds, property, or equity in funds or property as additional collateral for an antecedent debt.

(E) Any other unencumbered funds, property, or equity in assets of the licensee.

~~(14)~~ **(15)** "Grain bank grain" means grain owned by a depositor for use in the formulation of feed and stored by the warehouse to be returned to the depositor on demand.

~~(15)~~ **(16)** "Grain buyer" means a person who is engaged in the business of buying grain from producers. ~~The term does not include a buyer of grain who:~~

~~(A) buys less than fifty thousand (50,000) bushels of grain annually;~~

~~(B) buys grain for the sole purpose of feeding the person's own livestock or poultry and derives a major portion of the person's income from selling that livestock or poultry; or~~

~~(C) does not offer storage, deferred pricing, delayed payment, or contracts or other instruments that are linked to the commodity futures or commodity options market.~~

~~(16)~~ **(17)** "Grain standards act" means the United States Grain Standards Act, approved August 11, 1916 (39 Stat. 482; 7 U.S.C. 71-87 as amended).

~~(17)~~ **(18)** "License" means a license issued under this chapter.

~~(18)~~ **(19)** "Official grain standards of the United States" means the standards of quality or condition for grain, fixed and established by the secretary of agriculture under the grain standards act.

~~(19)~~ **(20)** "Person" means an individual, partnership, corporation, association, or other form of business enterprise.

~~(20)~~ **(21)** "Receipt" means a warehouse receipt issued by a warehouse licensed under this chapter.

~~(21)~~ **(22)** "Seed", notwithstanding IC 15-15-1, means grain set apart to be used primarily for the purpose of producing new plants.

~~(22)~~ **(23)** "Ticket" means a scale weight ticket, a load slip, or other evidence, other than a receipt, given to a depositor upon initial delivery of grain to a facility.

~~(23)~~ **(24)** "Warehouse act" means the United States Warehouse Act, approved August 11, 1916 (39 Stat. 486; 7 U.S.C. 241-273 as amended).

~~(24)~~ **(25)** "Warehouse" means any building or other protected enclosure in one (1) general location licensed or required to be licensed under this chapter in which grain is or may be:

(A) stored for hire;

(B) used for grain bank storage; or

(C) used to store company owned grain;

and the building or other protected enclosure is operated under one (1) ownership and run from a single office.

~~(25)~~ **(26)** "Warehouse operator" means a person that operates a facility or group of facilities in which grain is or may be stored for hire or which is used for grain bank storage and which is operated under one (1) ownership and run from a single office.

SECTION 11. IC 26-3-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The director may do the following:

(1) Require any reports that are necessary to administer this chapter.

(2) Administer oaths, issue subpoenas, compel the attendance and testimony of witnesses, and compel the production of records in connection with any investigation or hearing under this chapter.

(3) Prescribe all forms within the provisions of this chapter.

(4) Establish grain standards in accordance with the grain standards act and federal regulations promulgated under that act that must be used by warehouses.

(5) Investigate the activities required by this chapter including the storage, shipping, marketing, and handling of grain and complaints with respect to the storage, shipping, marketing, and handling of grain.

(6) Inspect a facility, the grain stored in a facility, and all property and records pertaining to a facility. All inspections of an applicant or licensee under this chapter must take into consideration the proprietary nature of an applicant's or licensee's commercial information. The director may adopt rules under IC 4-22-2 regarding inspections permitted under this chapter, and the rules must take into consideration the proprietary nature of an applicant's or a licensee's commercial information. This chapter does not authorize the inspection of an applicant's or licensee's trade secret or intellectual property information.

(7) Determine whether a facility for which a license has been applied for or has been issued is suitable for the proper storage, shipping, and handling of the grain that is stored, shipped, or handled, or is expected to be stored, shipped, or handled.

(8) Require a licensee to terminate storage, shipping, marketing, and handling agreements upon revocation of the person's license.

(9) Attend and preside over any investigation or hearing allowed or required under this chapter.

(10) Impose sanctions for violations of this article.

(11) Require a grain buyer and all persons purchasing grain to show evidence of training or licensing on the risks associated with grain marketing practices only if a grain buyer engages in a risk

factor higher than a standard defined by the director. This training or licensing may include requiring the grain buyer or person purchasing grain to do any of the following:

(A) Provide the agency with proof of registry with the commodity futures trading commission (CFTC) as a commodity trading adviser, a futures commission merchant, an introducing broker, or an associated person.

(B) Demonstrate passage of the series 3 examination administered by the National Association of Security Dealers.

(C) Annually attend six (6) hours of continuing education, approved by the director, focusing on the risks to a grain buyer and seller that are associated with grain marketing practices and the communication of risks to the producer. Additionally, as part of continuing education, require a grain buyer, and all persons purchasing grain for a grain buyer, to pass a test, approved and administered by the director, that reasonably measures the grain buyer's understanding of the risks to grain buyers and sellers associated with producer marketing strategies.

(12) Require all contracts executed after June 30, 1997, for the purchase of grain from producers, except a flat price contract or a contract for the production of seed, to include the following notice immediately above the place on the contract where the seller of the grain must sign:

"NOTICE - SELLER IS CAUTIONED THAT CONTRACTING FOR THE SALE AND DELIVERY OF GRAIN INVOLVES RISKS. THESE RISKS MAY INCLUDE FUTURE PAYMENTS BY YOU TO MAINTAIN THIS CONTRACT, A LOWER SALES PRICE, AND OTHER RISKS NOT SPECIFIED.

COVERAGE UNDER THE INDIANA GRAIN INDEMNITY PROGRAM IS LIMITED TO 100% OF A LOSS FOR STORED GRAIN AND 80% OF A LOSS FOR OTHER COVERED CONTRACTS.

BE SURE YOU UNDERSTAND THE NATURE OF THIS CONTRACT AND THE ASSOCIATED RISKS."

(13) Require all contracts executed after January 1, 2000, for the production of seed to include the following notice, in conspicuous

letters, immediately above the place on the contract or an addendum where the seller of the seed must sign:

"NOTICE - IF THE TERMS OF THIS CONTRACT STATE THAT THE CONTRACTOR RETAINS OWNERSHIP OF THE SEED AND ITS PRODUCTS, YOU MAY NOT BE ELIGIBLE FOR PARTICIPATION IN THE INDIANA GRAIN INDEMNITY PROGRAM. TO BE ELIGIBLE TO PARTICIPATE IN THE INDIANA GRAIN INDEMNITY PROGRAM, FARMERS MUST OWN AND SELL GRAIN OR SEED. BE SURE YOU UNDERSTAND THE NATURE OF THIS CONTRACT AND THE ASSOCIATED RISKS."

(14) At any time, order an unannounced audit for compliance with this article.

(15) Adopt rules under IC 4-22-2 to carry out the purposes and intent of this chapter.

(16) Require all grain buyers offering deferred pricing, delayed payments, or contracts linked to the commodity futures or commodity options market in connection with a grain purchase to document the agreement in writing not more than twenty-one (21) days after delivery.

(b) The director shall do the following:

(1) Establish standards to ensure that a grain buyer has a suitable financial position to conduct a business as a grain buyer.

(2) Require a person who conducts business as a grain buyer to first be licensed by the agency.

(3) Require any person engaged in the business of advising producers on grain marketing for hire to:

(A) register with the agency; and

(B) provide the agency with proof of registry with the commodity futures trading commission (CFTC) as a commodity trading advisor, a futures commission merchant, an introducing broker, or an associated person.

(c) The director may designate an employee to act for the director in the administration of this chapter. A designee may not:

(1) act in matters that require a public hearing or the temporary suspension of a license;

(2) adopt rules; or

(3) act as the ultimate authority in the administration of this

chapter.

(d) The director may determine whether geographically separate facilities constitute a single warehouse or grain buyer and in making the determination may consider the following:

(1) The number of facilities involved.

(2) Whether full weighing equipment is present at the geographically separate facilities.

(3) The method of bookkeeping employed by the separate facilities.

(4) The hours of operation of the separate facilities.

(5) The personnel employed at the separate facilities.

(6) Other factors the director deems relevant.

(e) The director and the director's designees shall become members of the national grain regulatory organization and shall:

(1) work in partnership with other state grain regulatory officials;

(2) participate in national grain regulatory meetings; and

(3) provide expertise and education at national meetings.

SECTION 12. IC 26-3-7-6, AS AMENDED BY P.L.64-2009, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) The agency ~~may~~ **shall** issue the following licenses:

(1) A grain bank license may be issued to a person that:

(A) stores only grain bank grain;

(B) has a storage capacity of not more than fifty thousand (50,000) bushels of grain; and

(C) purchases less than fifty thousand (50,000) bushels of grain per year.

(2) A warehouse license may be issued to a person that:

(A) stores grain for hire; and

(B) purchases less than fifty thousand (50,000) bushels of grain per year.

(3) A grain buyer license may be issued to a person that:

(A) purchases annually at least fifty thousand (50,000) bushels of grain that are not for the sole purpose of feeding the person's own livestock or poultry;

(B) ~~does not store grain for hire;~~ **chooses to obtain a grain buyer's license;** ~~and~~ **or**

(C) offers deferred pricing, delayed payments, or contracts linked to the commodity futures or commodity options market in connection with grain purchases.

(4) A buyer-warehouse license may be issued to a person that operates both as a warehouse and as a grain buyer.

(b) An applicant shall file with the director a separate application for each license or amendment of a license at the times, on the forms, and containing the information that the director prescribes.

(c) An initial application for a license must be accompanied by a license fee as follows:

(1) For a grain bank or for a warehouse or buyer-warehouse with a storage capacity of less than two hundred fifty thousand (250,000) bushels, two hundred fifty dollars ($250) for the first facility and fifty dollars ($50) for each additional facility.

(2) For a warehouse or a buyer-warehouse with a storage capacity of at least two hundred fifty thousand (250,000) bushels but less than one million (1,000,000) bushels, five hundred dollars ($500) for the first facility and fifty dollars ($50) for each additional facility.

(3) For a warehouse or a buyer-warehouse with a storage capacity of at least one million (1,000,000) bushels but less than ten million (10,000,000) bushels, seven hundred fifty dollars ($750) for the first facility and fifty dollars ($50) for each additional facility.

(4) For a warehouse or buyer-warehouse with a storage capacity greater than ten million (10,000,000) bushels, one thousand dollars ($1,000) for the first facility and fifty dollars ($50) for each additional facility.

(5) For a grain buyer, including a grain buyer that is also licensed as a warehouse under the warehouse act, five hundred dollars ($500) for the first facility and fifty dollars ($50) for each additional facility.

The director may prorate the initial application fee for a license that is issued at least thirty (30) days after the anniversary date of the licensee's business.

(d) Before the anniversary date of the license, the licensee shall pay an annual fee in an amount equal to the amount required under subsection (c). The director may prorate the annual application fee for

a license that is modified at least thirty (30) days after the anniversary date of the licensee's license.

(e) A licensee or an applicant for an initial license must have a minimum current asset to current liability ratio of one to one (1:1) or better.

(f) An applicant for an initial license shall submit with the person's application a review level financial statement or better financial statement that reflects the applicant's financial situation on a date not more than fifteen (15) months before the date on which the application is submitted. A financial statement submitted under this section must:

(1) be prepared by an independent accountant certified under IC 25-2.1;

(2) comply with generally accepted accounting principles; and

(3) contain:

(A) an income statement;

(B) a balance sheet;

(C) a statement of cash flow;

(D) a statement of retained earnings;

(E) the preparer's notes; and

(F) other information the agency may require.

The director may adopt rules under IC 4-22-2 to allow the agency to accept other substantial supporting documents instead of those listed to determine the financial solvency of the applicant if the director determines that providing the listed documents creates a financial or other hardship on the applicant or licensee.

(g) An application for a license implies a consent to be inspected.

~~(h) A person that:~~

~~(1) does not operate a facility used to store grain for hire;~~

~~(2) purchases:~~

~~(A) less than fifty thousand (50,000) bushels of grain per year; or~~

~~(B) only grain used for the production of the person's own livestock or poultry; and~~

~~(3) does not purchase grain by:~~

~~(A) offering deferred pricing;~~

~~(B) offering delayed payment; or~~

~~(C) offering other contracts;~~

~~that are linked to the commodity futures or commodity options~~

~~market;~~
~~is not required to be licensed.~~

~~(i)~~ **(h)** Fees collected under this section shall be deposited in the grain buyers and warehouse licensing agency license fee fund established by section 6.3 of this chapter.

SECTION 13. IC 26-3-7-16.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16.5. (a) Upon learning of the possibility that a shortage exists, either as a result of an inspection or a report or complaint from a depositor, the agency, based on an on-premise inspection, shall make a preliminary determination as to whether a shortage exists. If a shortage is not discovered, the agency shall treat the audit as it would any other audit.

(b) If it is determined that a shortage may exist, the director or the director's designated representative shall hold a hearing as soon as possible to confirm the existence of a shortage as indicated by the licensee's books and records and the grain on hand. Only the licensee, the surety company named on the licensee's bond, the issuer of the irrevocable letter of credit, and any grain depositor who has made a claim or complaint to the agency in conjunction with the shortage shall be considered as interested parties for the purposes of that hearing, and each shall be given notice of the hearing. At the hearing, the director or the director's designated representative shall determine whether there appears to be a reasonable probability that a shortage exists. If it is determined that a reasonable probability exists and that the bond or letter of credit proceeds or the cash deposit should be distributed, a preliminary determination shall be entered to the effect that the licensee has failed to meet its obligations under this chapter or the rules adopted under this chapter. At the hearing, the director or the director's designated representative may order that all proceeds from grain sales are to be held in the form in which they are received and to be kept separate from all other funds held by the licensee. The order may also provide for informal conferences between agency representatives and persons who have or who appear to have grain deposited with the licensee. The surety company shall be permitted to participate in those conferences.

(c) In the event that the director determines that the bond or letter of credit proceeds or cash deposit is to be distributed, the agency shall hold a hearing on claims. Notice shall be given to the surety company

named on the licensee's bond, the issuer of the irrevocable letter of credit, and to all persons shown by the licensee's books and records to have interests in grain deposited with the licensee. If the agency has actual knowledge of any other depositor or person claiming rights in the grain deposited with the licensee, the bond, the irrevocable letter of credit, or the cash deposit, notice shall also be provided to that person. In addition, public notice shall be provided in newspapers of general circulation that serve the counties in which licensed facilities are located, and notices shall be posted on the licensed premises. At the hearing on claims, the director may accept as evidence of claims the report of agency representatives who in informal conferences with depositors have concluded that a claim is directly and precisely supported by the licensee's books and records. When there is disagreement between the claims of a depositor and the licensee's books and records, the director or the director's designated representative shall hear oral claims and receive written evidence of claims in order to determine the validity of the claim.

(d) Any depositor who does not present a claim at the hearing may bring the claim to the agency within fifteen (15) days after the conclusion of the hearing.

~~(d)~~ **(e)** Following the hearing on claims, the director shall make a determination as to the total proven storage obligation of the claimants and the loss sustained by each depositor who has proven a claim. Depositors found to have proven their claims shall be proven claimants. In arriving at that loss, in accordance with section 19 of this chapter, the director shall apply all grain on hand or its identifiable proceeds to meet the licensee's obligations to grain depositors of grain of that type. Initial determinations of loss shall be made on the amount of grain on hand, or identifiable proceeds, and shall reduce the amount to which a depositor may have a proven claim. With respect to the remaining unfulfilled obligations, the director shall, for the sole purpose of establishing each depositor's claim under this chapter, establish a date upon which the loss is discovered, shall price the grain as of that date, shall treat all outstanding grain storage obligations not covered by grain on hand or identifiable proceeds as being sold as of that date, and shall determine the extent of each depositor's loss as being the actual loss sustained as of that date. Grain of a specific type on the premises of a licensee must first be applied to meet the licensee's storage obligations

with respect to that type of grain. If there is insufficient grain of a specific type on hand to meet all storage obligations with respect to that type of grain, the grain that is present shall be prorated in accordance with the procedures described in this section and section 16.8 of this chapter.

~~(e)~~ **(f)** Upon the failure of the agency to begin an audit, which would serve as the basis for a preliminary administrative determination, within forty-five (45) days of the agency's receipt of a written claim by a depositor, a depositor shall have a right of action upon the bond, letter of credit, or cash deposit. A depositor bringing a civil action need not join other depositors. If the agency has undertaken an audit within the forty-five (45) day period, the exclusive remedy for recovery against the bond, letter of credit, or cash deposit shall be through the recovery procedure prescribed by this section.

~~(f)~~ **(g)** When the proven claims exceed the amount of the bond, letter of credit, or cash deposit, recoveries of proven claimants shall be prorated in the same manner as priorities are prorated under section 16.8 of this chapter.

~~(g)~~ **(h)** The proceedings and hearings under this section may be undertaken without regard to, in combination with, or in addition to those undertaken in accordance with section 17.1 of this chapter.

~~(h)~~ **(i)** The findings of the director shall be final, conclusive, and binding on all parties.

~~(i)~~ **(j)** The director may adopt rules under IC 4-22-2 to determine how the agency may distribute the interest that may accrue from funds held by the agency for the payment of claims.

~~(j)~~ **(k)** A claim of a licensee for stored grain may not be honored until the proven claims of all other claimants arising from the purchase, storage, and handling of the grain have been paid in full.

SECTION 14. IC 26-3-7-16.8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16.8. (a) A lien against all grain assets of a licensee or a person who is required to be licensed under this chapter attaches in favor of the following:

(1) A lender or other claimant that has a receipt for grain owned or stored by the licensee.

(2) A claimant that has a ticket or written evidence, other than a receipt, of a storage obligation of the licensee.

(3) A claimant that surrendered a receipt as part of a grain sales

transaction if:

(A) the claimant was not fully paid for the grain sold; and

(B) the licensee failed less than twenty-one (21) days after the surrender of the receipt.

(4) A claimant that has other written evidence of a sale to the licensee of grain for which the claimant has not been fully paid.

(b) A lien under this section attaches and is effective at the earliest of the following:

(1) the delivery of the grain for sale, storage, or under a bailment;

(2) the commencement of the storage obligation; or

(3) the advancement of funds by a lender.

(c) A lien under this section terminates when the licensee discharges the claim.

(d) If a licensee ~~fails,~~ **has failed,** the lien that attaches under this section is assigned to the agency by operation of this section. If a failed licensee is liquidated, a lien under this section continues to attach as a claim against the assets or proceeds of the assets of the licensee that are received or liquidated by the agency.

(e) Except as provided in subsection (g), if a licensee ~~fails,~~ **has failed,** the power to enforce the lien on the licensee's grain assets transfers by operation of this section to the director and rests exclusively with the director who shall allocate and prorate the proceeds of the grain assets as provided in subsections (f) and (h).

(f) The priority of a lien that attaches under this section is not determined by the date on which the claim arose. If a licensee ~~fails,~~ **has failed,** the director shall enforce lien claims and allocate grain assets and the proceeds of grain assets of the licensee in the following order of priority:

(1) First priority is assigned to the following:

(A) A lender or other claimant that has a receipt for grain owned or stored by the licensee.

(B) A claimant that has a ticket or written evidence, other than a receipt, of a storage obligation of the licensee.

(C) A claimant that surrendered a receipt as part of a grain sales transaction if:

(i) the claimant was not fully paid for the grain sold; and

(ii) the licensee failed less than twenty-one (21) days after the surrender of the receipt.

If there are insufficient grain assets to satisfy all first priority claims, first priority claimants shall share pro rata in the assets.

(2) Second priority is assigned to all claimants who have written evidence of the sale of grain, such as a ticket, a deferred pricing agreement, or similar grain delivery contract, and who completed delivery less than thirty (30) days before the licensee's failure. Claimants under this subdivision share pro rata in the remaining assets if all claimants under subdivision (1) have been paid but insufficient assets remain to fully satisfy all claimants under this subdivision.

(3) Third priority is assigned to all other claimants that have written evidence of the sale of grain to the failed licensee. Claimants under this subdivision share pro rata in the distribution of the remaining grain assets.

(g) If a claimant under this section brings an action to recover grain assets that are subject to a lien under this section and the agency does not join the action, the director shall, upon request of the claimant, assign the lien to the claimant in order to allow the claimant to pursue the claim to the extent that the action does not delay the resolution of the matter by the agency, the prompt liquidation of the assets, or the ultimate distribution of assets to all claimants.

(h) If:

(1) a claimant engaged in farming operations granted to one (1) or more secured parties one (1) or more security interests in the grain related to the claimant's claim under this section; and

(2) one (1) or more secured parties described in subdivision (1) have given to:

(A) the licensee prior written notice of the security interest under IC 26-1-9.1-320(a)(1) or IC 26-1-9-307(1)(a) before its repeal; and

(B) the director prior written notice of the security interest with respect to the grain described in subdivision (1) sufficient to give the director a reasonable opportunity to cause the issuance of a joint check under this subsection;

the director shall pay the claimant described in subdivision (1) the portion of the proceeds of grain assets under subsection (e) to which the claimant is entitled under this section by issuance of a check payable jointly to the order of the claimant and any secured party

described in subdivision (1) who has given the notices described in subdivision (2). If only one (1) secured party described in subdivision (1) is a payee, the rights of the secured party in the check shall be to the extent of the indebtedness of the claimant to the secured party. If two (2) or more secured parties described in subdivision (1) are payees, the nature, extent, and priority of their respective rights in the check are determined in the same manner as the nature, extent, and priority of their respective security interest under IC 26-1-9.1.

SECTION 15. IC 26-4-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. "Claimant" means a producer that:

(1) is a participant in the grain indemnity program; ~~and satisfies any of the following conditions:~~

~~(1) Possesses written evidence of ownership of grain, including, but not limited to:~~

~~(A) warehouse receipts;~~

~~(B) scale tickets;~~

~~(C) settlement sheets; and~~

~~(D) ledger cards;~~

~~that disclose a storage obligation of a licensed warehouseman that has failed.~~

~~(2) Has surrendered warehouse receipts as part of a sale of grain with a licensed warehouseman who failed not more than twenty-one (21) days after the surrender of the receipts and the person surrendering the warehouse receipts was not fully paid for the grain.~~

~~(3) Possesses written evidence of the delivery and sale of grain or transfer of deferred pricing grain to a failed Indiana grain buyer or licensed warehouseman, including, but not limited to:~~

~~(A) scale tickets;~~

~~(B) settlement sheets;~~

~~(C) deferred pricing contracts;~~

~~(D) basis contracts; or~~

~~(E) similar grain delivery contracts;~~

~~but did not get fully paid for the sale or transfer.~~

(2) possesses a claim resulting from a failure of a licensed grain buyer or warehouse; and

(3) has a claim that has been adjudicated by the agency under

IC 26-3-7-16.5.

SECTION 16. IC 26-4-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. "Deferred pricing" means a purchase by a buyer where title to the grain passes to the buyer, in which the actual dollar price to be paid to the seller is not to be determined at the time the grain is received by the buyer or ~~within ten (10)~~ **less than twenty-one (21)** days of that receipt.

SECTION 17. IC 26-4-1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. "Failed" or "failure" means any of the following:

(1) An inability ~~to~~ **of a licensee to financially** satisfy **fully all obligations due** a claimant. ~~in accordance with applicable statutes or rules and the time limits provided in the statutes or rules.~~

(2) A **public** declaration of **a licensee's** insolvency.

(3) ~~A failure to pay claimants~~ **The nonpayment of a licensee's debts** in the ordinary course of business ~~where a bona fide dispute does not exist between a grain buyer and a customer.~~ **if there is not a good faith dispute.**

(4) Revocation of suspension of a licensee's license, if the licensee has outstanding indebtedness owed to claimants.

(5) Voluntary surrender of a licensee's license, if the licensee has outstanding indebtedness to claimants.

(6) Involuntary or voluntary bankruptcy of a licensee.

SECTION 18. IC 26-4-1-13, AS AMENDED BY P.L.1-2006, SECTION 484, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. "Grain" means corn for all uses, popcorn, wheat, oats, rye, soybeans, barley, sorghum, oil seeds, other agricultural commodities as approved by the agency, and seed (as defined in ~~IC 26-3-7-2(21)).~~ **IC 26-3-7-2(22)).** The term does not include canning crops for processing, sweet corn, or flint corn.

SECTION 19. IC 26-4-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. ~~(a)~~ "Grain buyer" means a person **licensed under IC 26-3-7** who is engaged in Indiana in the business of buying grain from producers.

~~(b) The term does not include a buyer of grain who buys less than fifty thousand (50,000) bushels of grain annually for the buyer's own use as seed or feed.~~

SECTION 20. IC 26-4-1-20 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. "Storage loss" means a loss to a storage depositor resulting from a failed ~~warehouseman~~ **warehouse operator** not fully satisfying the ~~warehouseman's~~ **warehouse operator's** storage obligation to the depositor, net of any outstanding charges against the grain.

SECTION 21. IC 26-4-1-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. "Warehouse" ~~means:~~

~~(1) any building or buildings or other protected enclosures in one~~

~~(1) general location licensed under IC 26-3-7 in which grain:~~

~~(A) may be stored for hire; or~~

~~(B) is used for grain bank storage; and~~

~~that is operated under one (1) ownership and run from a single office; or~~

~~(2) any facility licensed under the United States Warehouse Act.~~

means any building or other protected enclosure in one (1) general location that is licensed or required to be licensed under IC 26-3-7 in which grain is or may be:

(1) stored for hire;

(2) used for grain bank storage; or

(3) used to store company owned grain;

and the building or other protected enclosure is operated under one (1) ownership and run from a single office.

SECTION 22. IC 26-4-1-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. ~~"Warehouseman" means a person engaged in the business of operating a warehouse for storing, shipping, or handling grain for hire that holds a valid warehouseman's license under IC 26-3-7 or the United States Warehouse Act.~~ **"Warehouse operator" means a person who operates a facility or group of facilities:**

(1) in which grain is or may be stored for hire; or

(2) that is used for grain bank storage;

and that is operated under one (1) ownership and run from a single office that holds a valid license under IC 26-3-7 or the United States Warehouse Act.

SECTION 23. IC 26-4-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. The board shall meet at least two (2) times each year. One (1) meeting of the board

must be held in ~~May.~~ **July.**

SECTION 24. IC 26-4-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The Indiana grain indemnity fund is established for the purpose of providing money to pay producers for losses incurred due to the failure of a grain buyer or ~~warehouseman.~~ **warehouse operator licensed under IC 26-3-7.** The fund shall be administered by the board of the corporation.

(b) The fund shall operate on a fiscal year of July 1 to June 30.

SECTION 25. IC 26-4-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. ~~Before July 1, 1996, the~~ **The** agency shall notify each grain buyer ~~registered~~ **licensed** under ~~IC 26-4-2~~ **IC 26-3-7** that producer premiums described in section 4 of this chapter shall be deducted from the purchase price of the grain on and after the date specified in the notice. The notice must be sent by first class mail.

SECTION 26. IC 26-4-4-9, AS AMENDED BY P.L.5-2009, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) At the ~~May~~ **July** meeting required under IC 26-4-3-5, the board shall certify the amount of money in the fund on ~~May 1.~~ **June 30.**

(b) Except as provided in section 8(c) of this chapter, the board may not require the collection of a producer premium during a fiscal year when the board certifies under subsection (a) that the fund has money in excess of ten million dollars ($10,000,000). If the fund is at or below ten million dollars ($10,000,000), the board shall reinstate the collection.

SECTION 27. IC 26-4-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Except as provided in section 2 of this chapter, the money in the fund:

(1) is not available for any purpose other than the payment of ~~valid~~ claims **approved by the board** or refunds to producers who do not want to participate in the fund; and

(2) may not be transferred to any other fund.

(b) The limiting and nontransferability provision of subsection (a) is declared to be nonseverable from the whole of this article. If subsection (a) is held to be invalid, repealed, or substantially amended, this article shall immediately become invalid and the money remaining in the fund shall be distributed to participants in the fund in a manner

that is proportional to the amount of producer premiums each producer paid to the fund.

SECTION 28. IC 26-4-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Except as provided in subsection (b), within ninety (90) days of the board's approval of a ~~valid~~ claim, the board shall compensate from the fund, in an amount described in section 4 of this chapter and in the manner described in subsection (c), a claimant who has incurred a financial loss or storage loss due to a failure of a grain buyer or ~~warehouseman.~~ **warehouse operator licensed under IC 26-3-7.**

(b) The time for payment may be extended if the board and claimant mutually agree and put the terms of the payment in writing.

(c) If:

(1) a claimant engaged in farming operations granted to one (1) or more secured parties one (1) or more security interests in the grain related to the claimant's claim under this section; and

(2) one (1) or more secured parties described in subdivision (1) have given to:

(A) the licensee prior written notice of the security interest under IC 26-1-9.1-320(a)(1) or IC 26-1-9-307(1)(a) before its repeal; and

(B) the board prior written notice of the security interest with respect to the grain described in subdivision (1) sufficient to give the board a reasonable opportunity to cause the issuance of a joint check under this subsection;

the board may compensate the claimant described in subdivision (1) in the amount to which the claimant is entitled under section 4 of this chapter by causing the issuance of a check payable jointly to the order of the claimant and any secured party described in subdivision (1) who has given the notices described in subdivision (2). If only one (1) secured party described in subdivision (1) is a payee, the rights of the secured party in the check shall be to the extent of the indebtedness of the claimant to the secured party. If two (2) or more secured parties described in subdivision (1) are payees, the nature, extent, and priority of their respective rights in the check are determined in the same manner as the nature, extent, and priority of their respective security interest under IC 26-1-9.1.

SECTION 29. IC 26-4-6-4 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) A claimant who has incurred a storage loss due to the failure of a ~~warehouseman~~ **warehouse operator licensed under IC 26-3-7** is entitled to be compensated by the board from the fund for one hundred percent (100%) of the storage loss incurred less **all credits and offsets and** any producer premium that would have been due on the sale of the grain. The gross amount of the storage loss shall be as determined by the agency for warehouses licensed under IC 26-3-7 or by the United States Department of Agriculture for warehouses licensed under the United States Warehouse Act. The ~~warehouseman~~ **warehouse operator** and claimants may submit to the agency evidence related to outstanding charges against stored grain. If the evidence is submitted, the agency shall determine the storage loss payable by the board.

(b) A claimant who has incurred a financial loss due to the failure of a grain buyer is entitled to be compensated by the board from the fund for eighty percent (80%) of the loss incurred **less all credits and offsets and any producer premium that should have been due on the sale of the grain.** The agency shall determine the loss incurred in the following manner:

(1) For grain that has been priced, the loss shall be the value of the priced grain less any outstanding charges against the grain.

(2) For grain sold to a grain buyer who is also a ~~warehouseman~~ **warehouse operator** and that has not been priced, the loss shall be established using the price determined for the storage obligations.

(3) For grain sold to a grain buyer who is not a ~~warehouseman~~ **warehouse operator** and that has not been priced, the loss shall be established using a price determined by the agency using the same procedures used by the agency to determine the price at the warehouse.

SECTION 30. IC 26-4-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. A claimant compensated under this chapter may be required to subrogate to the board or corporation all the claimant's rights to collect on a bond issued under IC 26-3-7 or the United States Warehouse Act and all the claimant's rights to any other compensation arising from the failure of the grain buyer or ~~warehouseman.~~ **warehouse operator.** If so required, the claimant shall assign all the claimant's rights, title, and interest in

any judgment concerning the failure to the board or corporation.

SECTION 31. IC 26-4-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. After the agency has determined that a grain buyer or warehouse has defaulted payment or failed, the board shall have the following duties:

(1) Determine the valid claims and the amount of such claims to be paid to claimants for financial losses that were incurred due to the failure of a grain buyer or ~~warehouseman.~~ **warehouse operator.**

(2) Authorize payment of money from the fund when necessary for the purpose of compensating claimants in accordance with the provisions of this chapter.

(3) Collect money through subrogated claims against bonds filed under IC 26-3-7 in the place of claimants who collected for a loss incurred due to a warehouse or grain buyer failure.

(4) Borrow money as authorized under IC 26-4-3-9 if the fund has insufficient money to cover ~~valid~~ **approved** claims.

(5) Deposit into the fund any remaining grain assets of a failed grain buyer or ~~warehouseman~~ **warehouse operator** for the purpose of repayment to the fund the money used to pay claimants, subject to any priority lien right a holder of a mortgage, security interest, or other encumbrance may possess under any other applicable law. Any repayment into the fund may not exceed the principal amount paid to claimants plus interest at the rate paid on ninety (90) day United States Treasury bills.

(6) If the amount in the fund is insufficient to pay all ~~valid~~ **approved** claims in accordance with this chapter and the board is unable to borrow funds for whatever reason, ~~grant priority of payment of~~ **authorize payment of** all the **approved** claims ~~in the order the claims were approved as valid by the board.~~ **on a pro rata basis.**

SECTION 32. IC 26-4-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. This article does not limit the authority of the director of the agency to take disciplinary action against a grain buyer or ~~warehouseman~~ **warehouse operator** licensed under IC 26-3-7 for a violation of IC 26-3-7, this article, or the rules of the agency.

SECTION 33. IC 26-4-7-3 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The repayment in full of all obligations to the fund by a grain buyer or ~~warehouseman~~ **warehouse operator** does not nullify or modify the effect of any other disciplinary proceeding brought under IC 26-3-7 or this article.

SECTION 34. [EFFECTIVE JULY 1, 2010] **(a) The state seed commissioner shall adopt rules under IC 15-15-1-27(b)(18) that concern IC 15-15-1-32 and IC 15-15-1-33, both as amended by this act, before July 1, 2011.**

(b) A rule adopted under this SECTION must take effect on July 1, 2011.

(c) This SECTION expires July 2, 2011.

SECTION 35. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: IC 26-4-1-22; IC 26-4-2-1; IC 26-4-2-2; IC 26-4-2-3; IC 26-4-2-4; IC 26-4-2-5; IC 26-4-5-3; IC 26-4-6-5.

SECTION 36. **An emergency is declared for this act.**

ACTS 2010

Laws enacted by the

116th GENERAL ASSEMBLY

at the

SECOND REGULAR SESSION
(2010)

VOLUME II

(P.L.76-2010 through P.L.116-2010)

By the authority of
INDIANA LEGISLATIVE COUNCIL
(IC 2-6-1.5)

Office of Code Revision
Legislative Services Agency

P.L.76-2010
[H.1232. Approved March 17, 2010.]

AN ACT to amend the Indiana Code concerning natural and cultural resources.

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

SECTION 1. IC 14-28-1-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 22. (a) As used in subsection (b)(1) with respect to a stream, "total length" means the length of the stream, expressed in miles, from the confluence of the stream with the receiving stream to the upstream or headward extremity of the stream, as indicated by the solid or dashed, blue or purple line depicting the stream on the most current edition of the seven and one-half (7 1/2) minute topographic quadrangle map published by the United States Geological Survey, measured along the meanders of the stream as depicted on the map.

(b) This section does not apply to the following:

(1) A reconstruction or maintenance project (as defined in IC 36-9-27) on a stream or an open regulated drain if the total length of the stream or open drain is not more than ten (10) miles.

(2) A construction or reconstruction project on a state or county highway bridge in a rural area that crosses a stream having an upstream drainage area of not more than fifty (50) square miles and the relocation of utility lines associated with the construction or reconstruction project if confined to an area not more than one hundred (100) feet from the limits of the highway construction right-of-way.

(3) The performance of an activity described in subsection (c)(1) or (c)(2) by a surface coal mining operation that is operated under a permit issued under IC 14-34.

(4) Any other activity that is determined by the commission, according to rules adopted under IC 4-22-2, to pose not more than a minimal threat to floodway areas.

(5) An activity in a boundary river floodway to which section 26.5 of this chapter applies.

(6) The removal of a logjam or mass of wood debris that has accumulated in a river or stream, subject to the following conditions:

(A) Work must not be within a salmonid stream designated under 327 IAC 2-1.5-5 without the prior written approval of the department's division of fish and wildlife.

(B) Work must not be within a natural, scenic, or recreational river or stream designated under 312 IAC 7-2.

(C) Except as otherwise provided in Indiana law, free logs or affixed logs that are crossways in the channel must be cut, relocated, and removed from the floodplain. Logs may be maintained in the floodplain if properly anchored or otherwise secured so as to resist flotation or dislodging by the flow of water and placement in an area that is not a wetland. Logs must be removed and secured with a minimum of damage to vegetation.

(D) Isolated or single logs that are embedded, lodged, or rooted in the channel, and that do not span the channel or cause flow problems, must not be removed unless the logs are either of the following:

(i) Associated with or in close proximity to larger obstructions.

(ii) Posing a hazard to navigation.

(E) A leaning or severely damaged tree that is in immediate danger of falling into the waterway may be cut and removed if the tree is associated with or in close proximity to an obstruction. The root system and stump of the tree must be left in place.

(F) To the extent practicable, the construction of access roads must be minimized, and should not result in the elevation of the floodplain.

(G) To the extent practicable, work should be performed exclusively from one (1) side of a waterway. Crossing the bed of a waterway is prohibited.

(H) To prevent the flow of sediment laden water back into the waterway, appropriate sediment control measures must be installed.

(I) Within fifteen (15) days, all bare and disturbed areas must be revegetated with a mixture of grasses and legumes. Tall fescue must not be used under this subdivision, except that low endophyte tall fescue may be used in the bottom of the waterway and on side slopes.

(c) A person who desires to:

(1) erect, make, use, or maintain a structure, an obstruction, a deposit, or an excavation; or

(2) suffer or permit a structure, an obstruction, a deposit, or an excavation to be erected, made, used, or maintained;

in or on a floodway must file with the director a verified written application for a permit accompanied by a nonrefundable fee of two hundred dollars ($200).

(d) The application for a permit must set forth the material facts together with plans and specifications for the structure, obstruction, deposit, or excavation.

(e) An applicant must receive a permit from the director for the work before beginning construction. The director shall issue a permit only if in the opinion of the director the applicant has clearly proven that the structure, obstruction, deposit, or excavation will not do any of the following:

(1) Adversely affect the efficiency of or unduly restrict the capacity of the floodway.

(2) Constitute an unreasonable hazard to the safety of life or property.

(3) Result in unreasonably detrimental effects upon fish, wildlife, or botanical resources.

(f) In deciding whether to issue a permit under this section, the director shall consider the cumulative effects of the structure, obstruction, deposit, or excavation. The director may incorporate in and make a part of an order of authorization conditions and restrictions that the director considers necessary for the purposes of this chapter.

(g) A permit issued under this section:

(1) is void if construction is not commenced within two (2) years after the issuance of the permit; and

(2) to:

(A) the Indiana department of transportation or a county highway department if there is any federal funding for the project; or

(B) an electric utility for the construction of a power generating facility;

is valid for five (5) years from the date of issuance and remains valid indefinitely if construction is commenced within five (5) years after the permit is issued.

(h) The director shall send a copy of each permit issued under this section to each river basin commission organized under:

(1) IC 14-29-7 or IC 13-2-27 (before its repeal); or

(2) IC 14-30-1 or IC 36-7-6 (before its repeal);

that is affected.

(i) The permit holder shall post and maintain a permit issued under this section at the authorized site.

(j) For the purposes of this chapter, the lowest floor of a building, including a residence or abode, that is to be constructed or reconstructed in the one hundred (100) year floodplain of an area protected by a levee that is:

(1) inspected; and

(2) found to be in good or excellent condition;

by the United States Army Corps of Engineers shall not be lower than the one hundred (100) year frequency flood elevation plus one (1) foot.

P.L.77-2010
[H.1235. Approved March 17, 2010.]

AN ACT to amend the Indiana Code concerning professions and occupations.

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

SECTION 1. IC 25-34.1-8-7.5, AS AMENDED BY P.L.52-2009, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7.5. (a) The investigative fund is established to provide funds for administering and enforcing the provisions of this article, including investigating and taking enforcement action against real estate fraud and real estate appraisal fraud. The fund shall be administered by the attorney general and the professional licensing agency.

(b) The expenses of administering the fund shall be paid from the money in the fund. The fund consists of:

(1) money from a fee imposed upon licensed or certified appraisers and real estate brokers and salespersons under IC 25-34.1-2-7 and IC 25-34.1-3-9.5; ~~and~~

(2) civil penalties deposited in the fund under IC 24-5-23.5-9(d);

(3) registration fees imposed on appraisal management companies under IC 25-34.1-11-15; and

(4) civil penalties deposited under IC 25-34.1-11-17.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(d) Except as otherwise provided in this subsection, money in the fund at the end of a state fiscal year does not revert to the state general fund. If the total amount in the investigative fund exceeds seven hundred fifty thousand dollars ($750,000) at the end of a state fiscal year after payment of all claims and expenses, the amount that exceeds seven hundred fifty thousand dollars ($750,000) reverts to the state

general fund.

(e) Money in the fund is continually appropriated for use by the attorney general and the licensing agency to administer and enforce the provisions of this article and to conduct investigations and take enforcement action against real estate and appraisal fraud under this article. The attorney general shall receive five dollars ($5) of each fee collected under IC 25-34.1-2-7 and IC 25-34.1-3-9.5, and the licensing agency shall receive any amount that exceeds five dollars ($5) of each fee collected under IC 25-34.1-2-7 and IC 25-34.1-3-9.5.

SECTION 2. IC 25-34.1-11 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

Chapter 11. Appraisal Management Companies

Sec. 1. As used in this chapter, "appraisal" has the meaning set forth in IC 24-5-23.5-1.

Sec. 2. As used in this chapter, "appraisal management company" means a person that, for compensation, acts as a third party intermediary by contracting with independent real estate appraisers to perform appraisals for other persons.

Sec. 3. (a) As used in this chapter, "appraisal management services" means any of the following functions:

(1) To recruit, qualify, verify licensing or certification, or negotiate fees and service level expectations with independent real estate appraisers on behalf of a person seeking an appraisal.

(2) To receive an order for an appraisal from a person and deliver the order for completion to a independent real estate appraiser.

(3) To track and determine the status of orders for appraisals.

(4) To conduct quality control of a completed appraisal before delivery of the appraisal to the client who ordered the appraisal.

(5) To provide a completed appraisal performed by a real estate appraiser to one (1) or more clients.

(b) The term does not include transportation or communication of an appraisal or order for an appraisal without concern for the appraisal information in the appraisal or the order for an appraisal, including transportation or communication by the

United States Postal Service, a delivery company, a courier, or an Internet service provider.

Sec. 4. As used in this chapter, "board" refers to the real estate appraiser licensure and certification board established by IC 25-34.1-8-1.

Sec. 5. (a) As used in this chapter, "person" means an individual engaged in a trade or business, an association, a partnership, a limited partnership, a limited liability company, a corporation, or a similar entity.

(b) The term does not include an employee.

Sec. 6. As used in this chapter, "real estate appraiser" means a person who:

(1) prepares an appraisal for a real estate transaction in Indiana; and

(2) meets one (1) or more of the following:

(A) Is licensed as a real estate broker under IC 25-34.1 and performs real estate appraisals within the scope of the person's license.

(B) Holds a real estate appraiser license or certificate issued under IC 25-34.1-8.

Sec. 7. "USPAP" refers to the Uniform Standards of Professional Appraisal Practice, as published by the Appraisal Standards Board of the Appraisal Foundation, under the authority of Title XI of the federal Financial Institutions Reform, Recover, and Enforcement Act (12 U.S.C. 3331-3351).

Sec. 8. An appraisal management company may not perform appraisal management services unless the appraisal management company has obtained a certificate of registration from the board under this chapter.

Sec. 9. (a) An appraisal management company that wishes to obtain or renew a certificate of registration under this chapter must submit the following information to the board on forms prescribed by the board:

(1) The name of the person seeking registration.

(2) The business address of the person seeking registration.

(3) The telephone contact information of the person seeking registration.

(4) The name, address, and contact information of each person that has an ownership share in an appraisal

management company that equals or exceeds five percent (5%) of the total ownership share of the appraisal management company.

(5) Any other information that the board reasonably requires.

(b) An appraisal management company that wishes to obtain or renew a certificate of registration must pay the fee established under section 15 of this chapter.

Sec. 10. (a) The board shall issue a certificate of registration to an appraisal management company that:

(1) has furnished the information required by section 9(a) of this chapter in the manner prescribed by the board; and

(2) paid the fee required under section 9(b) of this chapter.

(b) A certificate of registration issued to an appraisal management company under this chapter expires two (2) years after the date on which the certificate of registration is issued.

Sec. 11. (a) A person may not own an interest in an appraisal management company if the person has had the person's license or certificate to act as a real estate appraiser in Indiana or any other state revoked and the license or certificate has not been reinstated.

(b) An appraisal management company may only hire an independent contractor to perform an appraisal who:

(1) holds a license or certificate under IC 25-34.1-3-8 or a license as a real estate broker under IC 25-34.1; and

(2) is in good standing.

(c) An appraisal management company may not corrupt or improperly influence a real estate appraiser in violation of IC 24-5-23.5-7.

Sec. 12. (a) As used in this section, "appraisal review" means the USPAP Standard 3 process of developing and communicating an opinion about the quality of an independent real estate appraiser's work that is performed as part of an appraisal assignment made by an appraisal management company. However, the term does not include:

(1) an examination of an appraisal solely for grammatical errors, typographical errors, or similar errors; or

(2) a quality control examination for completeness.

(b) An individual who performs an appraisal review must hold a license or certificate under IC 25-34.1-3-8 or a license as a real estate broker under IC 25-34.1.

Sec. 13. (a) An appraisal management company performing appraisal management services shall maintain a record of each service request for an appraisal that the appraisal management company receives. The following must be included in a record maintained under this subsection:

(1) The person making the service request.

(2) The date on which the service request is made.

(3) The property to be appraised.

(4) The real estate appraiser who performed the appraisal.

(5) A copy of the appraisal produced for the service request.

(6) The individuals who reviewed the appraisal.

(7) The date on which the appraisal was delivered to the person who made the service request.

(8) The costs and fees for the appraisal management services performed by the appraisal management company.

(9) The costs and fees for the appraisal performed by the real estate appraiser.

(b) An appraisal management company shall keep the records described in subsection (a) for not less than six (6) years after the date specified in subsection (a)(2).

Sec. 14. The board shall prescribe forms for the registration of appraisal management companies under this chapter.

Sec. 15. (a) The board shall establish the registration fee to be paid by an appraisal management company seeking registration under this chapter. The amount of the registration fee must be the lesser of:

(1) the amount determined by the board to be sufficient for the administration of appraisal management registrations under this chapter when aggregated with all the registration fees paid by appraisal management companies seeking registration under this chapter; or

(2) five hundred dollars ($500).

(b) Registration fees collected under this section must be deposited in the investigative fund established by IC 25-34.1-8-7.5.

Sec. 16. An appraisal management company is responsible for ensuring an appraisal complies with standards established:

(1) in the USPAP; and

(2) by the board.

Sec. 17. (a) An appraisal management company that violates

this chapter is subject to disciplinary sanctions under IC 25-1-11-12.

(b) The board may impose a civil penalty of not more than ten thousand dollars ($10,000) for each violation of this chapter.

(c) A civil penalty collected under this section must be deposited in the investigative fund established by IC 25-34.1-8-7.5.

Sec. 18. (a) A person who performs appraisal management services without a certificate of registration under this chapter commits a Class A infraction.

(b) The attorney general, the board, or the prosecuting attorney of any county in which a violation occurs may maintain an action in the name of the state to enjoin a person from violating this section.

Sec. 19. The board may adopt rules under IC 4-22-2 that the board considers necessary or advisable for the administration of this chapter.

P.L.78-2010
[H.1265. Approved March 17, 2010.]

AN ACT to amend the Indiana Code concerning natural and cultural resources.

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

SECTION 1. IC 14-8-2-42.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 42.2. "Coal bed methane", for purposes of IC 14-37-4-1, means gaseous substances of whatever character lying within or emanating from:**

(1) unmined coal seams, either naturally or as a result of stimulation of the coal seam;

(2) the void created by mining out coal seams; or

(3) the gob created by longwall or other extraction methods of coal mining.

SECTION 2. IC 14-8-2-47 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 47. **(a)** "Commercially minable coal resource", for purposes of IC 14-37, means a seam of coal that: ~~is~~

(1) can be mined using generally accepted underground practices and suitable equipment; and

(2) consists of coal in sufficient quantities and of sufficient quality to be commercially saleable.

(b) The term includes a seam of coal to which one (1) or more of the following apply:

(1) The seam is:

(A) associated with an underground mine permitted under IC 14-34; and

(B) specifically intended to be mined under the permit.

(2) The seam is associated with an inactive underground mining operation at which mining operations:

(A) have temporarily ceased; and

(B) are anticipated to be resumed by the person with the right to develop the seam.

(3) The seam is identified as a commercially minable coal resource by the owner or lessee of the seam by a map accompanied by an affidavit that:

(A) is filed with the division oil and gas; and

(B) states that the coal in the seam is being held for later commercial production.

(4) The seam is:

~~(1)~~ **(A)** at least thirty-six (36) inches thick; and

~~(2)~~ **(B)** located not more than eight hundred (800) feet below the surface.

SECTION 3. IC 14-8-2-317 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 317. "Well for oil and gas purposes", for purposes of IC 14-37, means a ~~hole~~ **well bore** drilled, deepened, or converted for any purpose for which a permit is required under IC 14-37. The term includes the following:

(1) An oil ~~or a natural gas~~ well.

(2) A natural gas well.

(3) A coal bed methane well.

~~(2)~~ **(4)** A Class II well.

~~(3)~~ **(5)** A structure test well.

~~(4)~~ **(6)** A well used for the sole purpose of supplying water for the secondary recovery of petroleum resources.

~~(5)~~ **(7)** An underground gas storage well or underground gas storage observation well.

SECTION 4. IC 14-37-4-1, AS AMENDED BY P.L.80-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. **(a) Subject to subsection (b),** a person may not drill, deepen, operate, or convert a well for oil and gas purposes without a permit issued by the department.

(b) Except as provided in subsection (c) and (d):

(1) the extraction of coal bed methane from a well for oil and gas purposes on or after the effective date of this subsection and before July 1, 2012, is prohibited; and

(2) the department may not issue a permit under this chapter for the extraction of coal bed methane from a well for oil and gas purposes before July 1, 2012, regardless of whether the application for the permit was made to the department before the effective date of this subsection.

(c) Subsection (b) does not apply if the owner of the right to the coal from which the coal bed methane for which a permit is sought under this chapter is derived consents in an instrument binding on that owner to the extraction of the coal bed methane and to the issuance of the permit.

(d) Subsection (b)(1) does not apply to a coal bed methane well that is operated under a permit issued by the department.

SECTION 5. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "committee" refers to the natural resources study committee established by IC 2-5-5-1.**

(b) As used in this SECTION:

(1) "coal bed methane" has the meaning set forth in IC 14-8-2-42.2, as added by this act; and

(2) "commercially minable coal resources" has the meaning set forth in IC 14-8-2-47, as amended by this act.

(c) During the 2010 interim, the committee shall study whether new or amended statutes or rules are appropriate concerning the

following:

(1) The safety of miners who could be affected by coal bed methane extraction activities.

(2) Coal bed methane well spacing, unit, and bonding requirements.

(3) The relative interests with respect to real property of:

(A) the owner of the right to coal bed methane; and

(B) the owner or owners of the surface rights and other mineral rights.

(4) Requirements with respect to real property for the owner of the right to coal bed methane to give notice of coal bed methane extraction activities to the owners of the surface rights and other mineral rights.

(5) Requirements for the issuance of permits for the extraction of coal bed methane, including public notice of the filing of permit applications.

(6) Requirements for the protection of surface water and ground water from any potential effects of coal bed methane extraction activities.

(7) Encouragement of the development of coal bed methane that adequately takes into account the protection of commercially minable coal resources.

(8) The right of the person entitled to develop a well for oil and gas purposes with respect to real property who is not the owner of the surface rights to enter the property for extraction activities and the responsibility of that person to pay damages or compensation to the owner of the surface rights.

(9) The adequacy of conventional oil and gas statutes and rules to protect the owners of the surface rights to real property, the public, and commercially minable coal resources.

(10) Any other issue the committee considers appropriate.

(d) The committee shall issue reports and recommendations as directed by the legislative council.

(e) This SECTION expires December 1, 2010.

SECTION 6. **An emergency is declared for this act.**

P.L.79-2010
[H.1297. Approved March 17, 2010.]

AN ACT to amend the Indiana Code concerning education.

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

SECTION 1. IC 21-29-3-2, AS ADDED BY P.L.2-2007, SECTION 270, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. This chapter shall not be construed as limiting or restricting the investment powers otherwise provided state educational institutions, including the power to adopt and implement investment policies under IC 21-29-2-1 **and IC 21-29-2-2.**

SECTION 2. IC 21-32-2-2, AS ADDED BY P.L.2-2007, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. A state educational institution may do any of the following:

(1) Borrow funds on a temporary basis in anticipation of the issuance of long term obligations.

(2) Use the proceeds of a temporary borrowing for any purpose for which the institution could issue **or incur** obligations under **IC 21-33-3-5,** IC 21-34, IC 21-35-2, IC 21-35-3, or IC 21-35-5.

(3) Issue a temporary borrowing:

(A) in the form of a bond, note, commercial paper, or any other form;

(B) upon the terms and conditions and with the provisions (including redemption provisions);

(C) at the rate or rates of interest (fixed or variable); and

(D) subject to subdivision (5), in the denominations;

as the state educational institution determines under subdivision (6).

(4) Negotiate the terms of any temporary borrowing.

(5) Make the denominations determined under subdivision (3)(D) convertible into different denominations.

(6) Make the determinations under subdivision (3) by any of the following:

(A) The adoption of a resolution.

(B) The approval of a form of indenture between the state educational institution and a designated corporate trustee.

SECTION 3. IC 21-32-3-7, AS ADDED BY P.L.2-2007, SECTION 273, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. **(a) As used in this section, "check" includes electronic transfer by wire transfer or other similar means.**

~~(a)~~ **(b)** A state educational institution may not:

(1) accept a bid for the bonds, other than a bid submitted by the federal government or any agency of the federal government; or

(2) execute and deliver a contract of sale for the bonds;

unless the bid or contract is accompanied by a certified check or cashier's check in an amount equal to one percent (1%) of the principal amount of the bonds sold.

~~(b)~~ **(c)** The check required by subsection ~~(a)~~ **(b)** must be:

(1) payable to the state educational institution issuing the bonds; and

(2) drawn on a bank or trust company, in or out of state, that is insured by the Deposit Insurance Fund of the Federal Deposit Insurance Corporation.

~~(c)~~ **(d)** The state educational institution shall:

(1) hold the check required by subsection ~~(a)~~ **(b)** as a guaranty of the performance of:

(A) the bid, if the bid is accepted; or

(B) the contract, if the contract is signed; and

(2) return the check required under subsection ~~(a)~~ **(b)** to a bidder if that bidder's bid is not accepted.

~~(d)~~ **(e)** If a bid is accepted and the bidder fails to perform the bid, the check required under subsection ~~(a)~~ **(b)** and the proceeds of the check are:

(1) the property of the state educational institution; and

(2) considered liquidated damages to the state educational institution arising from the default.

~~(e)~~ **(f)** A contract for the purchase of bonds at negotiated sale must provide that if the purchaser fails to perform the purchaser's obligation to pay for the bonds, the check required under subsection ~~(a)~~ **(b)** and

the proceeds from the check are:

(1) the property of the state university or college; and

(2) considered liquidated damages to the state educational institution arising from the default.

SECTION 4. IC 21-34-1-13, AS ADDED BY P.L.2-2007, SECTION 275, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. "Grant" means money received **under a written agreement or written agreements for a grant or gift** from **any one (1) or more of the following sources:**

(1) The United States government or its agencies.

(2) The state or any of its agencies. ~~or~~

(3) A private corporation, **individual,** trust, or foundation, ~~to be used for the~~ **if the money is provided for the purpose of** acquisition, improvement, renovation, or construction of building facilities that a state educational institution may lawfully undertake.

SECTION 5. IC 21-34-1-14.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 14.2. "Grant anticipation note" refers to a note executed to evidence a grant anticipation loan.**

SECTION 6. IC 21-34-7-2, AS ADDED BY P.L.2-2007, SECTION 275, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. A grant anticipation loan may not exceed ~~eighty percent (80%) of~~ the estimated **aggregate** amount of the grant **or grants** in anticipation of which the loan is made. ~~The board of trustees of the state educational institution shall make prepayments of the outstanding balance of its note or retire one (1) or more of its series of outstanding notes promptly upon partial receipt of grant funds so that the outstanding amount of any loan does not exceed the balance of the grant funds yet to be received.~~ **The grant anticipation note must be structured to amortize and to pay principal of and interest on the loan in accordance with anticipated receipts of the grant or grants. A grant anticipation note may also be payable from other revenues or amounts available for pledge under IC 21-34-6-2.**

SECTION 7. **An emergency is declared for this act.**

P.L.80-2010
[S.163. Approved March 17, 2010.]

AN ACT to amend the Indiana Code concerning family law and juvenile law.

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

SECTION 1. IC 4-33-4-27 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 27. (a) The bureau shall provide information to a licensed owner, an operating agent, or a trustee concerning persons who are delinquent in child support.**

(b) If a licensed owner, an operating agent, or a trustee is required to file Form W-2G or a substantially equivalent form with the United States Internal Revenue Service for a person who is delinquent in child support, before payment of cash winnings to the person, the licensed owner, operating agent, or trustee:

(1) may deduct and retain an administrative fee in the amount of the lesser of:

(A) three percent (3%) of the amount of delinquent child support withheld under subdivision (2)(A); or

(B) one hundred dollars ($100); and

(2) shall:

(A) withhold the amount of delinquent child support owed from the cash winnings;

(B) transmit to the bureau:

(i) the amount withheld for delinquent child support; and

(ii) identifying information, including the full name, address, and Social Security number of the obligor and the child support case identifier, the date and amount of the payment, and the name and location of the licensed owner, operating agent, or trustee; and

(C) issue the obligor a receipt in a form prescribed by the bureau with the total amount withheld for delinquent child

support and the administrative fee.

(c) The bureau shall notify the obligor at the address provided by the licensed owner, operating agent, or trustee that the bureau intends to offset the obligor's delinquent child support with the cash winnings.

(d) The bureau shall hold the amount withheld from cash winnings of an obligor for ten (10) business days before applying the amount as payment to the obligor's delinquent child support.

(e) The delinquent child support required to be withheld under this section and an administrative fee described under subsection (b)(1) have priority over any secured or unsecured claim on cash winnings except claims for federal or state taxes that are required to be withheld under federal or state law.

SECTION 2. IC 4-33-8.5-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 4. (a) A licensed owner, operating agent, or trustee that fails to comply with IC 4-33-4-27 is subject to penalties and sanctions established by the commission under section 5 of this chapter.**

(b) A licensed owner, operating agent, or trustee that makes a payment of cash winnings to an obligor in violation of IC 4-33-4-27 is not liable to a person to whom the obligor owes child support.

(c) A licensed owner, operating agent, or trustee is immune from civil and criminal liability for acting in compliance with IC 4-33-4-27.

SECTION 3. IC 4-33-8.5-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 5. (a) A licensed owner, operating agent, or trustee that personally or through the act or omission of an employee, independent contractor, agent, or representative fails to withhold delinquent child support from the cash winnings of an obligor as required under IC 4-33-4-27 is subject to sanctions and penalties established by the commission under this section.**

(b) The commission may adopt rules under IC 4-22-2 to establish penalties and sanctions for any licensed owner, operating agent, or trustee who fails to withhold delinquent child support from cash winnings as required by IC 4-33-4-27.

SECTION 4. IC 4-35-2-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

1, 2010]: **Sec. 2.5. "Bureau" refers to the child support bureau of the department of child services established by IC 31-25-3-1.**

SECTION 5. IC 4-35-2-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 3.5. "Delinquent" means at least:**

(1) two thousand dollars ($2,000); or

(2) three (3) months;

past due on payment of court ordered child support.

SECTION 6. IC 4-35-4-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 16. (a) The bureau shall provide information to a permit holder or trustee concerning persons who are delinquent in child support.**

(b) If a permit holder or trustee is required to file Form W-2G or a substantially equivalent form with the United States Internal Revenue Service for a person who is delinquent in child support, before payment of cash winnings from gambling games, the permit holder or trustee:

(1) may deduct and retain an administrative fee in the amount of the lesser of:

(A) three percent (3%) of the amount of delinquent child support withheld under subdivision (2)(A); or

(B) one hundred dollars ($100); and

(2) shall:

(A) withhold the amount of delinquent child support owed from the cash winnings;

(B) transmit to the bureau:

(i) the amount withheld for delinquent child support; and

(ii) identifying information, including the full name, address, and Social Security number of the obligor and the child support case identifier, the date and amount of the payment, and the name and location of the permit holder or trustee; and

(C) issue the obligor a receipt in a form prescribed by the bureau with the total amount withheld for delinquent child support and the administrative fee.

(c) The bureau shall notify the obligor at the address provided by the permit holder or trustee that the bureau intends to offset the

obligor's delinquent child support with the cash winnings.

(d) The bureau shall hold the amount withheld from cash winnings of the obligor for ten (10) business days before applying the amount as payment to the obligor's delinquent child support.

(e) The delinquent child support required to be withheld under this section and an administrative fee described under subsection (b)(1) have priority over any secured or unsecured claim on cash winnings except claims for federal or state taxes that are required to be withheld under federal or state law.

SECTION 7. IC 4-35-6.5-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 12. (a) A permit holder or trustee that fails to comply with IC 4-35-4-16 is subject to sanctions established by the commission under section 13 of this chapter.**

(b) A permit holder or trustee that makes a payment of cash winnings to an obligor in violation of IC 4-35-4-16 is not liable to a person to whom the obligor owes child support.

(c) A permit holder or trustee is immune from civil and criminal liability for acting in compliance with IC 4-35-4-16.

SECTION 8. IC 4-35-6.5-13 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 13. (a) A permit holder or trustee that personally or through the act or omission of an employee, independent contractor, agent, or representative fails to withhold delinquent child support from the cash winnings of an obligor as required under IC 4-35-4-16 is subject to penalties and sanctions established by the commission under this section.**

(b) The commission may adopt rules under IC 4-22-2 to establish penalties and sanctions for any permit holder or trustee who fails to withhold delinquent child support from cash winnings.

SECTION 9. IC 4-35-6.7 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

Chapter 6.7. Suspension, Probation, and Denial of Licenses for Failure to Pay Child Support

Sec. 1. (a) Upon receiving an order of a court issued under IC 31-14-12-6 or IC 31-16-12-9, the commission shall:

(1) suspend a license issued under this article to a person who

is the subject of the order; and

(2) promptly mail a notice to the last known address of the person who is the subject of the order, stating the following:

(A) That the person's license is suspended beginning five (5) business days after the date the notice is mailed, and that the suspension will terminate not earlier than ten (10) business days after the commission receives an order allowing reinstatement from the court that issued the suspension order.

(B) That the person has the right to petition for reinstatement of a license issued under this chapter to the court that issued the order for suspension.

(b) The commission shall not reinstate a license suspended under subsection (a) until the commission receives an order allowing reinstatement from the court that issued the order for suspension.

Sec. 2. (a) Upon receiving an order from the bureau (Title IV-D agency) under IC 31-25-4-32(h), the commission shall send to the person who is the subject of the order a notice that does the following:

(1) States that the person is delinquent and is subject to an order placing the person on probationary status.

(2) Explains that unless the person contacts the bureau and:

(A) pays the person's child support arrearage in full;

(B) establishes a payment plan with the bureau to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5; or

(C) requests a hearing under IC 31-25-4-33;

within twenty (20) days after the date the notice is mailed, the commission shall place the person on probationary status with respect to any license issued to the person under this chapter.

(3) Explains that the person may contest the bureau's determination that the person is delinquent and subject to an order placing the person on probationary status by making written application to the bureau within twenty (20) days after the date the notice is mailed.

(4) Explains that the only basis for contesting the bureau's determination that the person is delinquent and subject to an order placing the person on probationary status is a mistake

of fact.

(5) Explains the procedures to:

(A) pay the person's child support arrearage in full;

(B) establish a payment plan with the bureau to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5; and

(C) request a hearing under IC 31-25-4-33.

(6) Explains that the probation will terminate ten (10) business days after the commission receives a notice from the bureau that the person has:

(A) paid the person's child support arrearage in full; or

(B) established a payment plan with the bureau to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5.

(b) Upon receiving an order from the bureau (Title IV-D agency) under IC 31-25-4-34(c), the commission shall send to the person who is the subject of the order a notice that states the following:

(1) That a license issued to the person under this article has been placed on probationary status, beginning five (5) business days after the date the notice is mailed, and that the probation will terminate ten (10) business days after the commission receives a notice from the bureau that the person has:

(A) paid the person's child support arrearage in full; or

(B) established a payment plan with the bureau to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5.

(2) That if the commission is advised by the bureau that the person whose license has been placed on probationary status has failed to:

(A) pay the person's child support arrearage in full; or

(B) establish a payment plan with the bureau to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5;

within twenty (20) days after the date the notice is mailed, the commission shall suspend the person's license.

(c) If a person whose license has been placed on probationary status fails to:

(1) pay the person's child support arrearage in full; or

(2) establish a payment plan with the bureau to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5;

within twenty (20) days after the notice required under subsection (b) is mailed, the commission shall suspend the person's license.

(d) The commission may not reinstate a license placed on probation or suspended under this section until the commission receives a notice from the bureau that the person has:

(1) paid the person's child support arrearage in full; or

(2) established a payment plan with the bureau to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5, as required by IC 4-35-4-16.

SECTION 10. IC 7.1-3-23-44 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 44. (a) As used in this section, "bureau"refers to the child support bureau of the department of child services establish by IC 31-25-3-1.**

(b) As used in this section, "delinquent" has the meaning set forth in IC 4-35-2-3.5.

(c) Upon receiving an order from the bureau (Title IV-D agency) under IC 31-25-4-32(k), the commission shall send to the person who is the subject of the order a notice that includes the following information:

(1) The person is delinquent and subject to an order placing the person on probationary status.

(2) That unless the person contacts the bureau and:

(A) pays the person's child support arrearage in full;

(B) establishes a payment plan with the bureau to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5; or

(C) requests a hearing under IC 31-25-4-33;

within twenty (20) days after the date the notice is mailed, the commission shall place the person on probationary status with respect to a permit issued to the person under IC 7.1-3-18-9(a)(3).

(3) The person may contest the bureau's determination that the person is delinquent and subject to an order placing the person on probationary status by making written application

to the bureau within twenty (20) days after the date the notice is mailed.

(4) The only basis for contesting the bureau's determination that the person is delinquent and subject to an order placing the person on probationary status is a mistake of fact.

(5) The procedures to:

(A) pay the person's child support arrearage in full;

(B) establish a payment plan with the bureau to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5; and

(C) request a hearing under IC 31-25-4-33.

(6) The probation will end ten (10) business days after the date that the commission receives a notice from the bureau that the person has:

(A) paid the person's child support arrearage in full; or

(B) established a payment plan with the bureau to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5.

(d) If the commission is advised by the bureau that the obligor either requested a hearing and failed to appear or appeared and was found to be delinquent, the commission shall send to the person who is the subject of the order a notice that states the following:

(1) That a permit issued to the person under IC 7.1-3-18-9(a)(3) has been placed on probationary status, beginning five (5) business days after the date the notice is mailed, and that the probation will end ten (10) business days after the date that the commission receives a notice from the bureau that the person has:

(A) paid the person's child support arrearage in full; or

(B) established a payment plan with the bureau to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5.

(2) That if the commission is advised by the bureau that the person whose permit has been placed on probationary status has failed to:

(A) pay the person's child support arrearage in full; or

(B) establish a payment plan with the bureau to pay the arrearage, which includes an income withholding order

under IC 31-16-15-2 or IC 31-16-15-2.5;

within twenty (20) days after the date the notice is mailed, the commission shall suspend the person's permit.

(e) If a person whose permit has been placed on probationary status fails to:

(1) pay the person's child support arrearage in full; or

(2) establish a payment plan with the bureau to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5;

within twenty (20) days after the notice required under subsection (c) is mailed, the commission shall suspend the person's permit.

(f) The commission may not reinstate a permit placed on probation or suspended under this section until the commission receives a notice from the bureau that the person has:

(1) paid the person's child support arrearage in full; or

(2) established a payment plan with the bureau to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5.

SECTION 11. IC 7.1-3-23-45 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 45. (a) Upon receiving a court order issued under IC 31-14-12-10 or IC 31-16-12-13, the commission shall:**

(1) suspend the employee's permit of; or

(2) deny an employee's permit or the renewal of an employee's permit to;

the person who is the subject of the order.

(b) Upon receiving a court order issued under IC 31-14-12-10 or IC 31-16-12-13, the commission shall promptly mail a notice to the last known address of the person who is the subject of the order that states the following:

(1) That the:

(A) person's employee's permit has been suspended, beginning five (5) business days after the date the notice is mailed; and

(B) suspension will end ten (10) business days after the commission receives an order from the court that ordered the suspension authorizing reinstatement of the person's employee's permit.

(2) That the person has the right to petition for reinstatement of the employee's permit to the court that ordered the suspension.

(c) The commission may not reinstate an employee's permit suspended under this section until the commission receives an order from the court that ordered the suspension authorizing reinstatement of the person's employee's permit.

SECTION 12. IC 9-14-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) Upon the submission to the bureau of a specific written request from an individual or organization for a compilation of specific information requested for the purposes described in subsection (c), the bureau may contract with the individual or organization to compile the requested information from the records of the bureau.

(b) The bureau may charge an amount agreeable to the parties, as described in IC 9-29-2-3.

(c) An individual or organization making a request under this section must certify one (1) of the following:

(1) That the information is required for the purposes of notifying vehicle owners of vehicle defects and recall for modifications, and that the individual or organization will use the information provided only for that purpose.

(2) That the information will be used only for research or statistical reporting purposes and that individual identities will be properly protected in the preparation of the research or reports and not ascertainable from the published reports or research results.

(3) That the information will be used for the purpose of documenting the sale of motor vehicles in Indiana.

(4) That the information will be used for purposes of the federal Selective Service System.

(5) That the information will be used solely for law enforcement purposes by police officers.

(6) That the information will be used to locate a parent described in IC 31-25-3-2(c) as provided under IC 31-25-3-2.

(d) The commission may not compile or release information concerning voter registration under this section.

(e) The bureau shall provide the requested information under this

section in a format that is agreeable to the parties, including the following formats:

(1) Printed records.

(2) Microfiche.

(3) Computer disk.

SECTION 13. IC 9-25-6-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 15. **(a) Except as provided in subsection (b),** a person:

(1) whose current driving license is suspended under this chapter; and

(2) who seeks the reinstatement of the driving license;

must pay a reinstatement fee to the bureau as provided in IC 9-29-10-1.

(b) A person whose driver's license is suspended under section 19 or 20 of this chapter is not required to pay a reinstatement fee to have the person's driving license reinstated.

SECTION 14. IC 10-13-2-13 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 13. Subject to policies adopted by the superintendent concerning the disclosure of law enforcement records, the division shall provide access to information in any criminal justice information system that is used to locate an individual for purposes relating to law enforcement to:**

(1) the child support bureau; or

(2) a prosecuting attorney, private attorney, or private entity operating under an agreement or contract described in IC 31-25-4-13.1.

SECTION 15. IC 12-7-2-43.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 43.5. (a) "Cooperate", for purposes of IC 12-14-2-24, IC 12-14-7-2, and IC 12-14-7-3, includes, with regard to nonparent custodians or guardians, the following:**

(1) To appear at appointments, in person or by telephone, with a prosecuting attorney related to:

(A) establishing:

(i) paternity; or

(ii) an order for child support; or

(B) enforcing an order for child support.

(2) To return telephone calls and respond to correspondence when requested by a prosecuting attorney.

(3) To supply information, to the extent known by the nonparent custodian or guardian, for a prosecuting attorney to proceed with appropriate actions to:

(A) establish paternity of a dependent child;

(B) locate parents; or

(C) establish a child support order with respect to a child.

(4) To appear at hearings regarding:

(A) establishment of paternity of a child or a child support order; or

(B) enforcement of a child support order;

if attendance is necessary as determined by the prosecuting attorney.

(b) Information under subsection (a)(3) includes:

(1) identification of potential fathers of a dependent child, if known and paternity has not been established; and

(2) the following information, if known, regarding any parent or potential parent of a dependent child:

(A) The full legal name and nicknames.

(B) The Social Security number.

(C) The current or last known address and phone number.

(D) The current or last known employer, including the name and address of the employer.

(E) If a student, the current or last known school.

(F) The criminal record, including where and when the parent or potential parent was incarcerated.

(G) The date of birth or age.

(H) The race.

(I) Any known group or organizational affiliations.

(J) The names and addresses of close friends or relatives.

(K) Any other information that the prosecuting attorney requests to help locate or identify a parent of a dependent child.

(L) A recent photograph.

SECTION 16. IC 12-14-2-18, AS AMENDED BY P.L.161-2007, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 18. (a) A recipient or dependent child who fails to meet the requirements of section 17 of this chapter is subject to the

revocation or suspension of assistance as provided under rules adopted by the division.

(b) A TANF recipient or applicant who refuses to participate in an employment opportunity or a job training opportunity offered to the recipient or applicant under IC 12-8-12 is subject to sanctions established by the director under IC 12-8-12-6(2).

(c) Except in a case in which the parent, custodian, or guardian of the dependent child qualifies for a good cause or other exception provided by statute or administrative rule, a parent, custodian, or guardian who refuses to cooperate with the Title IV-D agency as required by IC 12-14-7-2, IC 12-14-7-3, or IC 12-14-2-24 in:

(1) a paternity action; or

(2) the establishment or enforcement of a child support order; is subject to sanctions or revocation or suspension of assistance as provided under rules adopted by the division.

(d) The division may adopt rules under IC 4-22-2 to implement subsection (c).

SECTION 17. IC 12-14-2-24, AS AMENDED BY P.L.161-2007, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 24. (a) A dependent child and a parent or an essential person are not eligible for TANF assistance under this chapter unless the mother of the dependent child:

(1) initiates a court proceeding to establish paternity, other than an adoption proceeding, except as provided in IC 31-14-20-2;

(2) executes a paternity affidavit under IC 16-37-2-2.1; or

(3) requests, at the time of application or renewal, that the Title IV-D agency or its agents file a paternity action under IC 31-14-4-3.

(b) A person applying for assistance under this chapter is not required to comply with subsection (a) if:

(1) the father of the dependent child has been charged with an act of rape, incest, or child molesting that occurred against the dependent child's mother within ten (10) months before the birth of the dependent child;

(2) the mother of the dependent child is deceased;

(3) the division determines under rules adopted by the division under IC 4-22-2 that the mother of the dependent child could not know the identity of the child's father; ~~or~~

(4) the mother of the dependent child provides proof, and the division agrees, that the physical health or safety of the mother or the dependent child would be jeopardized if the mother complies with subsection (a); **or**

(5) the dependent child is living in the family home of a relative other than the mother of the child as described under IC 12-14-1-1(a) and the relative provides proof, and the division agrees, that the physical health or safety of the mother, relative, or dependent child would be jeopardized if the relative complies with subsection (a).

(c) If a dependent child's mother is a party to a paternity action filed under IC 31-14 (or IC 31-6-6.1 before its repeal), a county office shall revoke assistance under this chapter if the mother fails to pursue the paternity action.

(d) The office may not delay payments otherwise owing to a provider if the mother fails to comply with this section.

(e) Except as provided in subsection (b)(1), (b)(3), and (b)(5), if a child is residing with a nonparent guardian or custodian, the nonparent guardian or custodian shall make a good faith effort to cooperate with a prosecuting attorney or the division by providing to the prosecuting attorney or the division any information regarding the potential paternity of the child.

(f) The nonparent custodian or guardian is presumed to make a good faith effort under subsection (e) if the nonparent custodian or guardian does one (1) or more of the following:

(1) Responds to telephone calls from a prosecuting attorney or correspondence from a prosecuting attorney.

(2) Appears for an appointment, in person or by telephone, with a prosecuting attorney.

(3) Appears at a court hearing when requested by a prosecuting attorney.

(4) Does one (1) or more of the following:

(A) Provides information described in IC 12-7-2-43.5(b), to the extent the information is known.

(B) Affirms that the information described in IC 12-7-2-43.5(b) is not known.

(g) Before making a determination that the nonparent custodian or guardian is not making a good faith effort to cooperate, the prosecuting attorney shall consider one (1) or more of the

following:

(1) Whether the nonparent custodian or guardian could reasonably be expected to provide the information.

(2) The age of the child for whom child support is being sought.

(3) The circumstances surrounding the conception of the child.

(4) The age and mental capacity of the nonparent custodian or guardian.

(5) The time that has expired since the nonparent custodian or guardian has last had contact with:

(A) the alleged father of the child;

(B) a parent of the child; or

(C) a relative of the persons listed in clause (A) or (B).

(6) Any credible information that demonstrates an inability to provide correct information about an alleged father or a parent of the child because of deception by the alleged father or parent.

(7) Any other credible information obtained by the prosecuting attorney that demonstrates the nonparent custodian or guardian has knowledge of the information sought by the prosecuting attorney.

SECTION 18. IC 12-14-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. **(a)** If the parents of a dependent child are:

(1) separated or divorced; and

(2) there is no court order for the support of the child;

the other parent shall cooperate, within federal regulations, with the state agency responsible for administering Title IV-D of the federal Social Security Act in obtaining a support order.

(b) If a child is residing with a nonparent guardian or custodian, the nonparent guardian or custodian shall make a good faith effort to cooperate with the division and any agency responsible for administering Title IV-D of the federal Social Security Act in obtaining and enforcing a child support order.

(c) The nonparent custodian or guardian is presumed to make a good faith effort under subsection (b) if the nonparent custodian or guardian does one (1) or more of the following:

(1) Responds to telephone calls from a prosecuting attorney or

correspondence from a prosecuting attorney.

(2) Appears for an appointment, in person or by telephone, with a prosecuting attorney.

(3) Appears at a court hearing when requested by a prosecuting attorney.

(4) Does one (1) or more of the following:

(A) Provides information described in IC 12-7-2-43.5(b), to the extent the information is known.

(B) Affirms that the information described in IC 12-7-2-43.5(b) is not known.

(d) Before making a determination that the nonparent custodian or guardian is not making a good faith effort to cooperate, the prosecuting attorney shall consider one (1) or more of the following:

(1) Whether the nonparent custodian or guardian could reasonably be expected to provide the information.

(2) The age of the child for whom child support is being sought.

(3) The circumstances surrounding the conception of the child.

(4) The age and mental capacity of the nonparent custodian or guardian.

(5) The time that has expired since the nonparent custodian or guardian has last had contact with:

(A) the alleged father of the child;

(B) a parent of the child; or

(C) a relative of the persons listed in clause (A) or (B).

(6) Any credible information that demonstrates an inability to provide correct information about an alleged father or a parent of the child because of deception by the alleged father or parent.

(7) Any other credible information obtained by the prosecutor that demonstrates the nonparent custodian or guardian has knowledge of the information sought by the prosecuting attorney.

SECTION 19. IC 12-14-7-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. **(a)** If a child is born out of wedlock, the mother shall, when establishing the paternity of the child and obtaining a support order, cooperate with the state agency

responsible for administering Title IV-D of the federal Social Security Act, in compliance with federal regulations governing Title IV-D of the federal Social Security Act.

(b) If a child is residing with a nonparent guardian or custodian, the nonparent guardian or custodian shall make a good faith effort to cooperate with the division and with any agency responsible for administering Title IV-D of the federal Social Security Act by providing any information known to the nonparent guardian or custodian regarding the potential paternity of the child.

(c) If a child is residing with a nonparent guardian or custodian, the nonparent guardian or custodian shall make a good faith effort to cooperate with the division and any agency responsible for administering Title IV-D of the federal Social Security Act in the establishment and enforcement of a child support order.

(d) The nonparent custodian or guardian is presumed to make a good faith effort under subsections (b) and (c) if the nonparent custodian or guardian does one (1) or more of the following:

(1) Responds to telephone calls from a prosecutor or correspondence from a prosecuting attorney.

(2) Appears for an appointment, in person or by telephone, with a prosecuting attorney.

(3) Appears at a court hearing when requested by a prosecuting attorney.

(4) Does one (1) or more of the following:

(A) Provides information described in IC 12-7-2-43.5(b), to the extent the information is known.

(B) Affirms that the information described in IC 12-7-2-43.5(b) is not known.

(e) Before making a determination that the nonparent custodian or guardian is not making a good faith effort to cooperate, the prosecuting attorney shall consider one (1) or more of the following:

(1) Whether the nonparent custodian or guardian could reasonably be expected to provide the information.

(2) The age of the child for whom child support is being sought.

(3) The circumstances surrounding the conception of the child.

(4) The age and mental capacity of the nonparent custodian or

guardian.

(5) The time that has expired since the nonparent custodian or guardian has last had contact with:

(A) the alleged father of the child;

(B) a parent of the child; or

(C) a relative of the persons listed in clause (A) or (B).

(6) Any credible information that demonstrates an inability to provide correct information about an alleged father or a parent of the child because of deception by the alleged father or parent.

(7) Any other credible information obtained by the prosecuting attorney that demonstrates the nonparent custodian or guardian has knowledge of the information sought by the prosecuting attorney.

SECTION 20. IC 12-15-29-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10. (a) IC 27-8-23 ~~applies~~ **and IC 31-16-15 apply** to this section.

(b) This section does not apply if an employer has eliminated family health coverage for all of its employees.

(c) Whenever a parent is required by a court or an administrative order to provide health coverage for a child and the parent is eligible for family health coverage through an employer doing business in Indiana, the employer shall provide family health coverage to the child in the manner described under IC 27-8-23-6 **and in the notice under IC 31-16-15-4.5(b).** In addition, the employer shall:

(1) withhold from the employee's compensation the employee's share, if any, of premiums for health coverage; and

(2) pay that amount to the insurer.

(d) Upon the initiation of withholding under subsection (c), an employee whose applicable child support order did not include a deduction from weekly available income for the cost of the health care premium is entitled to a modification of the child support order, taking into account the payments made as of the date withholding began.

SECTION 21. IC 31-9-2-0.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 0.8. "Active duty", for purposes of IC 31-14-13-6.3 and IC 31-17-2-21.3, means full-time service in:**

(1) the armed forces of the United States (as defined in

IC 5-9-4-3); or

(2) the National Guard (as defined in IC 5-9-4-4);

for a period that exceeds thirty (30) consecutive days in a calendar year.

SECTION 22. IC 31-14-11-2, AS AMENDED BY P.L.148-2006, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) The court may order either or both parents to pay any reasonable amount for child support after considering all relevant factors, including the following:

(1) The financial resources of the custodial parent.

(2) The standard of living the child would have enjoyed had the parents been married and remained married to each other.

(3) The physical and mental condition of the child.

(4) The child's educational needs.

(5) The financial resources and needs of the noncustodial parent.

(b) The court shall order that child support payments ordered under this section be immediately withheld from the income of the parent obligated to pay child support as provided under IC 31-16-15-0.5.

~~(b)~~ **(c)** The court shall order a custodial parent or third party under section 9 of this chapter who receives child support to obtain an account at a financial institution unless:

(1) the custodial parent or third party files a written objection before a child support order is issued; and

(2) the court finds that good cause exists to exempt the custodial parent or third party from the account requirement.

A custodial parent or third party ordered to obtain an account shall provide the clerk of the circuit court and the state central collection unit with an account number and any other information necessary to transfer funds to the account.

~~(c)~~ **(d)** In accordance with its policies, a financial institution may restrict or deny services to a person ordered to obtain an account under this section.

SECTION 23. IC 31-14-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) Where appropriate, the support order may include:

(1) money for the child's education beyond grade 12, after the court has considered:

(A) the child's aptitude and ability;

(B) the child's reasonable ability to contribute to educational expenses through:

(i) work;

(ii) obtaining loans; and

(iii) obtaining other sources of financial aid reasonably available to the child and the parent or parents; and

(C) the ability of the parents to meet these expenses;

(2) special medical, hospital, or dental expenses necessary to serve the best interests of the child;

(3) fees mandated under Title IV-D of the federal Social Security Act (42 U.S.C. 651 through 669); and

(4) basic health and hospitalization insurance coverage for the child.

(b) If, however, the Title IV-D agency initiates action to establish or modify a support obligation and petitions the court to include basic health and hospitalization insurance coverage in the support order, the court shall include a provision ~~addressing insurance coverage for the child.~~ **that requires either parent or both parents to provide medical support for the child through health insurance coverage.**

(c) In an action initiated by the Title IV-D agency or other parties, the court ~~may~~ **shall** order ~~the parent who is ordered to pay child support~~ **either parent or both parents** to provide the insurance coverage for the child if the insurance coverage is available to the parent at reasonable cost.

SECTION 24. IC 31-14-11-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 14. **(a)** The custodial parent and the noncustodial parent shall furnish the following information to the clerk of the court **for entry into the Indiana support enforcement tracking system (ISETS)** at the time of the issuance or modification of a child support order:

(1) **Except as provided in subsection (b),** the parent's:

(A) Social Security number;

(B) current residence and mailing address;

(C) telephone numbers;

(D) date of birth; and

(E) driver's license number.

(2) The name and address of the parent's employer.

(b) An individual certified as a program participant in the address confidentiality program under IC 5-26.5 is not required to provide the individual's current residence and mailing address if the individual provides an address designated by the office of the attorney general under IC 5-26.5 as the individual's current residence and mailing address.

SECTION 25. IC 31-14-12-6, AS AMENDED BY P.L.145-2006, SECTION 228, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. If a court finds that a person who holds a license issued under IC 4-31-6, ~~or~~ IC 4-33, **or IC 4-35** is delinquent (as defined in IC 31-25-4-2) as a result of an intentional violation of an order for child support, the court shall issue an order to:

(1) the Indiana horse racing commission if the person holds a license issued under IC 4-31-6; or

(2) the Indiana gaming commission if the person holds a license issued under IC 4-33 **or IC 4-35;**

requiring that the person's license be suspended until further order of the court.

SECTION 26. IC 31-14-12-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 10. If a court finds that a person who holds or has applied for an employee's permit issued under IC 7.1-3-18-9(a)(3) is delinquent (as defined in IC 31-25-4-2) as a result of an intentional violation of an order for child support, the court shall issue an order to the alcohol and tobacco commission that:**

(1) requires the person's employee's permit be suspended until further order of the court;

(2) orders the chairman of the alcohol and tobacco commission not to issue an employee's permit to the person who is the subject of the order if the person does not currently hold an employee's permit; or

(3) orders the chairman of the alcohol and tobacco commission not to renew the employee's permit of the person who is the subject of the order.

SECTION 27. IC 31-14-12-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 11. (a) Except as otherwise**

provided in subsection (b), in any subsequent child support enforcement action between the parties, upon sufficient showing that diligent effort has been made to ascertain the location of the party by a prosecuting attorney, private attorney, or private entity operating under an agreement or contract described in IC 31-25-4-13.1, the court or administrative agency with jurisdiction shall deem state due process requirements for notice and service of process to be met with respect to the party required to provide notice, upon mailing of written notice to the other party at the most recent residential or employer address that is filed with the clerk or state central collection unit.

(b) IC 34-47-4 applies to service of an order directing an obligor to appear in a contempt proceeding.

SECTION 28. IC 31-14-13-6.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 6.3. (a) A court may not consider a parent's absence or relocation due to active duty service as a factor in determining custody or permanently modifying a child custody order.**

(b) If a court temporarily modifies a custody order due to a parent's active duty service, the order temporarily modifying the custody order terminates automatically not later than ten (10) days after the date the parent notifies the temporary custodian in writing that the parent has returned from active duty service. This subsection does not prevent a court from modifying a child custody order as provided under this article after a parent returns from active duty service.

SECTION 29. IC 31-16-6-4, AS AMENDED BY P.L.103-2007, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) A child support order must ~~include an order for medical support to be provided by~~ **require** either **parent** or both parents **to provide medical support for the child through health insurance coverage if the health insurance coverage is available to the parent at a reasonable cost.**

(b) An order for medical support under this section shall be enforced under 42 U.S.C. 666(a)(19).

SECTION 30. IC 31-16-6-6, AS AMENDED BY P.L.2-2007, SECTION 362, IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2010]: Sec. 6. (a) The duty to support a child under this chapter ceases when the child becomes twenty-one (21) years of age unless any of the following conditions occurs:

(1) The child is emancipated before becoming twenty-one (21) years of age. In this case the child support, except for the educational needs outlined in section 2(a)(1) of this chapter, terminates at the time of emancipation, although an order for educational needs may continue in effect until further order of the court.

(2) The child is incapacitated. In this case the child support continues during the incapacity or until further order of the court.

(3) The child:

(A) is at least eighteen (18) years of age;

(B) has not attended a secondary school or postsecondary educational institution for the prior four (4) months and is not enrolled in a secondary school or postsecondary educational institution; and

(C) is or is capable of supporting himself or herself through employment.

In this case the child support terminates upon the court's finding that the conditions prescribed in this subdivision exist. However, if the court finds that the conditions set forth in clauses (A) through (C) are met but that the child is only partially supporting or is capable of only partially supporting himself or herself, the court may order that support be modified instead of terminated.

(b) For purposes of determining if a child is emancipated under subsection (a)(1), if the court finds that the child:

(1) ~~has joined~~ **is on active duty in** the United States armed services;

(2) has married; or

(3) is not under the care or control of:

(A) either parent; or

(B) an individual or agency approved by the court;

the court shall find the child emancipated and terminate the child support.

SECTION 31. IC 31-16-6-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 9. (a) The custodial parent and noncustodial parent**

shall furnish the following information to the clerk of the court for entry into the Indiana support enforcement tracking system (ISETS) at the time of the issuance or modification of a child support order:

(1) Except as provided in subsection (b), the parent's:

(A) Social Security number;

(B) current residence and mailing address;

(C) telephone numbers;

(D) date of birth; and

(E) driver's license number.

(2) The name, telephone number, and address of the parent's employer.

(b) An individual certified as a program participant in the address confidentiality program under IC 5-26.5 is not required to provide the individual's current residence and mailing address if the individual provides an address designated by the office of the attorney general under IC 5-26.5 as the individual's current residence and mailing address.

SECTION 32. IC 31-16-6-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 10. (a) Except as provided in subsection (c), a party affected by a support order shall inform the clerk of the court and the state central collection unit established within the child support bureau by IC 31-25-3-1 of any change of address not more than fifteen (15) days after the party's address is changed.**

(b) At the time of the issuance or modification of a support order, the parties affected by the order shall inform the clerk of the court and the state central collection unit established within the child support bureau by IC 31-25-3-1 of:

(1) whether any of the parties is receiving or has received assistance under the:

(A) federal Aid to Families with Dependent Children program (42 U.S.C. 601 et seq.); or

(B) federal Temporary Assistance for Needy Families (TANF) program (45 CFR 260 et seq.); and

(2) the Social Security number of any child affected by the order.

The Social Security number required under subdivision (2) shall be

kept confidential and may be used only to carry out the purposes of the Title IV-D program.

(c) A party who is an individual certified as a program participant in the address confidentiality program under IC 5-26.5 is not required to provide the individual's current residence and mailing address if the individual provides an address designated by the office of the attorney general under IC 5-26.5 as the individual's principal residence and mailing address.

SECTION 33. IC 31-16-8-2, AS AMENDED BY P.L.145-2006, SECTION 232, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. The court shall ~~consider modifying~~ **modify** a support order to ~~include basic health and hospitalization coverage for the child~~ **require either parent or both parents to provide medical support for the child through the health insurance coverage** if a Title IV-D agency, authorized under the federal Social Security Act (42 U.S.C. 651 through 669) and IC 31-25-4-17, petitions for the modification and the coverage is

~~(1) available to the parent ordered to pay child support or the dependents of the parent as part of the parent's employee benefit plan; or~~

~~(2)~~ available **to the parent** at **a** reasonable cost. ~~to the parent ordered to pay child support.~~

SECTION 34. IC 31-16-12-9, AS AMENDED BY P.L.145-2006, SECTION 236, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9. If a court finds that a person who holds a license issued under IC 4-31-6, ~~or~~ IC 4-33, **or IC 4-35** is delinquent (as defined in IC 31-25-4-2) as a result of an intentional violation of an order for child support, the court shall issue an order to:

(1) the Indiana horse racing commission if the person holds a license issued under IC 4-31-6; or

(2) the Indiana gaming commission if the person holds a license issued under IC 4-33 **or IC 4-35;**

requiring that the person's license be suspended until further order of the court.

SECTION 35. IC 31-16-12-13 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 13. If a court finds that a person who holds or has applied for an employee's permit issued under**

IC 7.1-3-18-9(a)(3) is delinquent (as defined in IC 31-25-4-2) as a result of an intentional violation of an order for child support, the court shall issue an order to the alcohol and tobacco commission that:

(1) requires the person's employee's permit be suspended until further order of the court;

(2) orders the chairman of the alcohol and tobacco commission not to issue an employee's permit to the person who is the subject of the order if the person does not currently hold an employee's permit; or

(3) orders the chairman of the alcohol and tobacco commission not to renew the employee's permit of the person who is the subject of the order.

SECTION 36. IC 31-16-12-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 14. (a) Except as otherwise provided in subsection (b), in any subsequent child support enforcement action between the parties, upon sufficient showing that diligent effort has been made to ascertain the location of the party by a prosecuting attorney, private attorney, or private entity operating under an agreement or contract described in IC 31-25-4-13.1, the court or administrative agency with jurisdiction shall deem state due process requirements for notice and service of process to be met with respect to the party required to provide notice, upon mailing of written notice to the other party at the most recent residential or employer address that is filed with the clerk or state central collection unit.**

(b) IC 34-47-4 applies to service of an order directing an obligor to appear in a contempt proceeding.

SECTION 37. IC 31-16-15-0.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 0.3. This chapter applies to child support ordered in any proceeding, including a dissolution of marriage and a paternity action.**

SECTION 38. IC 31-16-15-0.5, AS ADDED BY P.L.103-2007, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 0.5. (a) Except as provided in subsection (c), in any ~~Title IV-D~~ proceeding in which a court has ordered, modified, or

enforced periodic payments of child support, the court shall ~~order~~ **include a provision ordering** that child support payments be immediately withheld from the income of the obligor in an amount necessary to comply with the support order, including amounts for current child support obligations, child support arrearage, medical support, interest, and fees.

(b) Except as provided in subsection (c), a court or Title IV-D agency shall implement an order for immediate income withholding under subsection (a):

(1) if the address of the obligor's income payor is known, not more than fifteen (15) calendar days after the date of the issuance of a support order; or

(2) if the address of the obligor's income payor is not known, not more than fifteen (15) calendar days after the date the address of the obligor's income payor becomes known.

(c) A court may stay implementation of an income withholding order only if one (1) or more of the following occurs:

(1) One (1) of the parties demonstrates and the court finds good cause not to order immediate income withholding by finding all of the following:

(A) A stay of implementation of the income withholding order is in the best interests of the child.

(B) The obligor has a history of substantially uninterrupted, full, and timely child support payments, other than payments made through an income withholding order or another mandatory process of previously ordered child support, during the previous twelve (12) months.

(C) The court issues a written finding that an income withholding order would cause an extraordinary hardship on the obligor.

(2) The parties submit a written agreement that:

(A) meets the requirements under subsection (d); ~~and~~

(B) is approved by the court; **and**

(C) is entered into the record of the court.

(d) A written agreement described in subsection (c)(2) must meet the following requirements:

(1) Contain the following:

(A) A statement that an income withholding order is not

implemented immediately but that an income withholding order will be implemented if the:

(i) obligor's child support and arrearage payments become delinquent; or

(ii) obligor requests implementation of the income withholding order.

(B) A detailed description of an alternative payment arrangement between the parties to ensure the timely payment of child support.

(2) Contain a provision that the obligor shall provide current information to the court concerning the following:

(A) The name, address, and telephone number of the obligor's place of employment.

(B) Any health coverage available to the obligor as a benefit of employment or maintained by the obligor, including information on the:

(i) name of the carrier (as defined in IC 27-8-10-1);

(ii) health insurance policy, certificate, or contract number; and

(iii) if applicable, names and birth dates of the persons for whose benefit the obligor maintains health coverage under the health insurance policy, certificate, or contract.

(e) If possible, the court shall specify the date on which a stay of implementation of the income withholding order terminates automatically.

(f) In Title IV-D cases in which periodic payments of child support are ordered, modified, or enforced, the court shall order the obligor to inform the Title IV-D agency of the:

(1) name and address of the obligor's current income payor;

(2) obligor's access to health insurance coverage; and

(3) if applicable, obligor's health insurance policy information.

SECTION 39. IC 31-16-15-2.7, AS ADDED BY P.L.103-2007, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2.7. (a) The bureau shall:

(1) prescribe standard forms for:

(A) an income withholding order; and

(B) a notice form; and

(2) make the forms listed in subdivision (1) available to:

(A) a court;

(B) a private attorney;

(C) an obligor; and

(D) an obligee.

(b) An income withholding order under this chapter must be issued in a form substantially similar to the form prescribed under subsection (a)(1)(A).

(c) An income withholding order form under subsection (a)(1)(A) must contain the following:

(1) The amount of income to be withheld.

(2) A statement that the total amount of income to be withheld is the sum of the following:

(A) The obligor's current child support obligation.

(B) The amount of any child support arrearage ordered by the court.

(C) An additional amount as determined under section 2.5(f) of this chapter for:

(i) any arrearage that has not been adjudicated, if no arrearage has been adjudicated previously; or

(ii) any additional arrearage that has not been adjudicated and accrues since the last adjudication of arrearage by the court.

(D) A fee of two dollars ($2) that must be paid at the income payor's option to the income payor each time the income payor forwards income to the state central collection unit.

(3) A statement that the total amount withheld under the income withholding order plus the fee under subdivision (2)(D) may not exceed the maximum amount permitted under 15 U.S.C. 1673(b).

(4) A statement that an income payor shall:

(A) begin withholding income not later than the first pay date after fourteen (14) days following the date the income withholding order is received by the income payor; and

(B) report to the state central collection unit the date on which the income was withheld from the obligor's income.

(5) A statement that if an income payor is required to withhold income from more than one (1) obligor, the income payor may combine the withheld amount of income into a

single payment for all obligors who are required to make payments to the state central collection unit if the income payor identifies the part of the single payment that is attributable to each individual obligor.

(6) A statement that if the obligor has:

(A) more than one (1) income withholding order against the obligor; and

(B) insufficient disposable earnings to pay the amount of income withholding for all income withholding orders;

an income payor shall honor all withholdings to the extent that the total amount withheld does not exceed limits imposed under 15 U.S.C. 1673(b).

(7) A statement that the income payor shall distribute the withheld income pro rata among the persons entitled to receive income under the income withholding orders, giving priority to orders for current child support.

(8) A statement that the income payor may not distribute income as described under subdivision (7) in a manner that would result in one (1) of the current child support obligations not being honored.

(9) A statement that the income payor shall forward the amount withheld for current support and any arrears to the state central collection unit with a statement identifying the:

(A) cause number for the obligee;

(B) name of the obligor;

(C) name of the obligee with the applicable income withheld for each obligee forwarded from the income payor;

(D) Social Security number of each obligee; and

(E) Indiana support enforcement tracking system (ISETS) number for each obligee.

(10) A statement that the income withholding order is binding upon the income payor until further notice by the Title IV-D agency.

(11) A statement that if an income payor:

(A) discharges the obligor from employment;

(B) refuses to employ the obligor;

(C) takes disciplinary action against the obligor employed by the income payor; or

(D) otherwise discriminates against the obligor;

because of the existence of an income withholding order or the obligations imposed upon the income payor by the income withholding order, the income payor is subject to a penalty of not more than five thousand dollars ($5,000) payable to the state and recoverable in a civil action.

(12) A statement that if an income payor fails to withhold income in accordance with the income withholding order, the income payor is liable for:

(A) the accumulated amount the income payor should have withheld from the obligor's income; and

(B) any interest, attorney's fees, and costs.

(13) A statement that an income withholding order under this chapter has priority over any secured or unsecured claim on income, except for claims for federal, state, and local taxes.

(14) A statement that an income payor must:

(A) notify the Title IV-D agency if the obligor:

(i) ceases employment with; or

(ii) no longer receives income from;

the income payor, not later than ten (10) days after the date the obligor's employment or income ceases; and

(B) provide the obligor's last known address and the name and address of the obligor's new income payor, if known, to the Title IV-D agency.

SECTION 40. IC 31-16-15-4.5, AS AMENDED BY P.L.103-2007, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4.5. (a) The bureau shall send notice to an employer, using the National Medical Support Notice described in 45 CFR ~~303.3,~~ **303.32,** that:

(1) a parent ordered to pay support has been ordered to provide insurance coverage as part of the parent's employee benefit plan under IC 31-16-6-4; or

(2) an obligation to provide insurance coverage under subdivision (1) is no longer in effect.

(b) Upon receipt of the notice under subsection (a), the employer shall:

(1) respond to the notice in a timely fashion; ~~and~~

(2) **transfer the National Medical Support Notice to the**

employer's health insurance plan within twenty (20) days after the date of the National Medical Support Notice; and

(3) abide by the terms of establishing insurance coverage as required by the notice.

SECTION 41. IC 31-16-15-7.5, AS ADDED BY P.L.103-2007, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7.5. (a) An income payor that is required to withhold income under this chapter shall:

(1) forward income withheld for the payment of current or past due child support as directed by an income withholding order to the state central collection unit at the time that an obligor is paid;

(2) include a statement that identifies the:

(A) cause number for each obligee;

(B) Indiana support enforcement tracking system (ISETS) case number for each obligee;

(C) name of each obligor and the obligor's Social Security number; ~~and~~

(D) name of each obligee with the amount of the withheld income forwarded by the income payor; and

(E) date on which the amount was withheld from the obligor's income; and

(3) begin withholding income not later than the first pay date after fourteen (14) days following the date the order for income withholding is received by the income payor.

(b) An income payor may retain, in addition to the amount of income forwarded to the state central collection unit, a fee of not more than two dollars ($2) each time the income payor forwards income to the state central collection unit. If an income payor retains a fee under this subsection, the income payor shall reduce the amount of income withheld for the payment of current and past due child support, if necessary to avoid exceeding the maximum amount permitted to be withheld under 15 U.S.C. 1673(b).

SECTION 42. IC 31-16-15-17, AS AMENDED BY P.L.103-2007, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 17. **(a)** If

~~(1)~~ there is more than one (1) order for withholding against a single obligor under this chapter and

~~(2)~~ the obligor has insufficient disposable earnings to pay the

amount required by all the orders, the income payor shall: ~~distribute the withheld earnings pro rata among the persons entitled to receive earnings under the orders and shall~~

(1) honor all withholdings to the extent that the total amount withheld does not exceed the limits imposed under 15 U.S.C. 1673(b); **and**

(2) distribute the withheld income pro rata among the persons entitled to receive income under the income withholding orders, giving priority to orders for current child support.

(b) The income payor may not distribute income under subsection (a) in a manner that would result in one (1) of the current child support obligations not being honored.

SECTION 43. IC 31-16-15-23.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 23.5. An income payor is not required to vary the income payor's normal pay and distribution cycles in order to comply with this chapter.**

SECTION 44. IC 31-16-15-23.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 23.7. An income payor is not subject to civil liability for income withheld and paid to an obligee, the Title IV-D agency, or a state central collection unit in accordance with an income withholding order that appears regular on its face.**

SECTION 45. IC 31-17-2-21.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 21.3. (a) A court may not consider a parent's absence or relocation due to active duty service as a factor in determining custody or permanently modifying a child custody order.**

(b) If a court temporarily modifies a custody order due to a parent's active duty service, the order temporarily modifying the custody order terminates automatically not later than ten (10) days after the date the parent notifies the temporary custodian in writing that the parent has returned from active duty service. This subsection does not prevent a court from modifying a child custody order as provided under this article after a parent returns from active duty service.

SECTION 46. IC 31-25-3-2, AS ADDED BY P.L.145-2006, SECTION 271, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) The bureau shall operate the state parent locator service. The bureau shall make all necessary requests and responses to the federal parent locator service and to the parent locator services of the other states.

(b) To carry out the bureau's responsibilities under this chapter, the bureau or a prosecuting attorney, private attorney, or private entity operating under an agreement or contract described in IC 31-25-4-13.1 shall, subject to policies adopted by the superintendent of the state police department concerning the disclosure of law enforcement records, be granted access to information that is contained in an information system used by the state to locate an individual for purposes relating to motor vehicles or law enforcement.

~~(b)~~ **(c)** To carry out the bureau's responsibilities under this chapter, the bureau, through the parent locator service, may request information and assistance from a state, county, city, or town agency. Officers and employees of a state, county, city, or town agency shall cooperate with the bureau in determining the location of a parent who:

(1) owes child support; or

(2) has abandoned or deserted a child;

by providing the pertinent information relative to the location, income, and property of the parent, notwithstanding any other statute making the information confidential.

~~(c)~~ **(d)** Notwithstanding any other statute making the information confidential, each person doing business in Indiana shall provide the bureau or an agent of the bureau with the following information, if available, upon receipt of the certification described in subsection ~~(d).~~ **(e):**

(1) Full name of the parent.

(2) Social Security number of the parent.

(3) Date of birth of the parent.

(4) Address of the parent's residence.

(5) Amount of wages earned by the parent.

(6) Number of dependents claimed by the parent on state and federal tax withholding forms.

(7) Name and address of the parent's employer.

(8) Name and address of any financial institution maintaining an account for the parent.

(9) Address of any real property owned by the parent.

(10) Name and address of the parent's health insurance carrier and health coverage policy number.

~~(d)~~ **(e)** The parent locator service shall certify that the information requested in subsection ~~(c)~~ **(d)** is for the purpose of locating a parent who owes child support or who has abandoned a child and that the information obtained is to be treated as confidential by the bureau and any other state to which the information is released.

~~(e)~~ **(f)** A business in Indiana and each unit of state and local government shall comply with an administrative subpoena issued by a Title IV-D agency in another jurisdiction. The information requested may not be provided unless the Title IV-D agency of the other jurisdiction certifies that the information will be treated as confidential. The business or unit of government shall provide the Title IV-D agency of the other jurisdiction with the information listed in subsection ~~(c),~~ **(d),** if available, if requested in the subpoena, upon certification by the Title IV-D agency of the other jurisdiction that the information is for the purpose of locating a parent who owes child support or who has abandoned or deserted a child.

~~(f)~~ **(g)** A person may not knowingly refuse to give the bureau, the bureau's agents, or the Title IV-D agency of another jurisdiction the following:

(1) The name of a parent of a child for whom the state is providing public assistance.

(2) Information that may assist the parent locator service or other jurisdiction in locating the parent of a child.

~~(g)~~ **(h)** Information obtained under this section may not be used in a criminal prosecution against the informant.

~~(h)~~ **(i)** A person may not knowingly give the bureau or the Title IV-D agency of another jurisdiction the incorrect name of a parent of a child or knowingly give the parent locator service incorrect information on the parent's whereabouts for the purpose of concealing the identity of the real parent of the child or the location of the parent.

SECTION 47. IC 31-25-3-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 4. (a) Notwithstanding any other law, the bureau or**

a prosecuting attorney, private attorney, or private entity that is operating under an agreement or contract described in IC 31-25-4-13.1 is entitled to obtain access, at no cost to the bureau or the prosecuting attorney, private attorney, or private entity that is operating under an agreement or contract described in IC 31-25-4-13.1, to the following records from the following agencies or entities:

(1) The following records of state and local agencies:

(A) Records of birth, marriage, and death.

(B) Tax and revenue records, including information related to residence addresses, employers, and assets.

(C) Records concerning real and titled personal property.

(D) Records of occupational, professional, and recreational licenses or permits.

(E) Records concerning the ownership and control of corporations, partnerships, and other business entities.

(F) Employment security records.

(G) Records of agencies administering public assistance programs.

(H) Records of the bureau of motor vehicles.

(I) Records of:

(i) the department of correction; and

(ii) county and municipal correction or confinement facilities.

(2) Subject to subsection (d), records of public utilities and cable television companies that relate to persons who owe or are owed support, or against whom a support obligation is sought, including:

(A) the person's name and address; and

(B) the name and address of the person's employer.

(3) Records held by financial institutions as provided under IC 31-25-4-31.

(4) Subject to policies adopted by the superintendent of the state police department concerning the disclosure of law enforcement records, any other records of a state or local agency.

(b) Upon the request of the bureau or a prosecuting attorney, private attorney, or private entity that is operating under an agreement or contract described in IC 31-25-4-13.1, an employer

shall provide information related to the employment, earnings, benefits, and residential address and phone number of any employee.

(c) An agency or entity that possesses records described in subsection (a)(1) and (a)(3) shall provide information and records upon the request of the bureau or a prosecuting attorney, private attorney, or private entity that is operating under an agreement or contract under IC 31-25-4-13.1. Information described in this subsection shall be provided in response to a subpoena, or the bureau may enter into agreements to provide for electronic access to these records.

(d) An entity listed subsection (a)(2) shall provide the information only in response to a judicial or administrative subpoena issued by the bureau.

(e) An agency or entity described under subsection (a) that provides information under a request or subpoena under this section is not liable for disclosing information under the request or subpoena.

(f) All information received under this section is confidential. The bureau may disclose this information only as provided under IC 31-25-4-21.

SECTION 48. IC 31-25-4-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 8.5. In addition to the duties imposed by sections 7 and 8 of this chapter, the bureau shall do the following:**

(1) Share data regarding obligors who are delinquent with:

(A) a licensed owner, operating agent, and trustee in accordance with IC 4-33-4-27;

(B) a permit holder and trustee in accordance with IC 4-35-4-16; and

(C) the state lottery commission;

to allow for the interception of cash winnings and prizes from the obligors.

(2) Distribute money collected from the persons described in subdivision (1) according to federal child support laws and regulations.

SECTION 49. IC 31-25-4-17, AS AMENDED BY P.L.103-2007, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2010]: Sec. 17. (a) The bureau shall do the following:

(1) Collect support payments when the payments have been assigned to the state by the application for assistance under Title IV-A.

(2) Assist in obtaining a support order, including an order for health insurance coverage under:

(A) IC 27-8-23;

(B) IC 31-14-11-3; or

(C) IC 31-16-6-4;

when there is no existing order and assistance is sought.

(3) Assist mothers of children born out of wedlock in establishing paternity and obtaining a support order, including an order for health insurance coverage under IC 27-8-23, when the mother has applied for assistance.

(4) Implement income withholding in any Title IV-D case:

(A) with an arrearage; and

(B) without an order issued by a court or an administrative agency.

(5) Enforce intrastate and interstate support orders using high volume automated enforcement features.

(6) Use a simplified procedure for the review and adjustment of support orders as set forth in 42 U.S.C. 666(a)(10).

(7) In any Title IV-D case, petition:

(A) a court to:

(i) establish paternity for a child born out of wedlock; and

(ii) establish a support order, including an order for health insurance coverage under IC 27-8-23, IC 31-14-11-3, or IC 31-16-6-4; and

(B) a court to establish or modify a support order, including an order for health insurance coverage under IC 27-8-23, IC 31-14-11-3, or IC 31-16-6-4, if:

(i) there is no existing support order; or

(ii) the existing order does not include a provision for private health insurance.

(b) Whenever the bureau collects support payments on behalf of an individual who is no longer a member of a household that receives Title IV-A cash payments, the collected support payments (except

collections made through a federal tax refund offset) shall be promptly distributed in the following order:

(1) Payment to the recipient of the court ordered support obligation for the month that the support payment is received.

(2) Payment to the recipient of the support payment arrearages that have accrued during any period when the recipient was not a member of a household receiving Title IV-A assistance.

(3) Payment to the state in an amount not to exceed the lesser of:

(A) the total amount of past public assistance paid to the recipient's family; or

(B) the amount assigned to the state by the recipient under IC 12-14-7-1.

(4) Payment of support payment arrearages owed to the recipient.

(5) Payment of any other support payments payable to the recipient.

(c) Whenever the bureau receives a payment through a federal tax refund offset on behalf of an individual who has received or is receiving Title IV-A assistance, the child support payment shall be distributed as follows:

(1) To the state, an amount not to exceed the lesser of:

(A) the total amount of past public assistance paid to the individual's family; or

(B) the amount assigned to the state by the individual under IC 12-14-7-1.

(2) To the individual, any amounts remaining after the distribution under subdivision (1).

(d) Except as provided in section 19.5 of this chapter, whenever the bureau collects a child support payment from any source on behalf of an individual who has never received Title IV-A assistance, the bureau shall forward all money collected to the individual.

(e) Whenever the bureau receives a child support payment on behalf of an individual who currently receives a Title IV-A cash payment or an individual whose cash payment was recouped, the child support payment shall be distributed as follows:

(1) To the state, an amount not to exceed the lesser of:

(A) the total amount of past public assistance paid to the individual's family; or

(B) the amount assigned to the state by the individual under

IC 12-14-7-1.

(2) To the individual, any amounts remaining after the distribution under subdivision (1).

(f) Unless otherwise required by federal law, not more than seventy-five (75) days after a written request by a recipient, the bureau shall provide an accounting report to the recipient that identifies the bureau's claim to a child support payment or arrearage.

(g) The bureau, the department of child services, and the department of state revenue may not charge a custodial parent a fee to seek or receive a payment through a federal tax refund offset as described in subsection (c).

SECTION 50. IC 31-25-4-32, AS AMENDED BY P.L.131-2009, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 32. (a) When the Title IV-D agency finds that an obligor is delinquent, the Title IV-D agency shall send, to a verified address, a notice to the obligor that does the following:

(1) Specifies that the obligor is delinquent.

(2) Describes the amount of child support that the obligor is in arrears.

(3) States that unless the obligor:

(A) pays the obligor's child support arrearage in full;

(B) establishes a payment plan with the Title IV-D agency to pay the arrearage, which includes an income withholding order; or

(C) requests a hearing under section 33 of this chapter;

within twenty (20) days after the date the notice is mailed, the Title IV-D agency shall issue an order to the bureau of motor vehicles stating that the obligor is delinquent and that the obligor's driving privileges shall be suspended.

(4) Explains that the obligor has twenty (20) days after the notice is mailed to do one (1) of the following:

(A) Pay the obligor's child support arrearage in full.

(B) Establish a payment plan with the Title IV-D agency to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5.

(C) Request a hearing under section 33 of this chapter.

(5) Explains that if the obligor has not satisfied any of the requirements of subdivision (4) within twenty (20) days after the

notice is mailed, that the Title IV-D agency shall issue a notice to:

(A) the board or department that regulates the obligor's profession or occupation, if any, that the obligor is delinquent and that the obligor may be subject to sanctions under IC 25-1-1.2, including suspension or revocation of the obligor's professional or occupational license;

(B) the supreme court disciplinary commission if the obligor is licensed to practice law;

(C) the department of education established by IC 20-19-3-1 if the obligor is a licensed teacher;

(D) the Indiana horse racing commission if the obligor holds or applies for a license issued under IC 4-31-6;

(E) the Indiana gaming commission if the obligor holds or applies for a license issued under IC 4-33 **and IC 4-35;**

(F) the commissioner of the department of insurance if the obligor holds or is an applicant for a license issued under IC 27-1-15.6, IC 27-1-15.8, or IC 27-10-3; ~~or~~

(G) the director of the department of natural resources if the obligor holds or is an applicant for a license issued by the department of natural resources under: ~~the following:~~

(i) IC 14-22-12 (fishing, hunting, and trapping licenses);

(ii) IC 14-22-14 (Lake Michigan commercial fishing license);

(iii) IC 14-22-16 (bait dealer's license);

(iv) IC 14-22-17 (mussel license);

(v) IC 14-22-19 (fur buyer's license);

(vi) IC 14-24-7 (nursery dealer's license); **or**

(vii) IC 14-31-3 (ginseng dealer's license); **or**

(H) the alcohol and tobacco commission if the obligor holds or applies for an employee's permit under IC 7.1-3-18-9(a)(3).

(6) Explains that the only basis for contesting the issuance of an order under subdivision (3) or (5) is a mistake of fact.

(7) Explains that an obligor may contest the Title IV-D agency's determination to issue an order under subdivision (3) or (5) by making written application to the Title IV-D agency within twenty (20) days after the date the notice is mailed.

(8) Explains the procedures to:

(A) pay the obligor's child support arrearage in full; and

(B) establish a payment plan with the Title IV-D agency to pay the arrearage, which must include an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5.

(b) Whenever the Title IV-D agency finds that an obligor is delinquent and has failed to:

(1) pay the obligor's child support arrearage in full;

(2) establish a payment plan with the Title IV-D agency to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5; or

(3) request a hearing under section 33 of this chapter within twenty (20) days after the date the notice described in subsection (a) is mailed;

the Title IV-D agency shall issue an order to the bureau of motor vehicles stating that the obligor is delinquent.

(c) An order issued under subsection (b) must require the following:

(1) If the obligor who is the subject of the order holds a driving license or permit on the date the order is issued, that the driving privileges of the obligor be suspended until further order of the Title IV-D agency.

(2) If the obligor who is the subject of the order does not hold a driving license or permit on the date the order is issued, that the bureau of motor vehicles may not issue a driving license or permit to the obligor until the bureau of motor vehicles receives a further order from the Title IV-D agency.

(d) The Title IV-D agency shall provide the:

(1) full name;

(2) date of birth;

(3) verified address; and

(4) Social Security number or driving license number;

of the obligor to the bureau of motor vehicles.

(e) Whenever the Title IV-D agency finds that an obligor who is an applicant (as defined in IC 25-1-1.2-1) or a practitioner (as defined in IC 25-1-1.2-6) is delinquent and the applicant or practitioner has failed to:

(1) pay the obligor's child support arrearage in full;

(2) establish a payment plan with the Title IV-D agency to pay the arrearage, which includes an income withholding order under

IC 31-16-15-2 or IC 31-16-15-2.5; or

(3) request a hearing under section 33 of this chapter;

the Title IV-D agency shall issue an order to the board regulating the practice of the obligor's profession or occupation stating that the obligor is delinquent.

(f) An order issued under subsection (e) must direct the board or department regulating the obligor's profession or occupation to impose the appropriate sanctions described under IC 25-1-1.2.

(g) Whenever the Title IV-D agency finds that an obligor who is an attorney or a licensed teacher is delinquent and the attorney or licensed teacher has failed to:

(1) pay the obligor's child support arrearage in full;

(2) establish a payment plan with the Title IV-D agency to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5; or

(3) request a hearing under section 33 of this chapter;

the Title IV-D agency shall notify the supreme court disciplinary commission if the obligor is an attorney, or the department of education if the obligor is a licensed teacher, that the obligor is delinquent.

(h) Whenever the Title IV-D agency finds that an obligor who holds a license issued under IC 4-31-6, ~~or~~ IC 4-33, **or IC 4-35** has failed to:

(1) pay the obligor's child support arrearage in full;

(2) establish a payment plan with the Title IV-D agency to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5; or

(3) request a hearing under section 33 of this chapter;

the Title IV-D agency shall issue an order to the Indiana horse racing commission if the obligor holds a license issued under IC 4-31-6, or to the Indiana gaming commission if the obligor holds a license issued under IC 4-33 **or IC 4-35,** stating that the obligor is delinquent and directing the commission to impose the appropriate sanctions described in IC 4-31-6-11, ~~or~~ IC 4-33-8.5-3, **or IC 4-35-6.7-2.**

(i) Whenever the Title IV-D agency finds that an obligor who holds a license issued under IC 27-1-15.6, IC 27-1-15.8, or IC 27-10-3 has failed to:

(1) pay the obligor's child support arrearage in full;

(2) establish a payment plan with the Title IV-D agency to pay the arrearage, which includes an income withholding order under

IC 31-16-15-2 or IC 31-16-15-2.5; or

(3) request a hearing under section 33 of this chapter;

the Title IV-D agency shall issue an order to the commissioner of the department of insurance stating that the obligor is delinquent and directing the commissioner to impose the appropriate sanctions described in IC 27-1-15.6-29 or IC 27-10-3-20.

(j) Whenever the Title IV-D agency finds that an obligor who holds a license issued by the department of natural resources under IC 14-22-12, IC 14-22-14, IC 14-22-16, IC 14-22-17, IC 14-22-19, IC 14-24-7, or IC 14-31-3 has failed to:

(1) pay the obligor's child support arrearage in full;

(2) establish a payment plan with the Title IV-D agency to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5; or

(3) request a hearing under section 33 of this chapter;

the Title IV-D agency shall issue an order to the director of the department of natural resources stating that the obligor is delinquent and directing the director to suspend or revoke a license issued to the obligor by the department of natural resources as provided in IC 14-11-3.

(k) If the Title IV-D agency finds that an obligor who holds an employee's permit issued under IC 7.1-3-18-9(a)(3) has failed to:

(1) pay the obligor's child support arrearage in full;

(2) establish a payment plan with the Title IV-D agency to pay the arrearage, which includes an income withholding order under IC 31-16-15-2 or IC 31-16-15-2.5; or

(3) request a hearing under section 33 of this chapter;

the Title IV-D agency shall issue an order to the alcohol and tobacco commission stating that the obligor is delinquent and directing the alcohol and tobacco commission to impose the appropriate sanctions under IC 7.1-3-23-44.

(l) A person's most recent address on file with the bureau constitutes a verified address for purposes of this section.

SECTION 51. IC 31-25-4-34, AS ADDED BY P.L.145-2006, SECTION 271, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 34. (a) As used in this section, "board" has the meaning set forth in IC 25-1-1.2-2.

(b) If an obligor holds a license issued by a board and requests a

hearing under section 33 of this chapter but fails to appear or appears and is found to be delinquent, the Title IV-D agency shall issue an order to the board that issued the obligor's license:

(1) stating that the obligor is delinquent; and

(2) requiring the board to comply with the actions required under IC 25-1-1.2-8(b).

(c) If an obligor holds a license issued under IC 4-31-6, ~~or~~ IC 4-33, **or IC 4-35** and requests a hearing under section 33 of this chapter but fails to appear or appears and is found to be delinquent, the Title IV-D agency shall issue an order to the:

(1) Indiana horse racing commission, if the obligor holds a license issued under IC 4-31-6; or

(2) Indiana gaming commission, if the obligor holds a license issued under IC 4-33 **or IC 4-35;**

stating that the obligor is delinquent and requiring the commission to comply with the actions required under IC 4-31-6-11, ~~or~~ IC 4-33-8.5-3, **or IC 4-35-6.7-2.**

(d) If an obligor holds a license issued under IC 27-1-15.6, IC 27-1-15.8, or IC 27-10-3 and requests a hearing under section 33 of this chapter but fails to appear or appears and is found to be delinquent, the Title IV-D agency shall issue an order to the commissioner of the department of insurance:

(1) stating that the obligor is delinquent; and

(2) requiring the commissioner to comply with the actions required under IC 27-1-15.6-29 or IC 27-10-3-20.

(e) If an obligor holds a license issued by the department of natural resources under IC 14-22-12, IC 14-22-14, IC 14-22-16, IC 14-22-17, IC 14-22-19, IC 14-24-7, or IC 14-31-3 and requests a hearing under section 33 of this chapter but fails to appear, or appears and is found to be delinquent, the Title IV-D agency shall issue an order to the director of the department of natural resources:

(1) stating that the obligor is delinquent; and

(2) requiring the director to suspend or revoke a license issued by the department as provided in IC 14-11-3.

(f) If an obligor:

(1) holds an employee's permit issued under IC 7.1-3-18-9(a)(3); and

(2) requests a hearing under section 33 of this chapter but

fails to appear or appears and is found to be delinquent;

the Title IV-D agency shall issue an order to the alcohol and tobacco commission stating that the obligor is delinquent and requiring the commission to impose the appropriate sanctions under IC 7.1-3-23-44.

SECTION 52. IC 32-17.5-8-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 2.5. (a) This section applies to a disclaimer of an interest in property by a disclaimant who is delinquent (as defined in IC 31-9-2-36(b)) before the disclaimer becomes effective.**

(b) A disclaimer of an interest in property is barred up to the amount of the disclaimant's child support arrearage.

SECTION 53. IC 34-30-2-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 6.5. IC 4-33-8.5-4 (Concerning persons holding licenses regarding riverboat gambling that make payments of cash winnings to obligors in violation of IC 4-33-4-27 or that act in compliance with IC 4-33-4-27).**

SECTION 54. IC 34-30-2-6.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 6.7. IC 4-35-6.5-12 (Concerning persons holding licenses regarding gambling games at racetracks who make payments of cash winnings to obligors in violation of IC 4-35-4-16 or who act in compliance with IC 4-35-4-16).**

SECTION 55. IC 34-30-2-133.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 133.1. IC 31-16-15-23.7 (Concerning an income payor for withholding income paid to an obligee, the Title IV-D agency, or the state central collection unit in accordance with an income withholding order).**

SECTION 56. IC 34-30-2-133.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 133.8. IC 31-25-3-4(e) (Concerning agencies and entities that provide information under requests or subpoenas from the child support bureau).**

P.L.81-2010
[S.223. Approved March 18, 2010.]

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 6-1.1-12-1, AS AMENDED BY P.L.144-2008, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) Each year a person who is a resident of this state may receive a deduction from the assessed value of:

(1) mortgaged real property, an installment loan financed mobile home that is not assessed as real property, or an installment loan financed manufactured home that is not assessed as real property, **with the mortgage or installment loan instrument recorded with the county recorder's office,** that ~~he~~ **the person** owns; ~~or~~

(2) real property, a mobile home that is not assessed as real property, or a manufactured home that is not assessed as real property that ~~he~~ **the person** is buying under a contract, with the contract or a memorandum of the contract recorded in the county recorder's office, which provides that ~~he~~ **the person** is to pay the property taxes on the real property, mobile home, or manufactured home; **or**

(3) real property, a mobile home that is not assessed as real property, or a manufactured home that the person owns or is buying on a contract described in subdivision (2) on which the person has a home equity line of credit that is recorded in the county recorder's office.

(b) Except as provided in section 40.5 of this chapter, the total amount of the deduction which the person may receive under this section for a particular year is:

(1) the balance of the mortgage or contract indebtedness **(including a home equity line of credit)** on the assessment date of that year;

(2) one-half (1/2) of the assessed value of the real property, mobile home, or manufactured home; or

(3) three thousand dollars ($3,000);

whichever is least.

(c) A person who has sold real property, a mobile home not assessed as real property, or a manufactured home not assessed as real property to another person under a contract which provides that the contract buyer is to pay the property taxes on the real property, mobile home, or manufactured home may not claim the deduction provided under this section with respect to that real property, mobile home, or manufactured home.

(d) The person must:

(1) own the real property, mobile home, or manufactured home; or

(2) be buying the real property, mobile home, or manufactured home under contract;

on the date the statement is filed under section 2 of this chapter.

SECTION 2. IC 6-1.1-12-2, AS AMENDED BY SEA 222-2010, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) Except as provided in section 17.8 of this chapter and subject to section 45 of this chapter, for a person to qualify for the deduction provided by section 1 of this chapter a statement must be filed under subsection (b) or (c). **Regardless of the manner in which a statement is filed, the mortgage, contract, or memorandum (including a home equity line of credit) must be recorded with the county recorder's office to qualify for a deduction under section 1 of this chapter.**

(b) Subject to subsection (c), to apply for the deduction under section 1 of this chapter with respect to real property, the person recording the mortgage, **home equity line of credit,** contract, or memorandum of the contract with the county recorder may file a written statement with the county recorder containing the information described in subsection (e)(1), (e)(2), (e)(3), (e)(4), (e)(6), (e)(7), and (e)(8). The statement must be prepared on the form prescribed by the department of local government finance and be signed by the property owner or contract purchaser under the penalties of perjury. The form must have a place for the county recorder to insert the record number and page where the mortgage, **home equity line of credit,** contract, or memorandum of the contract is recorded. Upon receipt of the form and the recording of the mortgage, **home equity line of credit,** contract, or

memorandum of the contract, the county recorder shall insert on the form the record number and page where the mortgage, **home equity line of credit,** contract, or memorandum of the contract is recorded and forward the completed form to the county auditor. The county recorder may not impose a charge for the county recorder's duties under this subsection. The statement must be completed and dated in the calendar year for which the person wishes to obtain the deduction and filed with the county recorder on or before January 5 of the immediately succeeding calendar year.

(c) With respect to:

(1) real property as an alternative to a filing under subsection (b); or

(2) a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property;

to apply for a deduction under section 1 of this chapter, a person who desires to claim the deduction may file a statement in duplicate, on forms prescribed by the department of local government finance, with the auditor of the county in which the real property, mobile home not assessed as real property, or manufactured home not assessed as real property is located. With respect to real property the statement must be completed and dated in the calendar year for which the person wishes to obtain the deduction and filed with the county auditor on or before January 5 of the immediately succeeding calendar year. With respect to a mobile home that is not assessed as real property or a manufactured home that is not assessed as real property, the statement must be filed during the twelve (12) months before March 31 of each year for which the individual wishes to obtain the deduction. The statement may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. In addition to the statement required by this subsection, a contract buyer who desires to claim the deduction must submit a copy of the recorded contract or recorded memorandum of the contract, which must contain a legal description sufficient to meet the requirements of IC 6-1.1-5, with the first statement that the buyer files under this section with respect to a particular parcel of real property.

(d) Upon receipt of:

(1) the statement under subsection (b); or

(2) the statement under subsection (c) and the recorded contract

or recorded memorandum of the contract;

the county auditor shall assign a separate description and identification number to the parcel of real property being sold under the contract.

(e) The statement referred to in subsections (b) and (c) must be verified under penalties for perjury. The statement must contain the following information:

(1) The balance of the person's mortgage, **home equity line of credit,** or contract indebtedness **that is recorded in the county recorder's office** on the assessment date of the year for which the deduction is claimed.

(2) The assessed value of the real property, mobile home, or manufactured home.

(3) The full name and complete residence address of the person and of the mortgagee or contract seller.

(4) The name and residence of any assignee or bona fide owner or holder of the mortgage, **home equity line of credit,** or contract, if known, and if not known, the person shall state that fact.

(5) The record number and page where the mortgage, contract, or memorandum of the contract is recorded.

(6) A brief description of the real property, mobile home, or manufactured home which is encumbered by the mortgage **or home equity line of credit** or sold under the contract.

(7) If the person is not the sole legal or equitable owner of the real property, mobile home, or manufactured home, the exact share of the person's interest in it.

(8) The name of any other county in which the person has applied for a deduction under this section and the amount of deduction claimed in that application.

(f) The authority for signing a deduction application filed under this section may not be delegated by the real property, mobile home, or manufactured home owner or contract buyer to any person except upon an executed power of attorney. The power of attorney may be contained in the recorded mortgage, contract, or memorandum of the contract, or in a separate instrument.

(g) A closing agent (as defined in section 43(a)(2) of this chapter) is not liable for any damages claimed by the property owner or contract purchaser because of:

(1) the closing agent's failure to provide the written statement

described in subsection (b);

(2) the closing agent's failure to file the written statement described in subsection (b);

(3) any omission or inaccuracy in the written statement described in subsection (b) that is filed with the county recorder by the closing agent; or

(4) any determination made with respect to a property owner's or contract purchaser's eligibility for the deduction under section 1 of this chapter.

(h) The county recorder may not refuse to record a mortgage, contract, or memorandum because the written statement described in subsection (b):

(1) is not included with the mortgage, **home equity line of credit,** contract, or memorandum of the contract;

(2) does not contain the signatures required by subsection (b);

(3) does not contain the information described in subsection (e); or

(4) is otherwise incomplete or inaccurate.

(i) The form prescribed by the department of local government finance under subsection (b) and the instructions for the form must both include a statement:

(1) that explains that a person is not entitled to a deduction under section 1 of this chapter unless the person has a balance on the person's mortgage or contract indebtedness that is recorded in the county recorder's office (including any home equity line of credit that is recorded in the county recorder's office) that is the basis for the deduction; and

(2) that specifies the penalties for perjury.

(j) The department of local government finance shall develop a notice:

(1) that must be displayed in a place accessible to the public in the office of each county auditor;

(2) that includes the information described in subsection (i); and

(3) that explains that the form prescribed by the department of local government finance to claim the deduction under section 1 of this chapter must be signed by the property owner or contract purchaser under the penalties of perjury.

P.L.82-2010
[S.307. Approved March 18, 2010.]

AN ACT to amend the Indiana Code concerning courts and court officers.

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

SECTION 1. IC 33-33-22-1, AS AMENDED BY P.L.234-2007, SECTION 217, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Floyd County constitutes the fifty-second judicial circuit.

(b) The judges of the Floyd circuit court and Floyd superior ~~court~~ **courts** may jointly appoint one (1) full-time magistrate under IC 33-23-5 to serve the circuit and superior courts.

(c) The magistrate continues in office until removed by the judges of the Floyd circuit and superior courts.

SECTION 2. IC 33-33-22-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) There ~~is~~ **are** established ~~a court~~ **three (3) courts** of record to be known as the Floyd superior court **No. 1, Floyd superior court No. 2, and Floyd superior court No. 3.**

(b) Except as provided in section 3 of this chapter, ~~the~~ **each** Floyd superior court is a standard superior court as described in IC 33-29-1.

(c) Floyd County comprises the judicial district of ~~the~~ **each** court.

SECTION 3. IC 33-33-22-3, AS AMENDED BY P.L.234-2007, SECTION 218, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) IC 33-29-1-3 does not apply to this section.

(b) ~~The~~ **Each** Floyd superior court has ~~three judges,~~ **one (1) judge,** who shall be elected at the general election every six (6) years in Floyd County. A judge's term begins January 1 following the judge's election and ends December 31 following the election of the judge's successor.

SECTION 4. IC 33-33-22-4 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. ~~The~~ **Each** Floyd superior court shall hold its sessions in:

(1) the Floyd County courthouse in New Albany; or

(2) other places in the county as the board of county commissioners of Floyd County may provide.

SECTION 5. IC 33-33-22-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. ~~The~~ **Each** Floyd superior court has the same jurisdiction as the Floyd circuit court, except that only:

(1) the circuit court has jurisdiction over ~~juvenile,~~ probate and trust matters; **and**

(2) the circuit court and Floyd superior court No. 3 have concurrent juvenile jurisdiction.

SECTION 6. IC 33-33-22-7, AS ADDED BY P.L.234-2007, SECTION 219, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. ~~The~~ **Each** Floyd superior court has a standard small claims and misdemeanor division.

SECTION 7. **An emergency is declared for this act.**

P.L.83-2010

[S.316. Approved March 18, 2010.]

AN ACT to amend the Indiana Code concerning education.

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

SECTION 1. IC 20-19-3-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 10. (a) The department, in collaboration with organizations that have expertise in dating violence, domestic violence, and sexual abuse, shall identify or develop:**

(1) model dating violence educational materials; and

(2) a model for dating violence response policies and

reporting.

Not later than July 1, 2011, the department shall make the models developed or identified under this section available to assist schools with the implementation of dating violence education programs in grades 6 through 12 and dating violence response policies.

(b) The model dating violence policy identified or developed under subsection (a) may include the following topics:

(1) Warning signs of dating violence.

(2) The basic principles of dating violence prevention.

(3) Methods of parental education and outreach.

P.L.84-2010

[S.356. Approved March 18, 2010.]

AN ACT to amend the Indiana Code concerning professions and occupations.

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

SECTION 1. IC 4-6-14 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

Chapter 14. Health Records and Identifying Information Protection

Sec. 1. As used in this chapter, "abandoned" means voluntarily surrendered, relinquished, or disclaimed by the health care provider or regulated professional, with no intention of reclaiming or regaining possession.

Sec. 2. As used in this chapter, "health care provider" means a person listed in IC 16-39-7-1(a)(1) through IC 16-39-7-1(a)(11).

Sec. 3. As used in this chapter, "personal information" has the meaning set forth in IC 24-4.9-2-10.

Sec. 4. As used in this chapter, "regulated professional" means

an individual who is regulated by a board listed under IC 25-1-11-1.

Sec. 5. The attorney general may do the following with abandoned health records and other records that contain personal information:

(1) Take possession of.

(2) Store.

(3) Maintain.

(4) Transfer.

(5) Protect.

(6) Destroy, subject to the limitations in sections 8(b) and 9(b) of this chapter.

Sec. 6. (a) Before taking any action described in section 5 of this chapter, the attorney general shall determine whether a health care provider or regulated professional has abandoned health records or records containing personal information.

(b) A determination of abandonment under this section may only be used for the purpose of taking an action described in this chapter. However, a subsequent enforcement action may take place under a state or federal law based on proof of facts that may have contributed to the determination of abandonment if the facts are proved in a subsequent enforcement action.

(c) An investigation to make a determination of abandonment under this section must be conducted under the attorney general's authority under existing state and federal law. Nothing in this chapter shall be construed to create new authority for a subpoena or search warrant.

Sec. 7. (a) The attorney general shall make reasonable efforts to notify the patients and those individuals identified in:

(1) health records; or

(2) records or documents that contain personal information;

that the attorney general has taken possession of the records or documents. The notice in this subsection must include information about the procedure for either obtaining originals or copies of the records or having the original records sent to a duly authorized subsequent treating health care provider.

(b) Unless prohibited by law, the attorney general may also notify other persons, including professional organizations, hospitals, law enforcement agencies, and government units, who:

(1) may be able to assist in notifying persons whose records were abandoned and secured by the attorney general under this chapter; and

(2) when appropriate, may be able to assist in returning the records to those persons.

Sec. 8. (a) The attorney general shall maintain health records obtained under section 5 of this chapter for the lesser of the following:

(1) The time required under IC 16-39-7-1 and IC 16-39-7-2.

(2) Three (3) years after the date the records are secured.

(b) When the time expires under subsection (a), the attorney general may destroy the health records obtained under section 5 of this chapter.

Sec. 9. (a) The attorney general shall maintain records that are not health records but contain personal information for at least three (3) years after the date the records are seized or secured.

(b) When the time expires under subsection (a) and after notification under section 7 of this chapter, the attorney general may destroy the records that contain personal information.

Sec. 10. (a) The health records and personal identifying information protection trust fund is established for the purpose of paying storage, maintenance, copying, mailing, and transfer of:

(1) health records; and

(2) records containing personal information;

as required under this chapter. Expenditures from the trust fund may be made only to carry out the purposes of this subsection.

(b) Subject to subsection (c), if a health care provider or a regulated professional is disciplined under IC 25-1-9 or IC 25-1-11, the board that issues the disciplinary order shall impose a fee against the individual of five dollars ($5). The fee must be deposited into the health records and personal identifying information protection trust fund.

(c) If the amount in the health records and personal identifying information protection trust fund exceeds seventy-five thousand dollars ($75,000), the fee imposed under subsection (b) may not be imposed on an individual who is subject to a disciplinary order.

(d) The attorney general shall administer the trust fund.

(e) The expenses of administering the trust fund shall be paid from the money in the fund.

(f) The treasurer of state shall invest the money in the trust fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(g) Money in the trust fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 11. The attorney general is immune from civil liability for destroying or failing to maintain custody and control of any record obtained under this chapter.

Sec. 12. The following may cooperate with the attorney general's office to implement this chapter:

(1) The Indiana professional licensing agency and the appropriate board that regulates a health care provider or a regulated professional under IC 25.

(2) The state police department.

(3) A prosecuting attorney.

(4) Local law enforcement agencies.

(5) Federal law enforcement agencies.

Sec. 13. The attorney general may adopt rules under IC 4-22-2 that are necessary to administer and implement this chapter.

Sec. 14. A determination by the attorney general that health records or other records that contain personal information have been abandoned is subject to review in a circuit or superior court. A person who seeks to enforce this section must first notify the attorney general of the intention to seek judicial review.

Sec. 15. The attorney general may pay for the administration of this chapter only from funds currently appropriated to the office of the attorney general.

SECTION 2. IC 16-27-2-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 0.5. As used in this chapter, "expanded criminal history check" means a criminal history check of an individual, obtained through a private agency, that includes the following:**

(1) A search of the records maintained by all counties in Indiana in which the individual who is the subject of the background check resided.

(2) A search of the records maintained by all counties or similar governmental units in another state, if the individual who is the subject of the background check resided in another state.

SECTION 3. IC 16-27-2-2.1, AS ADDED BY P.L.197-2007, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 30, 2010]: Sec. 2.1. As used in this chapter, "national criminal history background check" ~~has the meaning set forth in IC 10-13-3-12.~~ **means the determination provided by the state police department under IC 10-13-3-39(i).**

SECTION 4. IC 16-27-2-4, AS AMENDED BY P.L.177-2009, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 30, 2010]: Sec. 4. (a) A person who operates a home health agency under IC 16-27-1 or a personal services agency under IC 16-27-4 shall apply, not more than three (3) business days after the date that an employee begins to provide services in a patient's temporary or permanent residence, for a copy of the employee's

~~(1) national criminal history; or~~

~~(2) until July 1, 2010,~~ limited criminal history, **unless the person is required to obtain a national criminal history background check or an expanded criminal history check under subsection (b) or (c).**

(b) If a person who operates a home health agency under IC 16-27-1 or a personal services agency under IC 16-27-4 determines an employee lived outside Indiana at any time during the two (2) years immediately before the date the individual was hired by the home health agency or personal services agency, the home health agency or personal services agency shall apply, not more than three (3) business days after the date that an employee begins to provide services in a patient's temporary or permanent residence, for ~~a determination concerning~~ the employee's national criminal history ~~This subsection expires June 30, 2010.~~ **background check or expanded criminal history check.**

(c) If, more than three (3) days after an employee begins providing services in a patient's temporary or permanent residence, a person who operates a home health agency under IC 16-27-1 or a personal services agency under IC 16-27-4 discovers the employee lived outside Indiana during the two (2) years immediately before the date the individual was hired, the agency shall apply, not more than three (3) business days after the date the agency learns the employee lived outside Indiana, for ~~a determination concerning~~ the employee's national criminal history ~~This subsection expires June 30, 2010.~~ **background check or**

expanded criminal history check.

(d) A home health agency or personal services agency may not employ a person to provide services in a patient's or client's temporary or permanent residence for more than three (3) business days without applying for:

~~(1) a:~~

~~(A)~~ **(1) a** national criminal history **background check or an expanded criminal history check as required** under subsection ~~(a)(1);~~ **(b) or (c);** or

~~(B)~~ **(2) a** limited criminal history as required by subsection ~~(a)(2) until June 30, 2010; or~~ **(a).**

~~(2) a determination concerning that person's national criminal history background check as required by:~~

~~(A) subsection (a)(1); or~~

~~(B) subsection (b) or (c) until June 30, 2010.~~

SECTION 5. IC 16-27-2-5, AS AMENDED BY P.L.177-2009, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JUNE 30, 2010]: Sec. 5. (a) Except as provided in subsection (b), a person who operates a home health agency under IC 16-27-1 or a personal services agency under IC 16-27-4 may not employ a person to provide services in a patient's or client's temporary or permanent residence if that person's limited criminal history, ~~or~~ national criminal history **background check, or expanded criminal history check** indicates that the person has been convicted of any of the following:

(1) Rape (IC 35-42-4-1).

(2) Criminal deviate conduct (IC 35-42-4-2).

(3) Exploitation of an endangered adult (IC 35-46-1-12).

(4) Failure to report battery, neglect, or exploitation of an endangered adult (IC 35-46-1-13).

(5) Theft (IC 35-43-4), if the conviction for theft occurred less than ten (10) years before the person's employment application date.

(6) A felony that is substantially equivalent to a felony listed in:

(A) subdivisions (1) through (4); or

(B) subdivision (5), if the conviction for theft occurred less than ten (10) years before the person's employment application date;

for which the conviction was entered in another state.

(b) A home health agency or personal services agency may not employ a person to provide services in a patient's or client's temporary or permanent residence for more than twenty-one (21) calendar days without receipt of that person's limited criminal history, ~~or~~ national criminal history background check, **or expanded criminal history check,** required by section 4 of this chapter, unless ~~either~~ the state police department, ~~or~~ the Federal Bureau of Investigation under IC 10-13-3-39, **or the private agency providing the expanded criminal history check** is responsible for failing to provide the person's limited criminal history, ~~or~~ national criminal history background check, **or expanded criminal history check** to the home health agency or personal services agency within the time required under this subsection.

SECTION 6. IC 25-1-2-2.1, AS AMENDED BY P.L.177-2009, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2.1. Rather than being issued annually, the following permits, licenses, certificates of registration, or evidences of authority granted by a state agency must be issued for a period of two (2) years or for the period specified in the article under which the permit, license, certificate of registration, or evidence of authority is issued if the period specified in the article is longer than two (2) years:

(1) Certified public accountants, public accountants, and accounting practitioners.
(2) Architects and landscape architects.
(3) Dry cleaners.
(4) Professional engineers.
(5) Land surveyors.
(6) Real estate brokers.
(7) Real estate agents.
(8) Security dealers' licenses issued by the securities commissioner.
(9) Dental hygienists.
(10) Dentists.
(11) Veterinarians.
(12) Physicians.
(13) Chiropractors.
(14) Physical therapists.
(15) Optometrists.

(16) Pharmacists and assistants, drugstores or pharmacies.
(17) Motels and mobile home community licenses.
(18) Nurses.
(19) Podiatrists.
(20) Occupational therapists and occupational therapy assistants.
(21) Respiratory care practitioners.
(22) Social workers, marriage and family therapists, and mental health counselors.
(23) Real estate appraiser licenses and certificates issued by the real estate appraiser licensure and certification board.
(24) Wholesale legend drug distributors.
(25) Physician assistants.
(26) Dietitians.
~~(27) Hypnotists.~~
~~(28)~~ **(27)** Athlete agents.
~~(29)~~ **(28)** Manufactured home installers.
~~(30)~~ **(29)** Home inspectors.
~~(31)~~ **(30)** Massage therapists.
~~(32)~~ **(31)** Interior designers.
~~(33)~~ **(32)** Genetic counselors.

SECTION 7. IC 25-1-2-6, AS AMENDED BY P.L.122-2009, SECTION 1, AND AS AMENDED BY P.L.160-2009, SECTION 4, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) As used in this section, "license" includes all occupational and professional licenses, registrations, permits, and certificates issued under the Indiana Code, and "licensee" includes all occupational and professional licensees, registrants, permittees, and certificate holders regulated under the Indiana Code.

(b) This section applies to the following entities that regulate occupations or professions under the Indiana Code:

(1) Indiana board of accountancy.
(2) Indiana grain buyers and warehouse licensing agency.
(3) Indiana auctioneer commission.
(4) Board of registration for architects and landscape architects.
~~(5) State board of barber examiners.~~
~~(6)~~ **(5)** State board of cosmetology **and barber** examiners.
~~(7)~~ **(6)** Medical licensing board of Indiana.

~~(8)~~ **(7)** Secretary of state.
~~(9)~~ **(8)** State board of dentistry.
~~(10)~~ **(9)** State board of funeral and cemetery service.
~~(11)~~ **(10)** Worker's compensation board of Indiana.
~~(12)~~ **(11)** Indiana state board of health facility administrators.
~~(13)~~ **(12)** Committee of hearing aid dealer examiners.
~~(14)~~ **(13)** Indiana state board of nursing.
~~(15)~~ **(14)** Indiana optometry board.
~~(16)~~ **(15)** Indiana board of pharmacy.
~~(17)~~ **(16)** Indiana plumbing commission.
~~(18)~~ **(17)** Board of podiatric medicine.
~~(19)~~ **(18)** Private investigator and security guard licensing board.
~~(20)~~ **(19)** State board of registration for professional engineers.
~~(21) Board of environmental health specialists.~~
~~(22)~~ **(20)** State psychology board.
~~(23)~~ **(21)** Indiana real estate commission.
~~(24)~~ **(22)** Speech-language pathology and audiology board.
~~(25)~~ **(23)** Department of natural resources.
~~(26)~~ **(24)** State ~~*boxing*~~ *athletic* commission.
~~(27)~~ **(25)** Board of chiropractic examiners.
~~(28)~~ **(26)** Mining board.
~~(29)~~ **(27)** Indiana board of veterinary medical examiners.
~~(30)~~ **(28)** State department of health.
~~(31)~~ **(29)** Indiana physical therapy committee.
~~(32)~~ **(30)** Respiratory care committee.
~~(33)~~ **(31)** Occupational therapy committee.
~~(34)~~ ~~*Social worker, marriage and family therapist, and mental health counselor*~~ **(32)** *Behavioral health and human services licensing* board.
~~(35)~~ **(33)** Real estate appraiser licensure and certification board.
~~(36)~~ **(34)** State board of registration for land surveyors.
~~(37)~~ **(35)** Physician assistant committee.
~~(38)~~ **(36)** Indiana dietitians certification board.
~~(39) Indiana hypnotist committee.~~
~~(40)~~ **(37)** Attorney general (only for the regulation of athlete agents).
~~(41)~~ **(38)** Manufactured home installer licensing board.
~~(42)~~ **(39)** Home inspectors licensing board.

~~(43)~~ **(40)** State board of massage therapy.

~~(44)~~ **(41)** Any other occupational or professional agency created after June 30, 1981.

(c) Notwithstanding any other law, the entities included in subsection (b) shall send a notice of the upcoming expiration of a license to each licensee at least sixty (60) days prior to the expiration of the license. The notice must inform the licensee of the need to renew and the requirement of payment of the renewal fee. If this notice of expiration is not sent by the entity, the licensee is not subject to a sanction for failure to renew if, once notice is received from the entity, the license is renewed within forty-five (45) days of the receipt of the notice.

SECTION 8. IC 25-1-4-0.3, AS AMENDED BY P.L.122-2009, SECTION 2, AND AS AMENDED BY P.L.160-2009, SECTION 5, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 0.3. As used in this chapter, "board" means any of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).

(2) Board of registration for architects and landscape architects (IC 25-4-1-2).

(3) Indiana athletic trainers board (IC 25-5.1-2-1).

(4) Indiana auctioneer commission (IC 25-6.1-2-1).

~~(5) State board of barber examiners (IC 25-7-5-1).~~

~~*(6) State boxing commission (IC 25-9-1).*~~

~~*(7)*~~ **(5)** Board of chiropractic examiners (IC 25-10-1).

~~*(8)*~~ **(6)** State board of cosmetology **and barber** examiners (IC 25-8-3-1).

~~*(9)*~~ **(7)** State board of dentistry (IC 25-14-1).

~~*(10)*~~ **(8)** Indiana dietitians certification board (IC 25-14.5-2-1).

~~*(11)*~~ **(9)** State board of registration for professional engineers (IC 25-31-1-3).

~~*(12)* Board of environmental health specialists (IC 25-32-1).~~

~~*(13)*~~ **(10)** State board of funeral and cemetery service (IC 25-15-9).

~~*(14)*~~ **(11)** Indiana state board of health facility administrators (IC 25-19-1).

~~*(15)*~~ **(12)** Committee of hearing aid dealer examiners (IC 25-20-1-1.5).

~~*(16)*~~ **(13)** Home inspectors licensing board (IC 25-20.2-3-1).

~~*(17)* Indiana hypnotist committee (IC 25-20.5-1-7).~~

~~*(18)*~~ **(14)** State board of registration for land surveyors (IC 25-21.5-2-1).

~~*(19)*~~ **(15)** Manufactured home installer licensing board (IC 25-23.7).

~~*(20)*~~ **(16)** Medical licensing board of Indiana (IC 25-22.5-2).

~~*(21)*~~ **(17)** Indiana state board of nursing (IC 25-23-1).

~~*(22)*~~ **(18)** Occupational therapy committee (IC 25-23.5).

~~*(23)*~~ **(19)** Indiana optometry board (IC 25-24).

~~*(24)*~~ **(20)** Indiana board of pharmacy (IC 25-26).

~~*(25)*~~ **(21)** Indiana physical therapy committee (IC 25-27-1).

~~*(26)*~~ **(22)** Physician assistant committee (IC 25-27.5).

~~*(27)*~~ **(23)** Indiana plumbing commission (IC 25-28.5-1-3).

~~*(28)*~~ **(24)** Board of podiatric medicine (IC 25-29-2-1).

~~*(29)*~~ **(25)** Private investigator and security guard licensing board (IC 25-30-1-5.2).

~~*(30)*~~ **(26)** State psychology board (IC 25-33).

~~*(31)*~~ **(27)** Indiana real estate commission (IC 25-34.1-2).

~~*(32)*~~ **(28)** Real estate appraiser licensure and certification board (IC 25-34.1-8).

~~*(33)*~~ **(29)** Respiratory care committee (IC 25-34.5).

~~*(34) Social worker, marriage and family therapist, and mental health counselor*~~ **(30)** *Behavioral health and human services licensing* board (IC 25-23.6).

~~*(35)*~~ **(31)** Speech-language pathology and audiology board (IC 25-35.6-2).

~~*(36)*~~ **(32)** Indiana board of veterinary medical examiners (IC 25-38.1-2).

SECTION 9. IC 25-1-5-3, AS AMENDED BY P.L.122-2009, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) There is established the Indiana professional licensing agency. The agency shall perform all administrative functions, duties, and responsibilities assigned by law or rule to the executive director, secretary, or other statutory administrator of the following:

(1) Board of chiropractic examiners (IC 25-10-1).

(2) State board of dentistry (IC 25-14-1).

(3) Indiana state board of health facility administrators (IC 25-19-1).

(4) Medical licensing board of Indiana (IC 25-22.5-2).

(5) Indiana state board of nursing (IC 25-23-1).

(6) Indiana optometry board (IC 25-24).

(7) Indiana board of pharmacy (IC 25-26).

(8) Board of podiatric medicine (IC 25-29-2-1).

~~(9) Board of environmental health specialists (IC 25-32).~~

~~(10)~~ **(9)** Speech-language pathology and audiology board (IC 25-35.6-2).

~~(11)~~ **(10)** State psychology board (IC 25-33).

~~(12)~~ **(11)** Indiana board of veterinary medical examiners (IC 25-38.1-2).

~~(13) Controlled substances advisory committee (IC 35-48-2-1).~~

~~(14)~~ **(12)** Committee of hearing aid dealer examiners (IC 25-20).

~~(15)~~ **(13)** Indiana physical therapy committee (IC 25-27).

~~(16)~~ **(14)** Respiratory care committee (IC 25-34.5).

~~(17)~~ **(15)** Occupational therapy committee (IC 25-23.5).

~~(18)~~ **(16)** Behavioral health and human services licensing board (IC 25-23.6).

~~(19)~~ **(17)** Physician assistant committee (IC 25-27.5).

~~(20)~~ **(18)** Indiana athletic trainers board (IC 25-5.1-2-1).

~~(21)~~ **(19)** Indiana dietitians certification board (IC 25-14.5-2-1).

~~(22) Indiana hypnotist committee (IC 25-20.5-1-7).~~

(b) Nothing in this chapter may be construed to give the agency policy making authority, which authority remains with each board.

SECTION 10. IC 25-1-5-10, AS AMENDED BY P.L.122-2009, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10. (a) As used in this section, "provider" means an individual licensed, certified, registered, or permitted by any of the following:

(1) Board of chiropractic examiners (IC 25-10-1).

(2) State board of dentistry (IC 25-14-1).

(3) Indiana state board of health facility administrators (IC 25-19-1).

(4) Medical licensing board of Indiana (IC 25-22.5-2).

(5) Indiana state board of nursing (IC 25-23-1).

(6) Indiana optometry board (IC 25-24).

(7) Indiana board of pharmacy (IC 25-26).

(8) Board of podiatric medicine (IC 25-29-2-1).

~~(9) Board of environmental health specialists (IC 25-32-1).~~

~~(10)~~ **(9)** Speech-language pathology and audiology board (IC 25-35.6-2).

~~(11)~~ **(10)** State psychology board (IC 25-33).

~~(12)~~ **(11)** Indiana board of veterinary medical examiners (IC 25-38.1-2).

~~(13)~~ **(12)** Indiana physical therapy committee (IC 25-27).

~~(14)~~ **(13)** Respiratory care committee (IC 25-34.5).

~~(15)~~ **(14)** Occupational therapy committee (IC 25-23.5).

~~(16)~~ **(15)** Behavioral health and human services licensing board (IC 25-23.6).

~~(17)~~ **(16)** Physician assistant committee (IC 25-27.5).

~~(18)~~ **(17)** Indiana athletic trainers board (IC 25-5.1-2-1).

~~(19)~~ **(18)** Indiana dietitians certification board (IC 25-14.5-2-1).

~~(20) Indiana hypnotist committee (IC 25-20.5-1-7).~~

(b) The agency shall create and maintain a provider profile for each provider described in subsection (a).

(c) A provider profile must contain the following information:

(1) The provider's name.

(2) The provider's license, certification, registration, or permit number.

(3) The provider's license, certification, registration, or permit type.

(4) The date the provider's license, certification, registration, or permit was issued.

(5) The date the provider's license, certification, registration, or permit expires.

(6) The current status of the provider's license, certification, registration, or permit.

(7) The provider's city and state of record.

(8) A statement of any disciplinary action taken against the provider within the previous ten (10) years by a board or committee described in subsection (a).

(d) The agency shall make provider profiles available to the public.

(e) The computer gateway administered by the office of technology established by IC 4-13.1-2-1 shall make the information described in

subsection (c)(1), (c)(2), (c)(3), (c)(6), (c)(7), and (c)(8) generally available to the public on the Internet.

(f) The agency may adopt rules under IC 4-22-2 to implement this section.

SECTION 11. IC 25-1-6-3, AS AMENDED BY P.L.160-2009, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) The licensing agency shall perform all administrative functions, duties, and responsibilities assigned by law or rule to the executive director, secretary, or other statutory administrator of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).

(2) Board of registration for architects and landscape architects (IC 25-4-1-2).

(3) Indiana auctioneer commission (IC 25-6.1-2-1).

~~(4) State board of barber examiners (IC 25-7-5-1).~~

~~(5)~~ **(4)** State board of cosmetology examiners (IC 25-8-3-1).

~~(6)~~ **(5)** State board of funeral and cemetery service (IC 25-15-9).

~~(7)~~ **(6)** State board of registration for professional engineers (IC 25-31-1-3).

~~(8)~~ **(7)** Indiana plumbing commission (IC 25-28.5-1-3).

~~(9)~~ **(8)** Indiana real estate commission (IC 25-34.1).

~~(10)~~ **(9)** Real estate appraiser licensure and certification board (IC 25-34.1-8-1).

~~(11)~~ **(10)** Private investigator and security guard licensing board (IC 25-30-1-5.2).

~~(12)~~ **(11)** State board of registration for land surveyors (IC 25-21.5-2-1).

~~(13)~~ **(12)** Manufactured home installer licensing board (IC 25-23.7).

~~(14)~~ **(13)** Home inspectors licensing board (IC 25-20.2-3-1).

~~(15)~~ **(14)** State board of massage therapy (IC 25-21.8-2-1).

(b) Nothing in this chapter may be construed to give the licensing agency policy making authority, which remains with each board.

SECTION 12. IC 25-1-7-1, AS AMENDED BY P.L.1-2009, SECTION 138, AS AMENDED BY P.L.122-2009, SECTION 5, AND AS AMENDED BY P.L.160-2009, SECTION 7, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. As used in this chapter:

"Board" means the appropriate agency listed in the definition of regulated occupation in this section.

"Director" refers to the director of the division of consumer protection.

"Division" refers to the division of consumer protection, office of the attorney general.

"Licensee" means a person who is:

(1) licensed, certified, or registered by a board listed in this section; and

(2) the subject of a complaint filed with the division.

"Person" means an individual, a partnership, a limited liability company, or a corporation.

"Regulated occupation" means an occupation in which a person is licensed, certified, or registered by one (1) of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).

(2) Board of registration for architects and landscape architects (IC 25-4-1-2).

(3) Indiana auctioneer commission (IC 25-6.1-2-1).

~~(4) State board of barber examiners (IC 25-7-5-1).~~

~~(5)~~ **(4)** State ~~*boxing*~~ *athletic* commission (IC 25-9-1).

~~(6)~~ **(5)** Board of chiropractic examiners (IC 25-10-1).

~~(7)~~ **(6)** State board of cosmetology **and barber** examiners (IC 25-8-3-1).

~~(8)~~ **(7)** State board of dentistry (IC 25-14-1).

~~(9)~~ **(8)** State board of funeral and cemetery service (IC 25-15-9).

~~(10)~~ **(9)** State board of registration for professional engineers (IC 25-31-1-3).

~~(11)~~ **(10)** Indiana state board of health facility administrators (IC 25-19-1).

~~(12)~~ **(11)** Medical licensing board of Indiana (IC 25-22.5-2).

~~(13)~~ **(12)** Indiana state board of nursing (IC 25-23-1).

~~(14)~~ **(13)** Indiana optometry board (IC 25-24).

~~(15)~~ **(14)** Indiana board of pharmacy (IC 25-26).

~~(16)~~ **(15)** Indiana plumbing commission (IC 25-28.5-1-3).

~~(17)~~ **(16)** Board of podiatric medicine (IC 25-29-2-1).

~~(18) Board of environmental health specialists (IC 25-32-1).~~

~~(19)~~ **(17)** State psychology board (IC 25-33).

~~(20)~~ **(18)** Speech-language pathology and audiology board

(IC 25-35.6-2).

~~(21)~~ **(19)** Indiana real estate commission (IC 25-34.1-2).

~~(22)~~ **(20)** Indiana board of veterinary medical examiners (IC 25-38.1).

~~(23)~~ **(21)** Department of natural resources for purposes of licensing water well drillers under IC 25-39-3.

~~(24)~~ **(22)** Respiratory care committee (IC 25-34.5).

~~(25)~~ **(23)** Private investigator and security guard licensing board (IC 25-30-1-5.2).

~~(26)~~ **(24)** Occupational therapy committee (IC 25-23.5).

~~(27) *Social worker, marriage and family therapist, and mental health counselor*~~ **(25)** *Behavioral health and human services licensing* board (IC 25-23.6).

~~(28)~~ **(26)** Real estate appraiser licensure and certification board (IC 25-34.1-8).

~~(29)~~ **(27)** State board of registration for land surveyors (IC 25-21.5-2-1).

~~(30)~~ **(28)** Physician assistant committee (IC 25-27.5).

~~(31)~~ **(29)** Indiana athletic trainers board (IC 25-5.1-2-1).

~~(32)~~ **(30)** Indiana dietitians certification board (IC 25-14.5-2-1).

~~(33) Indiana hypnotist committee (IC 25-20.5-1-7).~~

~~(34)~~ **(31)** Indiana physical therapy committee (IC 25-27).

~~(35)~~ **(32)** Manufactured home installer licensing board (IC 25-23.7).

~~(36)~~ **(33)** Home inspectors licensing board (IC 25-20.2-3-1).

~~(37)~~ **(34)** State department of health, for out-of-state mobile health care entities.

~~(38)~~ **(35)** State board of massage therapy (IC 25-21.8-2-1).

~~(39)~~ **(36)** Any other occupational or professional agency created after June 30, 1981.

SECTION 13. IC 25-1-7-14 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 14. (a) Notwithstanding any other law, if the board of a regulated occupation believes that a person who is not licensed, certified, or registered under this title is engaged in or is believed to be engaged in activities for which a license, certification, or registration is required under this title, the board may do the following:**

(1) File a complaint with the attorney general, who shall investigate and may file:

(A) with notice; or

(B) without notice, if the attorney general determines that person is engaged in activities that may affect an individual's health or safety;

a motion for a cease and desist order with the appropriate board.

(2) Upon review of the attorney general's motion for a cease and desist order, the board may issue an order requiring the affected person to show cause why the person should not be ordered to cease and desist from such activities. The show cause order must set forth a time and place for a hearing at which the affected person may appear and show cause as to why the person should not be subject to licensing, certification, or registration under this title.

(b) If the board, after a hearing, determines that the activities in which the person is engaged are subject to licensing, certification, or registration under this title, the board may issue a cease and desist order that must describe the person and activities that are the subject of the order.

(c) A hearing conducted under this section must comply with the requirements under IC 4-21.5.

(d) A cease and desist order issued under this section is enforceable in the circuit or superior courts. A person who is enjoined under a cease and desist order and who violates the order shall be punished for contempt of court.

(e) A cease and desist order issued under this section does not relieve any person from criminal prosecution.

SECTION 14. IC 25-1-8-1, AS AMENDED BY P.L.122-2009, SECTION 6, AND AS AMENDED BY P.L.160-2009, SECTION 8, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. As used in this chapter, "board" means any of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).

(2) Board of registration for architects and landscape architects (IC 25-4-1-2).

(3) Indiana auctioneer commission (IC 25-6.1-2-1).

~~(4) State board of barber examiners (IC 25-7-5-1).~~

~~(5)~~ **(4)** State ~~*boxing*~~ *athletic* commission (IC 25-9-1).
~~(6)~~ **(5)** Board of chiropractic examiners (IC 25-10-1).
~~(7)~~ **(6)** State board of cosmetology **and barber** examiners (IC 25-8-3-1).
~~(8)~~ **(7)** State board of dentistry (IC 25-14-1).
~~(9)~~ **(8)** State board of funeral and cemetery service (IC 25-15).
~~(10)~~ **(9)** State board of registration for professional engineers (IC 25-31-1-3).
~~(11)~~ **(10)** Indiana state board of health facility administrators (IC 25-19-1).
~~(12)~~ **(11)** Medical licensing board of Indiana (IC 25-22.5-2).
~~(13)~~ **(12)** Mining board (IC 22-10-1.5-2).
~~(14)~~ **(13)** Indiana state board of nursing (IC 25-23-1).
~~(15)~~ **(14)** Indiana optometry board (IC 25-24).
~~(16)~~ **(15)** Indiana board of pharmacy (IC 25-26).
~~(17)~~ **(16)** Indiana plumbing commission (IC 25-28.5-1-3).
~~(18) Board of environmental health specialists (IC 25-32-1).~~
~~(19)~~ **(17)** State psychology board (IC 25-33).
~~(20)~~ **(18)** Speech-language pathology and audiology board (IC 25-35.6-2).
~~(21)~~ **(19)** Indiana real estate commission (IC 25-34.1-2-1).
~~(22)~~ **(20)** Indiana board of veterinary medical examiners (IC 25-38.1-2-1).
~~(23)~~ **(21)** Department of insurance (IC 27-1).
~~(24)~~ **(22)** State police department (IC 10-11-2-4), for purposes of certifying polygraph examiners under IC 25-30-2.
~~(25)~~ **(23)** Department of natural resources for purposes of licensing water well drillers under IC 25-39-3.
~~(26)~~ **(24)** Private investigator and security guard licensing board (IC 25-30-1-5.2).
~~(27)~~ **(25)** Occupational therapy committee (IC 25-23.5-2-1).
~~(28)~~ ~~*Social worker, marriage and family therapist, and mental health counselor*~~ **(26)** *Behavioral health and human services licensing* board (IC 25-23.6-2-1).
~~(29)~~ **(27)** Real estate appraiser licensure and certification board (IC 25-34.1-8).
~~(30)~~ **(28)** State board of registration for land surveyors (IC 25-21.5-2-1).

~~(31)~~ **(29)** Physician assistant committee (IC 25-27.5).

~~(32)~~ **(30)** Indiana athletic trainers board (IC 25-5.1-2-1).

~~(33)~~ **(31)** Board of podiatric medicine (IC 25-29-2-1).

~~(34)~~ **(32)** Indiana dietitians certification board (IC 25-14.5-2-1).

~~(35)~~ **(33)** Indiana physical therapy committee (IC 25-27).

~~(36)~~ **(34)** Manufactured home installer licensing board (IC 25-23.7).

~~(37)~~ **(35)** Home inspectors licensing board (IC 25-20.2-3-1).

~~(38)~~ **(36)** State board of massage therapy (IC 25-21.8-2-1).

~~(39)~~ **(37)** Any other occupational or professional agency created after June 30, 1981.

SECTION 15. IC 25-1-8-6, AS AMENDED BY P.L.122-2009, SECTION 7, AND AS AMENDED BY P.L.160-2009, SECTION 9, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) As used in this section, "board" means any of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).

(2) Board of registration for architects and landscape architects (IC 25-4-1-2).

(3) Indiana athletic trainers board (IC 25-5.1-2-1).

(4) Indiana auctioneer commission (IC 25-6.1-2-1).

~~(5) State board of barber examiners (IC 25-7-5-1).~~

~~*(6) State boxing commission (IC 25-9-1).*~~

~~*(7)*~~ **(5)** Board of chiropractic examiners (IC 25-10-1).

~~*(8)*~~ **(6)** State board of cosmetology **and barber** examiners (IC 25-8-3-1).

~~*(9)*~~ **(7)** State board of dentistry (IC 25-14-1).

~~*(10)*~~ **(8)** Indiana dietitians certification board (IC 25-14.5-2-1).

~~*(11)*~~ **(9)** State board of registration for professional engineers (IC 25-31-1-3).

~~*(12)* Board of environmental health specialists (IC 25-32-1).~~

~~*(13)*~~ **(10)** State board of funeral and cemetery service (IC 25-15-9).

~~*(14)*~~ **(11)** Indiana state board of health facility administrators (IC 25-19-1).

~~*(15)*~~ **(12)** Committee of hearing aid dealer examiners (IC 25-20-1-1.5).

~~*(16)*~~ **(13)** Home inspectors licensing board (IC 25-20.2-3-1).

~~*(17)* Indiana hypnotist committee (IC 25-20.5-1-7).~~

~~*(18)*~~ **(14)** State board of registration for land surveyors (IC 25-21.5-2-1).

~~*(19)*~~ **(15)** Manufactured home installer licensing board (IC 25-23.7).

~~*(20)*~~ **(16)** Medical licensing board of Indiana (IC 25-22.5-2).

~~*(21)*~~ **(17)** Indiana state board of nursing (IC 25-23-1).

~~*(22)*~~ **(18)** Occupational therapy committee (IC 25-23.5).

~~*(23)*~~ **(19)** Indiana optometry board (IC 25-24).

~~*(24)*~~ **(20)** Indiana board of pharmacy (IC 25-26).

~~*(25)*~~ **(21)** Indiana physical therapy committee (IC 25-27).

~~*(26)*~~ **(22)** Physician assistant committee (IC 25-27.5).

~~*(27)*~~ **(23)** Indiana plumbing commission (IC 25-28.5-1-3).

~~*(28)*~~ **(24)** Board of podiatric medicine (IC 25-29-2-1).

~~*(29)*~~ **(25)** Private investigator and security guard licensing board (IC 25-30-1-5.2).

~~*(30)*~~ **(26)** State psychology board (IC 25-33).

~~*(31)*~~ **(27)** Indiana real estate commission (IC 25-34.1-2).

~~*(32)*~~ **(28)** Real estate appraiser licensure and certification board (IC 25-34.1-8).

~~*(33)*~~ **(29)** Respiratory care committee (IC 25-34.5).

~~*(34) Social worker, marriage and family therapist, and mental health counselor*~~ **(30)** *Behavioral health and human services licensing* board (IC 25-23.6).

~~*(35)*~~ **(31)** Speech-language pathology and audiology board (IC 25-35.6-2).

~~*(36)*~~ **(32)** Indiana board of veterinary medical examiners (IC 25-38.1).

~~*(37)*~~ **(33)** State board of massage therapy (IC 25-21.8-2-1).

(b) This section does not apply to a license, certificate, or registration that has been revoked or suspended.

(c) Notwithstanding any other law regarding the reinstatement of a delinquent or lapsed license, certificate, or registration and except as provided in section 8 of this chapter, the holder of a license, certificate, or registration that was issued by the board that is three (3) years or less delinquent must be reinstated upon meeting the following requirements:

(1) Submission of the holder's completed renewal application.

(2) Payment of the current renewal fee established by the board under section 2 of this chapter.

(3) Payment of a reinstatement fee established by the Indiana professional licensing agency.

(4) If a law requires the holder to complete continuing education as a condition of renewal, the holder:

(A) shall provide the board with a sworn statement, signed by the holder, that the holder has fulfilled the continuing education requirements required by the board; or

(B) shall, if the holder has not complied with the continuing education requirements, meet any requirements imposed under IC 25-1-4-5 and IC 25-1-4-6.

(d) Notwithstanding any other law regarding the reinstatement of a delinquent or lapsed license, certificate, or registration and except as provided in section 8 of this chapter, unless a statute specifically does not allow a license, certificate, or registration to be reinstated if it has lapsed for more than three (3) years, the holder of a license, certificate, or registration that was issued by the board that is more than three (3) years delinquent must be reinstated upon meeting the following requirements:

(1) Submission of the holder's completed renewal application.

(2) Payment of the current renewal fee established by the board under section 2 of this chapter.

(3) Payment of a reinstatement fee equal to the current initial application fee.

(4) If a law requires the holder to complete continuing education as a condition of renewal, the holder:

(A) shall provide the board with a sworn statement, signed by the holder, that the holder has fulfilled the continuing education requirements required by the board; or

(B) shall, if the holder has not complied with the continuing education requirements, meet any requirements imposed under IC 25-1-4-5 and IC 25-1-4-6.

(5) Complete such remediation and additional training as deemed appropriate by the board given the lapse of time involved.

(6) Any other requirement that is provided for in statute or rule that is not related to fees.

SECTION 16. IC 25-1-9-1, AS AMENDED BY P.L.122-2009,

SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. As used in this chapter, "board" means any of the following:

(1) Board of chiropractic examiners (IC 25-10-1).

(2) State board of dentistry (IC 25-14-1).

(3) Indiana state board of health facility administrators (IC 25-19-1).

(4) Medical licensing board of Indiana (IC 25-22.5-2).

(5) Indiana state board of nursing (IC 25-23-1).

(6) Indiana optometry board (IC 25-24).

(7) Indiana board of pharmacy (IC 25-26).

(8) Board of podiatric medicine (IC 25-29-2-1).

~~(9) Board of environmental health specialists (IC 25-32).~~

~~(10)~~ **(9)** Speech-language pathology and audiology board (IC 25-35.6-2).

~~(11)~~ **(10)** State psychology board (IC 25-33).

~~(12)~~ **(11)** Indiana board of veterinary medical examiners (IC 25-38.1-2).

~~(13)~~ **(12)** Indiana physical therapy committee (IC 25-27-1).

~~(14)~~ **(13)** Respiratory care committee (IC 25-34.5).

~~(15)~~ **(14)** Occupational therapy committee (IC 25-23.5).

~~(16)~~ **(15)** Behavioral health and human services licensing board (IC 25-23.6).

~~(17)~~ **(16)** Physician assistant committee (IC 25-27.5).

~~(18)~~ **(17)** Indiana athletic trainers board (IC 25-5.1-2-1).

~~(19)~~ **(18)** Indiana dietitians certification board (IC 25-14.5-2-1).

~~(20) Indiana hypnotist committee (IC 25-20.5-1-7).~~

SECTION 17. IC 25-1-9-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 17. The board ~~and the controlled substances advisory committee (IC 35-48-2-1)~~ may require an applicant for licensure to appear before the board ~~or committee~~ before issuing a license.

SECTION 18. IC 25-1-11-1, AS AMENDED BY P.L.160-2009, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. As used in this chapter, "board" means any of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).

(2) Board of registration for architects and landscape architects

(IC 25-4-1-2).

(3) Indiana auctioneer commission (IC 25-6.1-2).

~~(4) State board of barber examiners (IC 25-7-5-1).~~

~~(5)~~ **(4)** State athletic commission (IC 25-9-1).

~~(6)~~ **(5)** State board of cosmetology **and barber** examiners (IC 25-8-3-1).

~~(7)~~ **(6)** State board of registration of land surveyors (IC 25-21.5-2-1).

~~(8)~~ **(7)** State board of funeral and cemetery service (IC 25-15-9).

~~(9)~~ **(8)** State board of registration for professional engineers (IC 25-31-1-3).

~~(10)~~ **(9)** Indiana plumbing commission (IC 25-28.5-1-3).

~~(11)~~ **(10)** Indiana real estate commission (IC 25-34.1-2-1).

~~(12)~~ **(11)** Real estate appraiser licensure and certification board (IC 25-34.1-8).

~~(13)~~ **(12)** Private investigator and security guard licensing board (IC 25-30-1-5.2).

~~(14)~~ **(13)** Manufactured home installer licensing board (IC 25-23.7).

~~(15)~~ **(14)** Home inspectors licensing board (IC 25-20.2-3-1).

~~(16)~~ **(15)** State board of massage therapy (IC 25-21.8-2-1).

SECTION 19. IC 25-1-16 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

Chapter 16. Evaluation of Regulated Occupations

Sec. 1. As used in this chapter, "agency" refers to the Indiana professional licensing agency.

Sec. 2. As used in this chapter, "board" means an entity that regulates a specific regulated occupation.

Sec. 3. As used in this chapter, "committee" means the regulated occupations evaluation committee established by section 6 of this chapter.

Sec. 4. As used in this chapter, "license" means:

(1) an unlimited license, certificate, or registration;

(2) a limited or probationary license, certificate, or registration;

(3) a temporary license, certificate, registration, or permit;

(4) an intern permit; or

(5) a provisional license;

issued by the board regulating the regulated occupation in question.

Sec. 5. As used in this chapter, "regulated occupation" has the meaning set forth in IC 25-1-7-1.

Sec. 6. The regulated occupations evaluation committee is established.

Sec. 7. (a) The committee consists of the following individuals:

(1) The dean of the Indiana University School of Public and Environmental Affairs or the dean's designee. The dean or the dean's designee shall serve as chairperson of the committee.

(2) The director of the agency or the director's designee.

(3) The attorney general or the attorney general's designee, as a nonvoting member.

(4) Two (2) individuals appointed by the governor who are licensed in a regulated occupation.

(5) Two (2) individuals appointed by the governor who are not licensed in a regulated occupation.

(b) The term of a member appointed under subsection (a)(4) or (a)(5) is three (3) years.

(c) The affirmative votes of a majority of the voting members appointed to the committee are required for the committee to take action on any measure.

Sec. 8. (a) The committee shall review and evaluate each regulated occupation. The review and evaluation must include the following:

(1) The functions, powers, and duties of the regulated occupation and the board, including any functions, powers, or duties that are inconsistent with current or projected practice of the occupation.

(2) An assessment of the management efficiency of the board.

(3) An assessment of the regulated occupation's and the board's ability to meet the objectives of the general assembly in licensing the regulated occupation.

(4) Any other criteria identified by the committee.

(b) The committee shall prepare a report concerning each regulated occupation that the committee reviews and evaluates. The report must contain the following:

(1) The number of individuals who are licensed in the

regulated occupation.

(2) A summary of the board's functions and actions.

(3) The budget and other fiscal factors of regulating the regulated occupation.

(4) An assessment of the effect of the regulated occupation on the state's economy, including consumers and businesses.

(5) Any recommendations for legislation, including whether a regulated occupation should be modified, combined with another board, or terminated.

(6) Any recommendations for administrative changes.

Sec. 9. (a) A board shall cooperate with the committee, as the committee determines is necessary in the committee's review and evaluation of the board.

(b) The committee shall allow testimony concerning each regulated occupation that is being reviewed and evaluated.

Sec. 10. The committee shall establish a schedule to review and evaluate each regulated occupation. Each regulated occupation must be reviewed and evaluated at least every seven (7) years.

Sec. 11. (a) The agency shall provide staff and administrative support to the committee.

(b) The committee may hire, with approval of the director of the agency, an individual to assist the committee.

(c) The expenditures of the committee shall be paid from appropriations to the agency.

Sec. 12. (a) Each member of the committee who is not a state employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the committee who is a state employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 13. The committee shall submit a report to the:

(1) governor;

(2) health finance commission; and

(3) legislative services agency;

not later than July 1 of each year. The report submitted to the legislative services agency must be in an electronic format under IC 5-14-6.

SECTION 20. IC 25-2.1-9-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) If the board has reason to believe that the subject of an investigation has committed a violation of this article or IC 25-1-11:

(1) the board shall direct that a complaint be issued under ~~IC 25-2.1-7-7,~~ **IC 25-1-7,** if the subject of the investigation is a licensee; and

(2) the board shall take appropriate action under ~~IC 25-2.1-13,~~ **IC 25-1-7-14,** if the subject of the investigation is not a licensee.

(b) If the board does not proceed under subsection (a), the board shall close the matter and may release the information only with the consent of the individual or firm that was under investigation.

SECTION 21. IC 25-8-2-2.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 2.1. "Barber" means a person licensed under IC 25-8-12.1.**

SECTION 22. IC 25-8-2-2.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 2.2. "Barber instructor" means a person licensed under IC 25-8-6.4 to teach barbering.**

SECTION 23. IC 25-8-2-2.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 2.3. "Barber school" means an establishment licensed under IC 25-8-6.3 that offers training in barbering.**

SECTION 24. IC 25-8-2-2.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 2.4. "Barber shop" means an establishment licensed under IC 25-8-8.1 that offers barbering to the public.**

SECTION 25. IC 25-8-2-2.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 2.7. (a) "Barbering" means performing one (1) or more of the following practices upon the head, face, or neck of a person:**

(1) Cutting, trimming, styling, arranging, dressing, curling,

permanent waving, cleansing, bleaching, tinting, coloring, or similarly treating hair.

(2) Shaving or trimming beards and mustaches.

(3) Applying oils, creams, antiseptics, clays, powders, lotions, or other preparations, either by hand or by mechanical appliances, in the performance of facial or scalp massage.

(b) "Barbering" does not include performing any of the acts described in subsection (a) when done:

(1) in treating illness or disease;

(2) as a student in a barber school that complies with the notice requirements set forth in IC 25-8-6.3; or

(3) without compensation.

SECTION 26. IC 25-8-2-2.6, AS ADDED BY P.L.78-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2.6. "Beauty culture professional" refers to the following:

(1) A cosmetologist licensed under IC 25-8-9.

(2) An electrologist licensed under IC 25-8-10.

(3) A manicurist licensed under IC 25-8-11.

(4) An esthetician licensed under IC 25-8-12.5.

(5) An instructor licensed under IC 25-8-6.

(6) A barber licensed under IC 25-8-12.1.

SECTION 27. IC 25-8-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. "Board" refers to the state board of cosmetology **and barber** examiners.

SECTION 28. IC 25-8-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10. "Instructor" means a person:

(1) licensed under IC 25-8-6 to teach in a cosmetology school; **or**

(2) licensed under IC 25-8-6.4 to teach in a barber school.

SECTION 29. IC 25-8-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. The state board of cosmetology **and barber** examiners is established.

SECTION 30. IC 25-8-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) Each of the ~~remaining five (5)~~ members of the board must reside in Indiana.

(b) ~~At least three (3)~~ **The members of the board must meet the following qualifications:**

(1) Two (2) of the members ~~described in subsection (a)~~ must: ~~have been licensed cosmetologists practicing in~~

(A) possess a current cosmetologist license; and

(B) have practiced cosmetology ~~salons~~ in Indiana continuously for at least five (5) years **immediately** before appointment.

(2) Two (2) of the members of the board must:

(A) possess a current barber license; and

(B) have practiced barbering in Indiana continuously for at least five (5) years immediately before appointment.

~~(c) Two (2)~~ **(3) One (1)** of the members ~~described in subsection (a) may~~ **must** be ~~owners~~ **an owner** or ~~operators~~ **operator** of **a barber or** cosmetology ~~schools. One (1) of the members described in this subsection must be a licensed cosmetologist. One (1) of~~ **school. However,** the ~~members described in this subsection is~~ **member may** not ~~required to~~ be a **licensed barber or** cosmetologist.

~~(d) Not more than two (2) members of the board may be:~~

~~(1) owners of;~~

~~(2) operators of;~~

~~(3) members of the board of directors of;~~

~~(4) employees of; or~~

~~(5) contractors with;~~

~~a cosmetology school.~~

(4) One (1) of the members must be licensed as an electrologist, an esthetician, or a manicurist.

(5) One (1) of the members must not have any association with cosmetology or barbering, except as a consumer.

SECTION 31. IC 25-8-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. No more than ~~four (4)~~ **five (5)** members of the board may belong to the same political party.

SECTION 32. IC 25-8-3-23, AS AMENDED BY P.L.197-2007, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 23. (a) The board shall adopt rules under IC 4-22-2 to:

(1) prescribe sanitary requirements for:

(A) cosmetology salons;

(B) electrology salons;
(C) esthetic salons;
(D) manicuring salons; ~~and~~
(E) cosmetology schools;
(F) barber shops; and
(G) barber schools;

(2) establish standards for the practice of cosmetology and the operation of:
(A) cosmetology salons;
(B) electrology salons;
(C) esthetic salons;
(D) manicuring salons; ~~and~~
(E) cosmetology schools;
(F) barber shops; and
(G) barber schools;

(3) implement the licensing system under this article and provide for a staggered renewal system for licenses; and

(4) establish requirements for cosmetology school uniforms for students and instructors.

(b) The board may adopt rules under IC 4-22-2 to establish the following for the practice of cosmetology, **barbering,** electrology, esthetics, or manicuring in a mobile salon:

(1) Sanitation standards.

(2) Safety requirements.

(3) Permanent address requirements at which the following are located:
(A) Records of appointments.
(B) License numbers of employees.
(C) If applicable, the vehicle identification number of the license holder's self-contained facility.

(4) Enforcement actions to ensure compliance with the requirements under this article and all local laws and ordinances.

SECTION 33. IC 25-8-3-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 26. The board shall furnish each person licensed to operate:

(1) a cosmetology salon;

(2) an electrology salon;

(3) an esthetic salon;

(4) a manicuring salon; ~~or~~

(5) a cosmetology school;

(6) a barber shop; or

(7) a barber school;

with a copy of the rules concerning sanitary requirements described in section ~~23(1)~~ **23(a)(1)** of this chapter.

SECTION 34. IC 25-8-3-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 27. A person operating:

(1) a cosmetology salon;

(2) an electrology salon;

(3) an esthetic salon;

(4) a manicuring salon; ~~or~~

(5) a cosmetology school;

(6) a barber shop; or

(7) a barber school;

shall post the rules described in section 26 of this chapter in a conspicuous place in that salon or school.

SECTION 35. IC 25-8-3-28, AS AMENDED BY P.L.177-2009, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 28. (a) A member of the board or any inspector or investigator may inspect:

(1) a cosmetology salon;

(2) an electrology salon;

(3) an esthetic salon;

(4) a manicuring salon;

(5) a cosmetology school; ~~or~~

(6) a mobile salon;

(7) a barber shop; or

(8) a barber school;

during its regular business hours.

(b) A member of the board or any inspector or investigator may inspect:

(1) a cosmetology salon;

(2) an electrology salon;

(3) an esthetic salon;

(4) a manicuring salon;

(5) a cosmetology school; ~~or~~

(6) a mobile salon;

(7) a barber shop; or

(8) a barber school;

before an initial license is issued.

SECTION 36. IC 25-8-3-29 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 29. (a) The board may not adopt a rule establishing different standards for an inmate or former inmate of a penal institution who applies for:**

(1) admission to barber school; or

(2) a license as a registered barber.

(b) A person who graduates from a barber school operated by a penal institution may not have the person's license denied or revoked as a result of the acts for which the person was convicted.

SECTION 37. IC 25-8-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. The provisions of this article requiring a person to obtain a license do not apply to a person performing cosmetology as a:

(1) ~~licensed~~ **student in a** barber ~~under IC 25-7;~~ **school;**

(2) commissioned medical or surgical officer of the United States armed forces;

(3) chiropractor (as defined by IC 25-10-1-1(2));

(4) embalmer (as defined by IC 25-15-2-8);

(5) funeral director (as defined by IC 25-15-2-12);

(6) registered nurse (as defined by IC 25-23-1-1.1(a));

(7) licensed practical nurse (as defined by IC 25-23-1-1.2);

(8) physician (as defined by IC 25-22.5-1-1.1(g));

(9) podiatrist (as defined by IC 25-29-1-13);

(10) person conducting an educational activity involving cosmetology at a scheduled meeting of an association that:

(A) recognizes a group of its members as cosmetologists; and

(B) is not open to persons who are not licensed under this chapter; or

(11) student in a cosmetology school.

SECTION 38. IC 25-8-4-2, AS AMENDED BY P.L.177-2009, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) If the board determines that:

(1) a person possesses a valid license from another jurisdiction to perform acts that require a license under this article; and

(2) the jurisdiction issuing the license imposes substantially equal requirements on applicants for the license as are imposed on applicants for an Indiana license;

the board may issue a license to perform those acts in Indiana to that person upon payment of the fee required under IC 25-8-13.

(b) This subsection applies only to applications for a cosmetologist license under IC 25-8-9. If the jurisdiction issuing the license does not impose substantially equal requirements for education hours as required under subsection (a)(2), the board may approve the combination of education hours plus actual licensed practice in the other jurisdiction when issuing a license to a person from that jurisdiction. One (1) year of licensed practice is equal to one hundred (100) hours of education to an applicant who has completed a minimum of one thousand (1,000) hours of education.

(c) This subsection applies only to applications for a manicurist license under IC 25-8-11. If the jurisdiction issuing a license does not impose substantially equal requirements for education hours as required under subsection (a)(2), the board may approve the combination of education hours plus actual licensed practice in the other jurisdiction when issuing a license to a person from that jurisdiction, as follows:

(1) For an applicant with less than twenty (20) years of actual licensed practice as a manicurist, one (1) year of licensed practice is equal to one hundred (100) hours of education to an applicant who has completed at least three hundred (300) hours of education.

(2) For an applicant with twenty (20) or more years of actual licensed practice as a manicurist, one (1) year of licensed practice is equal to one hundred (100) hours of education to an applicant who has completed at least one hundred (100) hours of education.

(d) This subsection applies only to applications for an electrologist license under IC 25-8-10. If the jurisdiction issuing a license does not impose substantially equal requirements for education hours as required under subsection (a)(2), the board may approve the combination of education hours plus actual licensed practice in the other jurisdiction when issuing a license to a person from that jurisdiction. One (1) year of licensed practice as an electrologist is equal to one hundred (100) hours of education to an applicant who has

completed at least two hundred (200) hours of education.

(e) This subsection applies only to applications for an esthetician license under IC 25-8-12.5. If the jurisdiction issuing a license does not impose substantially equal requirements for education hours as required under subsection (a)(2), the board may approve the combination of education hours plus actual licensed practice in the other jurisdiction when issuing a license to a person from that jurisdiction. One (1) year of licensed practice as an esthetician is equal to one hundred (100) hours of education to an applicant who has completed at least four hundred (400) hours of education.

(f) This subsection applies only to applications for a beauty culture instructor license under IC 25-8-6. If the jurisdiction issuing a license does not impose substantially equal requirements for education hours as required under subsection (a)(2), the board may approve the combination of education hours plus actual licensed practice in the other jurisdiction when issuing a license to a person from that jurisdiction. One (1) year of licensed practice as a beauty culture instructor is equal to one hundred (100) hours of education to an applicant who has completed at least seven hundred (700) hours of education.

(g) This subsection applies only to applications for a barber license under IC 25-8-12.1. If the jurisdiction issuing the license does not impose substantially equivalent requirements as required under subsection (a)(2), the board may approve a combination of education hours plus actual licensed practice in the other jurisdiction when issuing a license to a person from that jurisdiction. One (1) year of licensed practice is equal to one hundred (100) hours of education to an applicant who has completed at least one thousand (1,000) hours of education.

SECTION 39. IC 25-8-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. A license issued under this article may not be transferred unless:

(1) the license is a cosmetology salon **or barber shop** license; and

(2) the person holding the license was required to change the location of the cosmetology salon **or barber shop** by circumstances that the board determines were beyond the control of that person.

SECTION 40. IC 25-8-4-7, AS AMENDED BY P.L.157-2006, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. (a) Each applicant must pass a final practical demonstration examination of the acts permitted by the license. The applicant's cosmetology school **or barber school** shall administer the final practical demonstration examination.

(b) The board shall conduct a written examination of the applicants for a cosmetologist license **and a barber license** at least once each month. The board shall conduct a written examination of the applicants for all other licenses issued under this article at least four (4) times each year. The written examinations described in this section:

(1) shall be conducted at the times and places determined by the board; and

(2) may be administered through computer based testing.

SECTION 41. IC 25-8-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8. The examinations described in section 7 of this chapter must include:

(1) a practical demonstration of the acts permitted by the license; and

(2) a written test concerning the licensed activity, as it is customarily taught in a cosmetology school **or barber school.**

SECTION 42. IC 25-8-4-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 11. A person who holds a cosmetology school license **or a barber school license** shall display a sign that complies with standards prescribed by the board on the premises of that establishment indicating that the establishment is a cosmetology school **or barber school** licensed under this article.

SECTION 43. IC 25-8-4-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 13. A person who holds any license issued under this chapter except the licenses described in section 11 of this chapter shall display the license in a conspicuous place in that person's work area in the cosmetology salon, ~~or~~ cosmetology school, **barber shop, or barber school** where the person is employed. The license must be clearly visible to a customer of that person who is present in the licensed person's work area.

SECTION 44. IC 25-8-4-17, AS AMENDED BY P.L.177-2009, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 17. (a) Except for an instructor license issued

under subsection (d), ~~or~~ IC 25-8-6-1, **or IC 25-8-6.4,** a license issued under this article expires on a date specified by the licensing agency under IC 25-1-6-4 and expires four (4) years after the initial expiration date.

(b) A license issued to an instructor under IC 25-8-6-1 **or IC 25-8-6.4** expires at the time that the instructor's practitioner license expires. The board shall renew an instructor's license under this subsection concurrently with the instructor's practitioner license.

(c) Except as provided in IC 25-8-9-11, a person who holds a license under this article may apply for renewal.

(d) Initial provisional licenses are valid for a length of time determined by the board, but not to exceed two (2) years.

SECTION 45. IC 25-8-6.3 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

Chapter 6.3. Barber School Licenses

Sec. 1. The board may issue a license under this article to operate a barber school.

Sec. 2. A person must file a verified application with the board on a form prescribed by the board to obtain a barber school license.

Sec. 3. The application described in section 2 of this chapter must state that:

(1) the proposed school will require students to successfully complete at least one thousand five hundred (1,500) hours of course work as a requirement for graduation;

(2) not more than ten (10) hours of course work may be taken by a student during one (1) day;

(3) the course work will provide instruction to students in all theories and practical applications of barbering, including:

(A) the scientific fundamentals for barbering, hygiene, and bacteriology;

(B) the histology of hair, skin, muscles, and nerves;

(C) the structure of the head, face, and neck;

(D) elementary chemistry relating to sterilization and antiseptics;

(E) cutting, shaving, arranging, dressing, coloring, bleaching, tinting, and permanent waving of the hair; and

(F) at least ten (10) hours of study on skin and diseases of the skin under a certified dermatologist;

(4) the school will provide one (1) instructor for each group of twenty (20) or fewer students;

(5) the school will be operated under the personal supervision of a licensed barber instructor;

(6) the applicant has obtained:

(A) a building permit;

(B) a certificate of occupancy; or

(C) any other planning approval required under IC 22-15-3 and IC 36-7-4;

required to operate the school;

(7) the school, if located in the same building as a residence, will:

(A) be separated from the residence by a substantial floor to ceiling partition; and

(B) have a separate entrance;

(8) as a requirement for graduation, the proposed school must:

(A) administer; and

(B) require a student to pass;

a final practical demonstration examination of the acts permitted by the license; and

(9) the applicant has paid the fee set forth in IC 25-8-13.

Sec. 4. (a) A barber school licensed under this chapter shall require each student for graduation to pass a final examination that tests the student's practical knowledge of the curriculum studied.

(b) The board shall consider an applicant for the barbering professional examination as fulfilling the practical examination requirement established in IC 25-8-4-7 after successfully completing the final practical demonstration examination.

(c) A passing score of at least seventy-five percent (75%) is required on the final practical demonstration examination.

(d) A barber school licensed under this chapter shall allow each student for graduation at least three (3) attempts to pass the final practical demonstration examination.

(e) The board may monitor the administration of the final practical demonstration examination for any of the following

purposes:

(1) As a result of a complaint received.

(2) As part of random observations.

(3) To collect data.

Sec. 5. The board may adopt rules under IC 4-22-2 requiring that the curriculum offered by a barber school licensed under this chapter provide a minimum number of hours of instruction in each of the subjects described in section 3(3) of this chapter.

Sec. 6. A barber school licensed under this chapter shall display a sign:

(1) that complies with standards established by the board;

(2) at each entrance used by the school's customers; and

(3) that states that students perform barbering in the establishment.

SECTION 46. IC 25-8-6.4 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

Chapter 6.4. Barber Instructor Licenses

Sec. 1. The board may license a person to be an instructor.

Sec. 2. A person must file a verified application with the board on a form prescribed by the board to obtain an instructor license.

Sec. 3. The application described in section 2 of this chapter must state that the applicant:

(1) holds a barber license issued under this article;

(2) has graduated from high school or received a high school equivalency certificate;

(3) has successfully completed at least nine hundred (900) hours of instruction in the theory and practice of instructor training as a student in a barber school;

(4) has received a satisfactory grade of at least seventy-five percent (75%) on an examination for instructor license applicants prescribed by the board; and

(5) has paid the fee set forth in IC 25-8-13 for the issuance of a license under this chapter.

Sec. 4. (a) If a person does not receive a satisfactory grade on the examination described in IC 25-8-4-7, the person may repeat the examination subject to the rules governing the examination adopted by the board.

(b) If a person does not receive a satisfactory grade on the

examination described in subsection (a), the board may:

(1) refuse to permit the person to take the examination again; or

(2) permit the person to take the examination again subject to the rules governing the examination adopted by the board.

SECTION 47. IC 25-8-8.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

Chapter 8.1. Barber Shop Licenses

Sec. 1. The board may issue a license under this article to operate a barber shop.

Sec. 2. A person who wishes to obtain a barber shop license must:

(1) select a site for the barber shop that, if located in the same building as a residence:

(A) is separated from the residence by a substantial floor to ceiling partition; and

(B) has a separate entrance from the residence;

(2) obtain:

(A) a building permit;

(B) a certificate of occupancy; or

(C) any other approval action required under IC 22-15-3 and IC 36-7-4;

required to operate the barber shop;

(3) install furnishings and obtain shop equipment required under rules adopted by the board; and

(4) submit a verified statement on a form prescribed by the board that the barber shop will be under the personal supervision of a barber licensed under this article.

Sec. 3. The board may issue a license under this chapter if the applicant has:

(1) complied with section 2 of this chapter; and

(2) paid the fee for the license set forth in IC 25-8-13.

Sec. 4. A person holding a license issued under this chapter shall display a sign complying with standards prescribed by the board. The sign must:

(1) be clearly visible to a customer entering the establishment at the shop's main public entrance; and

(2) state in legible printing that the establishment is licensed

as a barber shop.

Sec. 5. (a) If:

(1) the board cannot determine whether an applicant has complied with section 2 of this chapter at the time the application is filed; and

(2) the board determines that more than fifteen (15) days are required to determine if the applicant has complied with section 2 of this chapter;

the board shall issue a temporary barber shop license to the applicant.

(b) A temporary license issued under subsection (a) is valid until:

(1) the board approves or denies the application for a license under this chapter; or

(2) three (3) months after the issuance of the temporary license;

whichever occurs first.

SECTION 48. IC 25-8-12.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

Chapter 12.1. Barber Licenses

Sec. 1. The board may license a person to be a barber.

Sec. 2. A person must file a verified application with the board on a form prescribed by the board to obtain a barber license.

Sec. 3. The application described in section 2 of this chapter must state that the applicant:

(1) is either:

(A) at least eighteen (18) years of age; or

(B) at least seventeen (17) years of age and is a graduate of an accredited high school;

(2) has graduated from an approved barber school with not less than one thousand five hundred (1,500) hours of training;

(3) has received a satisfactory grade of at least seventy-five percent (75%) on an examination for barber license applicants prescribed by the board;

(4) has not committed an act that could subject the applicant to discipline under IC 25-1-11; and

(5) has paid the fee set forth in IC 25-8-13 for the issuance of a license under this chapter.

Sec. 4. (a) If a person does not receive a satisfactory grade on the examination described in IC 25-8-4-7, that person may repeat the examination subject to the rules governing the examination adopted by the board.

(b) If a person does not receive a satisfactory grade on the examination described in subsection (a), the board may:

(1) refuse to permit the person to take the examination again; or

(2) permit the person to take the examination again subject to the rules governing the examination adopted by the board.

Sec. 5. A person licensed under this chapter may not engage in barbering in a barber school except as part of student instruction.

Sec. 6. A person licensed under this chapter may not engage in barbering outside a barber shop unless the person:

(1) has the permission of a person who holds a barber shop license and:

(A) employs; or

(B) leases or subleases a part of a shop to;

the person licensed under this chapter; and

(2) complies with any other practice restrictions established by the board under this chapter.

Sec. 7. The board may issue a temporary work permit to practice barbering.

Sec. 8. A person must file a verified application with the board on a form prescribed by the board to obtain a temporary work permit.

Sec. 9. The application described in section 8 of this chapter must state that the applicant will practice barbering under the supervision of a barber, and:

(1) has filed an application under section 2 of this chapter, but has not taken the examination described in IC 25-8-4-7; or

(2) has filed an application under IC 25-8-4-2(g) and is awaiting board determination as described in IC 25-8-4-2(g).

Sec. 10. (a) Except when held by a barber applicant who has filed an application under IC 25-8-4-2(g), a work permit issued under section 7 of this chapter expires:

(1) three (3) months after the date of issuance; or

(2) thirty (30) days after the permit holder takes the examination described in IC 25-8-4-7;

whichever occurs first.

(b) A work permit held by a barber license applicant who has filed an application under IC 25-8-4-2(g) expires thirty (30) days after board determination as described in IC 25-8-4-2(g).

Sec. 11. The board may not:

(1) renew or reinstate a work permit; or

(2) grant a person more than one (1) work permit;

issued under section 7 of this chapter.

Sec. 12. A person who:

(1) enters active military service of the United States or of this state:

(A) in time of war or an emergency;

(B) for or during a period of training; or

(C) in connection with or under the operation of a system of selective service; and

(2) at the time of entry holds a valid license as a registered barber;

shall be granted a similar certificate of registration or license upon presenting to the board an honorable discharge from military service, dated not more than six (6) months before the time of the presentation. The similar certificate or license shall be granted by the board upon payment of a fee established by the board.

Sec. 13. (a) This section applies only to applications for a barber license under this chapter.

(b) If an applicant comes from a jurisdiction that does not issue a barber license, the board may issue an initial provisional license to an applicant who meets the following requirements:

(1) The board finds that the applicant has sufficient training or experience as a barber.

(2) The applicant has not committed an act that would constitute a violation of the standards of practice under IC 25-1-11.

(3) The applicant pays a fee established by the board under IC 25-1-8.

(c) An applicant who has been granted an initial provisional license must work under the supervision of a licensed barber.

(d) A person who holds an initial provisional license may apply for renewal of a barber license under this article.

(e) The holder of a provisional license may petition the board

for the issuance of a barber license to practice without supervision. The holder of a provisional license who demonstrates to the board that the holder may satisfactorily practice without supervision shall be released from terms of the provisional license and is entitled to hold a license under this chapter.

SECTION 49. IC 25-8-13-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. The board may not charge a fee for:

(1) transferring a cosmetology salon license under IC 25-8-4-4 **or barber shop license under IC 25-8-8.1;** or

(2) issuing a temporary license to practice cosmetology under IC 25-8-7-6 **or a temporary work permit to practice barbering under IC 25-8-12.1-7.**

SECTION 50. IC 25-8-13-3, AS AMENDED BY P.L.157-2006, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) The board shall charge a fee established by the board under IC 25-1-8-2 for an application to issue or renew a cosmetology school **or barber school** license.

(b) The board shall charge a fee established under IC 25-1-8-6 for reinstating a cosmetology school **or barber school** license.

SECTION 51. IC 25-8-13-4, AS AMENDED BY P.L.157-2006, SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) The board shall charge a fee established by the board under IC 25-1-8-2 for issuing or renewing

~~(1) a cosmetology instructor license;~~

~~(2) an esthetics instructor license; or~~

~~(3)~~ an ~~electrology~~ instructor license.

(b) The board shall charge a fee established under IC 25-1-8-6 for reinstating an instructor license.

SECTION 52. IC 25-8-13-5, AS AMENDED BY P.L.157-2006, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) The board shall charge a fee established by the board under IC 25-1-8-2 for issuing or renewing:

(1) a cosmetology salon license;

(2) an electrology salon license;

(3) an esthetic salon license; ~~or~~

(4) a manicurist salon license; **or**

(5) a barber shop license.

(b) The board shall charge a fee established under IC 25-1-8-6 for reinstating:

(1) a cosmetology salon license;

(2) an electrology salon license;

(3) an esthetic salon license; ~~or~~

(4) a manicurist salon license; **or**

(5) a barber shop license.

SECTION 53. IC 25-8-13-12.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 12.1. (a) The board shall establish fees under IC 25-1-8-2 for providing an examination to an applicant for a barber license.**

(b) The board shall establish fees under IC 25-1-8-2 for issuing or renewing a barber license.

(c) The board shall charge a fee established under IC 25-1-8-6 for reinstating a barber license.

(d) The board shall charge a fee established by the board under IC 25-1-8-2 for issuing a license to a person who holds a barber license from another jurisdiction that meets the requirements under IC 25-8-4-2.

SECTION 54. IC 25-8-14-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) A person who:

(1) is a cosmetologist, a manicurist, an electrologist, an esthetician, **a barber,** or an instructor; and

(2) knowingly performs any act authorized by a license issued under this article while the person has an infectious, a contagious, or a communicable disease that has been epidemiologically demonstrated to be transmitted through casual contact;

commits a Class C infraction.

(b) A person who knowingly attends a cosmetology school **or a barber school** as a student while the person has an infectious, a contagious, or a communicable disease that has been epidemiologically demonstrated to be transmitted through casual contact commits a Class C infraction.

SECTION 55. IC 25-23.6-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. An individual may not:

(1) profess to be a **social worker,** licensed social worker, or

licensed clinical social worker;

(2) use the title:

(A) "social worker";

~~(A)~~ **(B)** "licensed social worker";

~~(B)~~ **(C)** "licensed clinical social worker";

~~(C)~~ **(D)** "clinical social worker";

~~(D)~~ **(E)** "psychiatric social worker"; or

~~(E)~~ **(F)** "psychosocial worker";

(3) use any other title containing the words **"social worker",** "licensed social worker", or "licensed clinical social worker";

(4) use any other words, letters, abbreviations, or insignia indicating or implying that the individual is a **social worker,** licensed social worker, or licensed clinical social worker; or

(5) practice as a **social worker,** licensed social worker, or clinical social worker for compensation;

unless the individual is licensed under this article.

SECTION 56. IC 25-23.6-4.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. **(a)** An individual may not:

(1) profess to be a licensed mental health counselor;

(2) use the title:

(A) "licensed mental health counselor";

(B) "mental health counselor"; or

(C) "mental health therapist";

(3) use any other words, letters, abbreviations, or insignia indicating or implying that the individual is a licensed mental health counselor; or

(4) practice mental health counseling for compensation;

unless the individual is licensed under this article, IC 25-22.5, or IC 25-33.

(b) An individual may not:

(1) profess to be a licensed mental health counselor associate;

(2) use the title:

(A) "licensed mental health counselor associate";

(B) "mental health counselor associate"; or

(C) "mental health therapist associate";

(3) use any other words, letters, abbreviations, or insignia indicating or implying that the individual is a licensed mental

health counselor associate; or

(4) practice mental health counseling for compensation;

unless the individual is licensed under this article, IC 25-22.5, or IC 25-33.

SECTION 57. IC 25-23.6-4.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. **(a)** An individual who is licensed as a mental health counselor shall:

(1) display the license or a clear copy of the license at each location where the mental health counselor regularly practices; and

(2) include the words "licensed mental health counselor" or the letters "LMHC" on all promotional materials, including business cards, brochures, stationery, advertisements, and signs that name the individual.

(b) An individual who is licensed as a mental health counselor associate shall:

(1) display the license or a clear copy of the license at each location where the mental health counselor associate regularly practices; and

(2) include the words "licensed mental health counselor associate" or the letters "LMHCA" on all promotional materials, including business cards, brochures, stationery, advertisements, and signs that name the individual.

SECTION 58. IC 25-23.6-8.5-1, AS AMENDED BY P.L.2-2007, SECTION 340, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. An individual who applies for a license as a mental health counselor must meet the following requirements:

(1) Furnish satisfactory evidence to the board that the individual has:

(A) received a master's or doctor's degree in an area related to mental health counseling from:

(i) an eligible postsecondary educational institution that meets the requirements under section 2 of this chapter; or

(ii) a foreign school that has a program of study that meets the requirements under section 2 of this chapter;

(B) completed the educational requirements under section 3 of this chapter; and

(C) completed the experience requirements under section 4 of this chapter.

(2) Furnish satisfactory evidence to the board that the individual:

(A) except as provided in section 1.7 of this chapter, holds a mental health counselor associate, in good standing, issued under section 7 of this chapter; or

(B) is licensed or certified to practice as a mental health counselor in another state and is otherwise qualified under this chapter.

~~(2)~~ **(3)** Furnish satisfactory evidence to the board that the individual does not have a conviction for a crime that has a direct bearing on the individual's ability to practice competently.

~~(3)~~ **(4)** Furnish satisfactory evidence to the board that the individual has not been the subject of a disciplinary action by a licensing or certification agency of another state or jurisdiction on the grounds that the individual was not able to practice as a mental health counselor without endangering the public.

~~(4)~~ **(5)** Pass an examination provided by the board.

~~(5)~~ **(6)** Pay the fee established by the board.

SECTION 59. IC 25-23.6-8.5-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 1.5. An individual who applies for a license as a mental health counselor associate must meet the following requirements:**

(1) Furnish satisfactory evidence to the board that the individual has:

(A) received a master's or doctor's degree in mental health counseling therapy or in a related area as determined by the board from an institution of higher education that meets the requirements under section 2 of this chapter or from a foreign school that has a program of study that meets the requirements under section 2(3)(A) or 2(3)(B) of this chapter; and

(B) completed the educational requirements under section 3 of this chapter.

(2) Furnish satisfactory evidence to the board that the individual does not have a conviction for a crime that has a

direct bearing on the individual's ability to practice competently.

(3) Furnish satisfactory evidence to the board that the individual has not been the subject of a disciplinary action by a licensing or certification agency of another state or jurisdiction on the grounds that the individual was not able to practice as a mental health counselor associate without endangering the public.

(4) Pay the fee established by the board.

(5) Pass an examination provided by the board.

SECTION 60. IC 25-23.6-8.5-1.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 1.7. An individual who receives a master's degree and enters a doctoral program may do either of the following:**

(1) Apply for a mental health counselor associate license under section 1.5 of this chapter by meeting the requirements of this chapter.

(2) Elect not to apply for a mental health counselor associate license under section 1.5 of this chapter, accrue the clinical experience required under section 4 of this chapter, and apply for a mental health counselor license at the conclusion of the doctoral program.

SECTION 61. IC 25-23.6-8.5-2, AS AMENDED BY P.L.2-2007, SECTION 341, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. An applicant **for a mental health counselor license** under section 1 of this chapter **or a mental health counselor associate license under section 1.5 of this chapter** must have received a master's or doctor's degree in an area related to mental health counseling from an eligible postsecondary educational institution that meets the following requirements:

(1) If the institution was located in the United States or a territory of the United States, at the time of the applicant's graduation the institution was accredited by a regional accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation.

(2) If the institution was located in Canada, at the time of the applicant's graduation the institution was a member in good

standing with the Association of Universities and Colleges of Canada.

(3) If the institution was located in a foreign country other than Canada, at the time of the applicant's graduation the institution:

(A) was recognized by the government of the country where the school was located as a program to train in the practice of mental health counseling or psychotherapy counseling; and

(B) maintained a standard of training substantially equivalent to the standards of institutions accredited by a regional accrediting body recognized by the Commission on Recognition of Postsecondary Accreditation.

SECTION 62. IC 25-23.6-8.5-3, AS AMENDED BY P.L.2-2007, SECTION 342, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. An applicant **as a mental health counselor** under section 1 **of this chapter or a mental health counselor associate under section 1.5** of this chapter must complete the following educational requirements:

(1) Complete sixty (60) semester hours of graduate course work in counseling that must include either a master's degree that required not less than forty-eight (48) semester hours or a doctor's degree in counseling. The graduate course work must include the following content areas:

(A) Human growth and development.

(B) Social and cultural foundations of counseling.

(C) Helping relationship, including counseling theory and practice.

(D) Group dynamics, processes, counseling, and consultation.

(E) Lifestyle and career development.

(F) Assessment and appraisal of individuals.

(G) Research and program evaluation.

(H) Professional orientation and ethics.

(I) Foundations of mental health counseling.

(J) Contextual dimensions of mental health counseling.

(K) Knowledge and skills for the practice of mental health counseling and psychotherapy.

(L) Clinical instruction.

(2) Not less than one (1) supervised clinical practicum, internship, or field experience in a counseling setting, which must include a

minimum of one thousand (1,000) clock hours consisting of one (1) practicum of one hundred (100) hours, one (1) internship of six hundred (600) hours, and one (1) advanced internship of three hundred (300) hours with at least one hundred (100) hours of face to face supervision. This requirement may be met by a supervised practice experience that took place away from an eligible postsecondary educational institution but that is certified by an official of the eligible postsecondary educational institution as being equivalent to a clinical mental health graduate level practicum or internship program at an institution accredited by an accrediting agency approved by the United States Department of Education or the Association of Universities and Colleges of Canada.

SECTION 63. IC 25-23.6-8.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. **(a) As used in this section, "first available examination" means the first examination after the date of an individual's:**

(1) graduation; or

(2) moving into Indiana;

that has an application deadline that is at least thirty (30) days after the date of graduation or the date of moving into Indiana, unless the individual chooses to meet a deadline that is less than thirty (30) days after either of those events.

~~(a)~~ **(b)** The applicant must have at least three thousand (3,000) hours of post-graduate clinical experience over a two (2) year period. The clinical experience must consist of one hundred (100) hours of face to face supervision under the supervision of a licensed mental health counselor or an equivalent supervisor, as determined by the board.

~~(b)~~ **(c)** A doctoral internship may be applied toward the supervised work experience requirement.

~~(c)~~ **(d)** Except as provided in subsection ~~(d),~~ **(e),** the clinical experience requirement may be met by work performed at or away from the premises of the supervising mental health counselor.

~~(d)~~ **(e)** The clinical work requirement may not be performed away from the supervising mental health counselor's premises if:

(1) the work is the independent private practice of mental health counseling; and

(2) the work is not performed at a place that has the supervision of a licensed mental health counselor or an equivalent supervisor, as determined by the board.

(f) If an individual applies for, takes, and passes the first available examination, the individual may not count more than one thousand five hundred (1,500) hours of the postdegree clinical experience that is:

(1) required under subsection (b); and

(2) accumulated before taking the examination toward licensure as a mental health counselor.

(g) If an individual does not pass the first available examination, the individual may:

(1) retain the hours accumulated before taking the examination;

(2) continue working; and

(3) not accumulate any additional hours toward licensure as a mental health counselor until passing the examination.

(h) If an individual does not take the first available examination, the individual may not begin accumulating any postdegree clinical experience hours toward licensure as a mental health counselor until the individual passes the examination.

SECTION 64. IC 25-23.6-8.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. An individual who satisfies the requirements of:

(1) ~~sections~~ **section** 1 **or 1.5 of this chapter;** and

(2) section 2 of this chapter;

may take the examination provided by the board.

SECTION 65. IC 25-23.6-8.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. **(a)** The board shall issue a license to an ~~individual~~ **applicant as a mental health counselor under section 1 of this chapter or a mental health counselor associate under section 1.5 of this chapter** who:

(1) achieves a passing score, as determined by the board, on the examination provided under this chapter; and

(2) is otherwise qualified under this article.

(b) A person issued a license under this section may engage in the practice of mental health counseling.

SECTION 66. IC 25-23.6-8.5-8 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8. (a) A **mental health counselor** license issued by the board is valid for the remainder of the renewal period in effect on the date the ~~certificate~~ **license** was issued.

(b) An individual may renew a **mental health counselor** license by:

(1) paying a renewal fee on or before the expiration date of the license; and

(2) completing at least twenty (20) hours of continuing education per licensure year.

(c) If an individual fails to pay a renewal **fee** on or before the expiration date of a **mental health counselor** license, the license becomes invalid.

SECTION 67. IC 25-23.6-8.5-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 8.5. (a) A mental health counselor associate license issued by the board is valid for the remainder of the renewal period in effect on the date the license was issued.**

(b) An individual may renew a mental health counselor associate license two (2) times by:

(1) paying a renewal fee on or before the expiration date of the license; and

(2) completing at least twenty (20) hours of continuing education per licensure year.

(c) The board may renew a mental health counselor associate license for additional periods based on circumstances determined by the board.

(d) If an individual fails to pay a renewal fee on or before the expiration date of a mental health counselor associate license, the license becomes invalid.

SECTION 68. IC 25-23.6-8.5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9. (a) The board may reinstate an invalid **mental health counselor** license up to three (3) years after the expiration date of the license if the individual holding the invalid license meets the requirements under IC 25-1-8-6.

(b) If more than three (3) years have elapsed since the date a **mental health counselor** license expired, the individual holding the license may reinstate the invalid license by satisfying the requirements for reinstatement established by the board and meeting the requirements under IC 25-1-8-6.

(c) The board may reinstate an invalid mental health counselor associate license up to one (1) year after the expiration date of the license if the individual holding the invalid license meets the requirements under IC 25-1-8-6. A mental health counselor associate license that has been expired for more than one (1) year may not be reinstated under IC 25-1-8-6.

SECTION 69. IC 25-23.6-8.5-13 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 13. (a) An individual who, before July 1, 2010, receives a master's or doctoral degree described in IC 25-23.6-8.5-1(1)(A) or IC 25-23.6-8.5-1.5(1)(A) and who seeks licensure under IC 25-23.6-8.5 may do either of the following:**

(1) Seek a mental health counselor associate license by:

(A) applying for a mental health counselor associate license under IC 25-23.6-8.5 if the individual meets the requirements under IC 25-23.6-8.5; and

(B) taking the required examination.

Notwithstanding IC 25-23.6-8.5-4(f), any postdegree clinical experience that the individual obtained before July 1, 2010, counts toward the requirements of IC 25-23.6-8.5.

(2) Seek a mental health counselor license by applying for a mental health counselor license under IC 25-23.6-8.5, if the individual meets the requirements under IC 25-23.6-8.5.

(b) This SECTION expires June 30, 2015.

SECTION 70. IC 25-26-13-4.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 4.3. (a) Any rules adopted by the controlled substances advisory committee (IC 35-48-2-1 (before its abolishment)) before July 1, 2010, shall be treated as rules of the Indiana board of pharmacy (IC 25-26).**

(b) This section expires July 1, 2015.

SECTION 71. IC 25-34.1-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) A person who:

(1) performs the acts of a salesperson without a salesperson license;

(2) performs the acts of a broker without a broker license; or

(3) conducts, or solicits or accepts enrollment of students for, a course as prescribed in IC 25-34.1-3 without course approval;

commits a Class A infraction. Upon conviction for an offense under this section, the court shall add to any fine imposed the amount of any fee or other compensation earned in the commission of the offense. Each transaction constitutes a separate offense.

(b) In all actions for the collection of a fee or other compensation for performing acts regulated by this article, it must be alleged and proved that, at the time the cause of action arose, the party seeking relief was not in violation of this section.

~~(c) The commission may issue a cease and desist order to prevent violations of this section.~~

~~(1) If the commission determines that a person is violating this section, or is believed to be violating this section, the commission may issue an order to that person setting forth the time and place for a hearing at which the affected person may appear and show cause as to why the challenged activities are not in violation of this section.~~

~~(2) After an opportunity for hearing, if the commission determines that the person is violating this section, the commission shall issue a cease and desist order which shall describe the person and activities which are the subject of the order.~~

~~(3) A cease and desist order issued under this section is enforceable in the circuit courts of this state.~~

~~(d) The attorney general, the commission, or the prosecuting attorney of any county in which a violation occurs may maintain an action in the name of the state to enjoin a person from violating this section.~~

~~(e) In charging any person in a complaint for an injunction or in affidavit, information, or indictment with the violation of the provisions of this section, it is sufficient, without averring any further or more particular facts, to charge that the person upon a certain day and in a certain county either acted as a real estate broker or salesperson not having a license or conducted, or solicited or accepted enrollment of students for, a broker or salesperson course without course approval.~~

~~(f)~~ **(c)** Each enforcement procedure established in this section **and IC 25-1-7-14** is supplemental to other enforcement procedures established in this section.

SECTION 72. IC 25-34.1-8-12, AS AMENDED BY P.L.3-2008, SECTION 204, IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2010]: Sec. 12. (a) A person who:

(1) performs:

(A) the acts of a licensed real estate appraiser without a license; or

(B) the acts of a certified real estate appraiser without a certificate; or

(2) conducts or solicits or accepts enrollment of students for a course without course approval as required by section 13 of this chapter;

commits a Class B infraction. When a judgment is entered for an offense under this section, the court shall add to any fine imposed the amount of any fee or other compensation earned in the commission of the offense. Each transaction constitutes a separate offense.

(b) In all actions for the collection of a fee or other compensation for performing acts regulated by this article, a party seeking relief must allege and prove that at the time the cause of action arose the party was not in violation of this section.

(c) The attorney general, the board, or the prosecuting attorney of any county in which a violation occurs may maintain an action in the name of the state of Indiana to enjoin a person from violating this section.

(d) In charging any person in a complaint for a judgment or an injunction for the violation of this section, it is sufficient, without averring any further or more particular facts, to charge that the person upon a certain day and in a certain county:

(1) acted as:

(A) a certified real estate appraiser without a certificate; or

(B) a licensed real estate appraiser without a license; or

(2) conducted, or solicited or accepted enrollment of students for a real estate appraiser course without course approval.

(e) Each enforcement procedure established in this section **and IC 25-1-7-14** is supplemental to other enforcement procedures established in this section.

SECTION 73. IC 25-39-1.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. For the purposes of this article, the occupation of a ~~licensed water well driller~~ **licensee** is a regulated occupation under IC 25-1-7-1.

SECTION 74. IC 25-39-1.5-2 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. For the purposes of licensing **a** water well ~~drillers~~ **driller and well water pump installer** under IC 25-39-3, the department of natural resources is a "board" under IC 25-1-8-1.

SECTION 75. IC 25-39-1.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. IC 25-39-3 and IC 25-39-4 do not apply to the following:

(1) A person who installs a well that:

(A) is for personal use; and

(B) is not greater than one and one-fourth (1 1/4) inches inside diameter and not greater than twenty-four (24) feet deep.

(2) A plumber who:

(A) is licensed under IC 25-28.5;

(B) is registered with the department under section 4 of this chapter; and

(C) installs wells that are not greater than one and one-fourth (1 1/4) inches inside diameter and not greater than twenty-four (24) feet deep.

(3) A person who installs or repairs a water well pump or water well pumping equipment for personal use.

(4) A person who is working under the direction and personal supervision of a person who holds a license.

SECTION 76. IC 25-39-1.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. A plumber licensed under IC 25-28.5 must register with the department before the plumber installs a well **or well water pump.**

SECTION 77. IC 25-39-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 12. "License" refers to a water well driller's **and water well pump installer's** license issued by the department under this ~~chapter.~~ **article.**

SECTION 78. IC 25-39-2-12.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 12.5. "Licensee" refers to a person who has been issued a water well driller's and water well pump installer's license issued by the department under this article.**

SECTION 79. IC 25-39-2-15.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2010]: **Sec. 15.5. "Water well pump installer" means a person who installs or repairs water well pumps.**

SECTION 80. IC 25-39-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) An individual may not be a water well driller **or water well pump installer** without a license.

(b) The department shall issue a license to each individual who applies and qualifies for a license under this chapter.

(c) The license of the licensee operating well drilling equipment **or installing a water well pump** shall be carried by the licensee and presented for inspection by a representative of the department upon request.

(d) Every license expires on December 31 of the year for which it was issued.

SECTION 81. IC 25-39-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) An application for a license must be made on a form prescribed by the commission in rules adopted under IC 4-22-2. The purpose of the form is to identify the applicant and obtain information to determine if the applicant is qualified to be licensed.

(b) An application for an original license or a license renewal must be accompanied by a license fee of one hundred dollars ($100).

(c) Unless an applicant has held an original license for less than one (1) year, a license renewal application must be accompanied by:

(1) a copy of the continuing education verification of attendance forms; and

(2) a statement by the applicant attesting that the applicant has complied with the continuing education requirements under IC 25-39-6.

SECTION 82. IC 25-39-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) To qualify for an original license an individual must:

(1) be at least eighteen (18) years of age;

(2) furnish evidence from three (3) references, two (2) of whom are water well drillers, **water well pump installers,** or licensed plumbing contractors familiar with the applicant's work

experience and professional competency; and

(3) have successfully completed a competency examination prepared and administered by the department.

(b) The competency examination shall be administered at least two (2) times every calendar year.

(c) The fee to take the competency examination shall be set by the director under IC 25-1-8. This fee is nonrefundable and must be paid each time an applicant applies to take the examination.

SECTION 83. IC 25-39-3-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 3.5. (a) Notwithstanding this article, an individual, who is not exempt under this article, is not required to have a license to install a water well pump until January 1, 2011.**

(b) Notwithstanding section 3 of this chapter, the department shall issue an original license to an applicant who meets the following qualifications:

(1) Is at least eighteen (18) years of age.

(2) Furnishes evidence that the applicant has installed water well pumps for at least three (3) years.

(3) Furnishes references from three (3) individuals who are licensed under this article and who are familiar with the applicant's experience and competency.

(4) Complies with the requirements under section 2 of this chapter.

(c) This section expires July 1, 2011.

SECTION 84. IC 25-39-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) In consultation with the Indiana Well Drilling Contractors Association **and the Indiana Ground Water Association,** the department shall prepare one (1) or more competency examinations to determine if an applicant for a license is qualified to be a water well driller **and water well pump installer.**

(b) The competency examination must include questions to determine if the applicant for a license has adequate knowledge and expertise concerning the following:

(1) Placement of wells.

(2) Well drilling procedures.

(3) Operations of well drilling **and water well pump** equipment.
(4) Contamination precautions.
(5) Installation of well casing **and water well pumps.**
(6) Well grouting procedures.
(7) Well screen design and installation.
(8) Pitless adapter units.
(9) Installation of pumping apparatus.
(10) Well disinfection.
(11) Sealing abandoned wells.
(12) Ground water occurrence.
(13) Aquifer characteristics.
(14) Drawdown requirements and limitations.
(15) Depth considerations.
(16) Methods of measuring well yield.
(17) The requirements of this chapter and other laws relating to wells.
(18) Other accepted standards relating to the drilling, operation, and abandonment of wells **and water well pumps.**

SECTION 85. IC 25-39-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) Each ~~water well driller~~ **licensee** shall keep accurate records for each well drilled. The record for each well must contain the following information:

(1) The location of the well.
(2) The depth and diameter of the well.
(3) The date the contractor completed the well.
(4) The character and thickness of materials or formations drilled.
(5) The static water level and performance data of the well.
(6) Any other information required by rule.

(b) Each ~~water well driller~~ **licensee** shall, within thirty (30) days after the completion of a well, forward a copy of the record of the well to the department on forms prescribed or approved by the department.

SECTION 86. IC 25-39-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) The commission shall, by rule, establish standards for well siting, construction, and operation. The standards must address the following:

(1) Placement of wells.
(2) Well drilling procedures.
(3) Operation of well drilling **and water well pump** equipment.

(4) Contamination precautions.

(5) Well casing **and water well pump** specification and installation.

(6) Well grouting procedures.

(7) Well screen design and installation.

(8) Pitless adapter units.

(9) Installation of pumping apparatus.

(10) Well disinfection techniques.

(11) Sealing and plugging abandoned wells.

(12) Other generally accepted standards relating to the drilling, operation, or abandonment of wells.

(b) A well that is drilled after December 31, 1987, must be drilled in compliance with the rules adopted under this section.

SECTION 87. IC 25-39-4-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. (a) Under IC 4-21.5-3-6, the director may suspend or revoke the license of a ~~water well driller~~ **licensee** who has done any of the following:

(1) Acted as a ~~well driller~~ **licensee** without a license in violation of this article.

(2) Secured a license through error or fraud.

(3) Failed to comply with any of the requirements of sections 1, 2, 4, 5, and 6 of this chapter.

(b) Under IC 4-21.5-3-5, the director may refuse to grant, renew, or restore a license to a person who has done any of the following:

(1) Acted as a ~~well driller~~ **licensee** without a license in violation of this article.

(2) Secured a license through error or fraud.

(3) Failed to comply with any of the requirements of sections 1, 2, 4, 5, and 6 of this chapter.

SECTION 88. IC 25-39-4-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8. (a) The department may initiate injunctive proceedings in the appropriate court against a person who acts as a ~~water well driller~~ **licensee** without a license or while the person's license is suspended. The department may not be compelled to give bond in such a cause.

(b) After an action has been filed and notice has been given, all matters involved in the action shall be held in abeyance until the action has been tried and determined.

(c) If a defendant continues to violate this article after notice of the action has been given but before trial and determination, the department may, upon a verified showing of those acts of the defendant, obtain a temporary restraining order without notice. The order is effective until the cause has been tried and determined.

SECTION 89. IC 25-39-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10. Upon written application by the owner of a well or the ~~water well driller,~~ **licensee,** the department shall keep the record of a well confidential for a period of one (1) year, and that record is not considered to be a public record.

SECTION 90. IC 25-39-6 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

Chapter 6. Continuing Education

Sec. 1. Except as provided in section 6 of this chapter, a licensee who has held a license for at least one (1) calender year shall complete six (6) actual hours of continuing education before December 31 of each even-numbered year.

Sec. 2. A licensee shall retain the following for each continuing education course the individual attends:

(1) A record of:

(A) the number of hours the individual spent in the continuing education course;

(B) the name of the person or organization presenting the continuing education course;

(C) the date, location, and title of the continuing education course; and

(D) the number of hours of continuing education awarded for the course.

(2) Verification that the individual attended the course.

The records and verification of attendance must be retained for three (3) years after the individual attends a continuing education course.

Sec. 3. (a) An institution, organization, governmental agency, or individual that wishes to offer continuing education courses for the purposes of this chapter must apply in writing to the department for approval of each course. An application for approval of a course must be received by the department not less than thirty (30)

days before the course is offered. The department shall approve or deny an application for approval of a continuing education course not more than ten (10) business days after receiving the application.

(b) An application must include the following information:

(1) The title of the course and subjects that will be presented.

(2) The name of the person or organization presenting the continuing education course.

(3) The date, location, and title of the continuing education course.

(4) The number of hours of continuing education to be offered.

(5) Course outlines for the subjects to be offered.

(6) The fee to be charged for each course.

(7) Any other information requested by the department.

(c) The department may approve an application for approval of a continuing education course that addresses one (1) of the following topics:

(1) Water well construction.

(2) Pump installation and repair.

(3) Grouting.

(4) Water sample collection and sampling.

(5) Contamination of water supplies.

(6) Other topics the department determines to be relevant for the continued improvement of the knowledge of a license holder.

Sec. 4. An institution, organization, governmental agency, or individual that has been approved to offer a continuing education course for the purposes of this chapter shall submit to the department not more than forty-five (45) days after the course has been completed a typed listing of the following information:

(1) The name of each individual who attended the course, including each individual's license number.

(2) The title of the course.

(3) The name of the person or organization presenting the continuing education course.

(4) The date, location, and title of the continuing education course.

(5) The number of hours of continuing education each

individual received.

Sec. 5. The department shall maintain and make available to the public a list of future continuing education courses that will satisfy the continuing education requirements of this article.

Sec. 6. A licensee may apply in writing to the department for a waiver or modification of the continuing education requirements applying to the licensee under this article if the licensee:

(1) establishes that an emergency existed during the period for which the continuing education was required;

(2) has had an incapacitating illness verified by the applicant and a licensed physician; or

(3) was prevented from completing the continuing education requirement because of active military duty during the period for which the continuing education was required.

Sec. 7. The department may enter into a contract with the Indiana Ground Water Association to administer this chapter.

SECTION 91. IC 34-30-2-152.5, AS ADDED BY P.L.65-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 152.5. **(a)** IC 35-48-7-11.1(m) (Concerning providing information to or obtaining information from the Indiana scheduled prescription electronic collection and tracking program).

(b) IC 35-48-7-11.1(n) (Concerning providing information to a law enforcement agency based on a report from the Indiana scheduled prescription electronic collection and tracking program).

SECTION 92. IC 35-48-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) The board shall administer this article and may recommend to the general assembly the addition, deletion, or rescheduling of all substances listed in the schedules in sections 4, 6, 8, 10, and 12 of this chapter by submitting in an electronic format under IC 5-14-6 a report of such recommendations to the legislative council. In making a determination regarding a substance, the board shall consider the following:

(1) The actual or relative potential for abuse.

(2) The scientific evidence of its pharmacological effect, if known.

(3) The state of current scientific knowledge regarding the substance.

(4) The history and current pattern of abuse.

(5) The scope, duration, and significance of abuse.

(6) The risk to public health.

(7) The potential of the substance to produce psychic or physiological dependence liability.

(8) Whether the substance is an immediate precursor of a substance already controlled under this article.

(b) After considering the factors enumerated in subsection (a), the board shall make findings and recommendations concerning the control of the substance if it finds the substance has a potential for abuse.

(c) If the board finds that a substance is an immediate precursor, substances which are precursors of the controlled precursor shall not be subject to control solely because they are precursors of the controlled precursor.

(d) If any substance is designated or rescheduled to a more restrictive schedule as a controlled substance under federal law and notice is given to the board, the board shall recommend similar control of the substance under this article in the board's report to the general assembly, unless the board objects to inclusion or rescheduling. In that case, the board shall publish the reasons for objection and afford all interested parties an opportunity to be heard. At the conclusion of the hearing, the board shall publish its findings.

(e) If a substance is rescheduled to a less restrictive schedule or deleted as a controlled substance under federal law, the substance is rescheduled or deleted under this article. If the board objects to inclusion, rescheduling, or deletion of the substance, the board shall notify the chairman of the legislative council not more than thirty (30) days after the federal law is changed and the substance may not be rescheduled or deleted until the conclusion of the next complete session of the general assembly. The notice from the board to the chairman of the legislative council must be published.

(f) ~~There is established a sixteen (16) member controlled substances advisory committee to serve as a consultative and advising body to the board in all matters relating to the classification, reclassification, addition to, or deletion from of all substances classified as controlled substances in schedules I to IV or substances not controlled or yet to come into being. In addition,~~ The ~~advisory committee~~ **board** shall conduct hearings ~~and make recommendations to the board~~ regarding revocations, suspensions, and restrictions of registrations as provided

in IC 35-48-3-4. All hearings shall be conducted in accordance with IC 4-21.5-3. ~~The advisory committee shall be made up of:~~

~~(1) two (2) physicians licensed under IC 25-22.5, one (1) to be elected by the medical licensing board of Indiana from among its members and one (1) to be appointed by the governor;~~

~~(2) two (2) pharmacists, one (1) to be elected by the state board of pharmacy from among its members and one (1) to be appointed by the governor;~~

~~(3) two (2) dentists, one (1) to be elected by the state board of dentistry from among its members and one (1) to be appointed by the governor;~~

~~(4) the state toxicologist or the designee of the state toxicologist;~~

~~(5) two (2) veterinarians, one (1) to be elected by the state board of veterinary medical examiners from among its members and one (1) to be appointed by the governor;~~

~~(6) one (1) podiatrist to be elected by the board of podiatric medicine from among its members;~~

~~(7) one (1) advanced practice nurse with authority to prescribe legend drugs as provided by IC 25-23-1-19.5 who is:~~

~~(A) elected by the state board of nursing from among the board's members; or~~

~~(B) if a board member does not meet the requirements under IC 25-23-1-19.5 at the time of the vacancy on the advisory committee, appointed by the governor;~~

~~(8) the superintendent of the state police department or the superintendent's designee;~~

~~(9) three (3) members appointed by the governor who have demonstrated expertise concerning controlled substances; and~~

~~(10) one (1) member appointed by the governor who is a psychiatrist with expertise in child and adolescent psychiatry.~~

~~(g) All members of the advisory committee elected by a board shall serve a term of one (1) year and all members of the advisory committee appointed by the governor shall serve a term of four (4) years. Any elected or appointed member of the advisory committee, may be removed for cause by the authority electing or appointing the member. If a vacancy occurs on the advisory committee, the authority electing or appointing the vacating member shall elect or appoint a successor to serve the unexpired term of the vacating member. The board shall~~

~~acquire the recommendations of the advisory committee pursuant to administration over the controlled substances to be or not to be included in schedules I to V, especially in the implementation of scheduled substances changes as provided in subsection (d).~~

~~(h)~~ **(g)** Authority to control under this section does not extend to distilled spirits, wine, or malt beverages, as those terms are defined or used in IC 7.1, or to tobacco.

~~(i)~~ **(h)** The board shall exclude any nonnarcotic substance from a schedule if that substance may, under the Federal Food, Drug, and Cosmetic Act or state law, be sold over the counter without a prescription.

SECTION 93. IC 35-48-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) Any humane society, animal control agency, or governmental entity operating an animal shelter or other animal impounding facility is entitled to receive a limited permit only for the purpose of buying, possessing, and using:

(1) sodium pentobarbital to euthanize injured, sick, homeless, or unwanted domestic pets and animals;

(2) ketamine and ketamine products to anesthetize or immobilize fractious domestic pets and animals; and

(3) a combination product containing tiletimine and zolazepam as an agent for the remote chemical capture of domestic pets or animals that otherwise cannot be restrained or captured.

(b) A humane society, animal control agency, or governmental entity entitled to receive a permit under this chapter must:

(1) apply to the board according to the rules established by the board;

(2) pay annually to the board a fee set by the board for the limited permit; and

(3) submit proof, as determined by the board, that the employees of an applicant who will handle a controlled substance are sufficiently trained to use and administer the controlled substance.

(c) All fees collected by the board under this section shall be credited to the state board of pharmacy account.

(d) Storage, handling, and use of controlled substances obtained according to this section are subject to the rules adopted by the board.

(e) Before issuing a permit under this section, the board may consult with the board of veterinary medical examiners.

SECTION 94. IC 35-48-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. ~~Registration.~~ (a) The board shall register an applicant to manufacture or distribute controlled substances unless it determines that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the board shall consider:

(1) maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels;

(2) compliance with applicable state and local law;

(3) any convictions of the applicant under any federal and state laws relating to any controlled substance;

(4) past experience in the manufacture or distribution of controlled substances, and the existence in the applicant's establishment of effective controls against diversion;

(5) furnishing by the applicant of false or fraudulent material in any application filed under this article;

(6) suspension or revocation of the applicant's federal registration to manufacture, distribute, or dispense controlled substances as authorized by federal law; and

(7) any other factors relevant to and consistent with the public health and safety.

(b) Registration under subsection (a) of this section does not entitle a registrant to manufacture and distribute controlled substances in schedules I or II other than those specified in the registration.

(c) Practitioners must be registered to dispense any controlled substances or to conduct research with controlled substances in schedules II through V if they are authorized to dispense or conduct research under the law of this state. The board need not require separate registration under this chapter for practitioners engaging in research with nonnarcotic controlled substances in schedules II through V where the registrant is already registered under this chapter in another capacity, to the extent authorized by his registration in that other capacity.

(d) Registration to conduct research or instructional activities with controlled substances in schedules I through V does not entitle a registrant to conduct research or instructional activities with controlled substances other than those approved by the ~~controlled substances~~

~~advisory committee~~ **board** in accordance with the registration.

(e) The board may consult with the board of veterinary medical examiners before issuing a registration to a person:

(1) who seeks to conduct research or instructional activities with controlled substances in schedules I through IV; and

(2) whose activities constitute the practice of veterinary medicine (as defined by IC 25-38.1-1-12).

(f) Compliance by manufacturers and distributors with the provisions of the federal law respecting registration (excluding fees) entitles them to be registered under this article.

SECTION 95. IC 35-48-3-5, AS AMENDED BY P.L.197-2007, SECTION 93, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) An application for registration or reregistration submitted pursuant to and a registration issued under section 3 of this chapter to manufacture, distribute, or dispense a controlled substance may be denied, suspended, or revoked by the board upon a finding ~~by the advisory committee~~ that the applicant or registrant:

(1) has furnished false or fraudulent material information in any application filed under this article;

(2) has violated any state or federal law relating to any controlled substance;

(3) has had ~~his~~ **the applicant's or registrant's** federal registration suspended or revoked to manufacture, distribute, or dispense controlled substances; or

(4) has failed to maintain reasonable controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels.

(b) The board may limit revocation or suspension of a registration or the denial of an application for registration or reregistration to the particular controlled substance with respect to which grounds for revocation, suspension, or denial exist.

(c) If the board suspends or revokes a registration or denies an application for reregistration, all controlled substances owned or possessed by the registrant at the time of suspension or the effective date of the revocation or denial order may be placed under seal. The board may require the removal of such substances from the premises. No disposition may be made of substances under seal until the time for

taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application therefor, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court. Upon a revocation or denial order becoming final, all controlled substances may be forfeited to the state.

(d) The board shall promptly notify the drug enforcement administration of all orders suspending or revoking registration, all orders denying any application for registration or reregistration, and all forfeitures of controlled substances.

(e) If the Drug Enforcement Administration terminates, denies, suspends, or revokes a federal registration for the manufacture, distribution, or dispensing of controlled substances, a registration issued by the board under this chapter is automatically suspended.

(f) The board may reinstate a registration that has been suspended under subsection (e), after a hearing, if the board is satisfied that the applicant is able to manufacture, distribute, or dispense controlled substances with reasonable skill and safety to the public. As a condition of reinstatement, the board may impose disciplinary or corrective measures authorized under IC 25-1-9-9 or this article.

(g) A registration issued under this chapter is automatically revoked if any state license authorizing a dispenser to act as a practitioner is revoked.

SECTION 96. IC 35-48-3-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) Before recommending a denial, suspension, or revocation of a registration, or before refusing a renewal of registration, the ~~advisory committee~~ **board** shall serve upon the applicant or registrant an order to show cause why registration should not be denied, revoked, or suspended, or why the renewal should not be denied. The order to show cause shall contain a statement of the basis therefor and shall call upon the applicant or registrant to appear before the ~~advisory committee~~ **board** at a time and place not less than thirty (30) days after the date of service of the order, but in the case of a denial or renewal of registration the show cause order shall be served not later than thirty (30) days before the expiration of the registration. These proceedings shall be conducted in accordance with IC 4-21.5 without regard to any criminal prosecution or other proceeding. Proceedings to refuse renewal of registration shall not abate the existing registration, which shall remain in effect pending

the outcome of the administrative hearing.

(b) The ~~advisory committee may recommend suspension, and the~~ board may suspend, without an order to show cause, any registration simultaneously with the institution of proceedings under section 4 of this chapter, or where renewal of registration is refused, if it finds that there is an imminent danger to the public health or safety which warrants this action. The suspension shall continue in effect until the conclusion of the proceedings, including judicial review thereof, unless sooner withdrawn by the board or dissolved by a court of competent jurisdiction.

(c) If an applicant for reregistration (who is doing business under a registration previously granted and not revoked nor suspended) has applied for reregistration at least forty-five (45) days before the date on which the existing registration is due to expire, the existing registration of the applicant shall automatically be extended and continue in effect until the date on which the board so issues its order. The board may extend any other existing registration under the circumstances contemplated in this section even though the registrant failed to apply for reregistration at least forty-five (45) days before expiration of the existing registration, with or without request by the registrant, if the board finds that such extension is not inconsistent with the public health and safety.

SECTION 97. IC 35-48-7-8.1, AS AMENDED BY P.L.182-2009(ss), SECTION 399, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8.1. ~~(a) This section applies after June 30, 2007.~~

~~(b)~~ **(a)** The ~~advisory committee~~ **board** shall provide for a controlled substance prescription monitoring program that includes the following components:

(1) Each time a controlled substance designated by the ~~advisory committee~~ **board** under IC 35-48-2-5 through IC 35-48-2-10 is dispensed, the dispenser shall transmit to the INSPECT program the following information:

(A) The controlled substance recipient's name.

(B) The controlled substance recipient's or the recipient representative's identification number or the identification number or phrase designated by the INSPECT program.

(C) The controlled substance recipient's date of birth.

(D) The national drug code number of the controlled substance dispensed.

(E) The date the controlled substance is dispensed.

(F) The quantity of the controlled substance dispensed.

(G) The number of days of supply dispensed.

(H) The dispenser's United States Drug Enforcement Agency registration number.

(I) The prescriber's United States Drug Enforcement Agency registration number.

(J) An indication as to whether the prescription was transmitted to the pharmacist orally or in writing.

(K) Other data required by the ~~advisory committee.~~ **board.**

(2) The information required to be transmitted under this section must be transmitted not more than seven (7) days after the date on which a controlled substance is dispensed.

(3) A dispenser shall transmit the information required under this section by:

(A) uploading to the INSPECT web site;

(B) a computer diskette; or

(C) a CD-ROM disk;

that meets specifications prescribed by the ~~advisory committee.~~ **board.**

(4) The ~~advisory committee~~ **board** may require that prescriptions for controlled substances be written on a one (1) part form that cannot be duplicated. However, the ~~advisory committee~~ **board** may not apply such a requirement to prescriptions filled at a pharmacy with a Type II permit (as described in IC 25-26-13-17) and operated by a hospital licensed under IC 16-21, or prescriptions ordered for and dispensed to bona fide enrolled patients in facilities licensed under IC 16-28. The ~~committee~~ **board** may not require multiple copy prescription forms for any prescriptions written. The ~~advisory committee~~ **board** may not require different prescription forms for any individual drug or group of drugs. Prescription forms required under this subdivision must be ~~jointly~~ approved ~~by the committee and~~ by the Indiana board of pharmacy established by IC 25-26-13-3.

(5) The costs of the program.

(b) This subsection applies only to a retail pharmacy. A

pharmacist, pharmacy technician, or person authorized by a pharmacist to dispense a controlled substance may not dispense a controlled substance to a person who is not personally known to the pharmacist, pharmacy technician, or person authorized by a pharmacist to dispense a controlled substance unless the person taking possession of the controlled substance provides documented proof of the person's identification to the pharmacist, pharmacy technician, or person authorized by a pharmacist to dispense a controlled substance.

SECTION 98. IC 35-48-7-10.1, AS ADDED BY P.L.65-2006, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10.1. ~~(a) This section applies after June 30, 2007.~~

~~(b)~~ **(a)** The INSPECT program must do the following:

(1) Create a data base for information required to be transmitted under section 8.1 of this chapter in the form required under rules adopted by the ~~advisory committee,~~ **board,** including search capability for the following:

(A) A controlled substance recipient's name.

(B) A controlled substance recipient's or recipient representative's identification number.

(C) A controlled substance recipient's date of birth.

(D) The national drug code number of a controlled substance dispensed.

(E) The dates a controlled substance is dispensed.

(F) The quantities of a controlled substance dispensed.

(G) The number of days of supply dispensed.

(H) A dispenser's United States Drug Enforcement Agency registration number.

(I) A prescriber's United States Drug Enforcement Agency registration number.

(J) Whether a prescription was transmitted to the pharmacist orally or in writing.

(K) A controlled substance recipient's method of payment for the controlled substance dispensed.

(2) Provide the ~~advisory committee~~ **board** with continuing twenty-four (24) hour a day online access to the data base.

(3) Secure the information collected and the data base maintained against access by unauthorized persons.

~~(c)~~ **(b)** The ~~advisory committee~~ **board** may execute a contract with a vendor designated by the ~~advisory committee~~ **board** to perform any function associated with the administration of the INSPECT program.

~~(d)~~ **(c)** The INSPECT program may gather prescription data from the Medicaid retrospective drug utilization review (DUR) program established under IC 12-15-35.

~~(e)~~ **(d)** The ~~advisory committee~~ **board** may accept and designate grants, public and private financial assistance, and licensure fees to provide funding for the INSPECT program.

SECTION 99. IC 35-48-7-11.1, AS ADDED BY P.L.65-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 11.1. ~~(a) This section applies after June 30, 2007.~~

~~(b)~~ **(a)** Information received by the INSPECT program under section 8.1 of this chapter is confidential.

~~(c)~~ **(b)** The ~~advisory committee~~ **board** shall carry out a program to protect the confidentiality of the information described in subsection ~~(b).~~ **(a).** The ~~advisory committee~~ **board** may disclose the information to another person only under subsection **(c),** (d), ~~(e),~~ or ~~(h).~~ **(g).**

~~(d)~~ **(c)** The ~~advisory committee~~ **board** may disclose confidential information described in subsection ~~(b)~~ **(a)** to any person who is authorized to engage in receiving, processing, or storing the information.

~~(e)~~ **(d)** Except as provided in subsections **(e) and** (f), ~~and (g),~~ the ~~advisory committee~~ **board** may release confidential information described in subsection ~~(b)~~ **(a)** to the following persons:

(1) A member of the board ~~the advisory committee,~~ or another governing body that licenses practitioners and is engaged in an investigation, an adjudication, or a prosecution of a violation under any state or federal law that involves a controlled substance.

(2) An investigator for the consumer protection division of the office of the attorney general, a prosecuting attorney, the attorney general, a deputy attorney general, or an investigator from the office of the attorney general, who is engaged in:

(A) an investigation;

(B) an adjudication; or

(C) a prosecution;

of a violation under any state or federal law that involves a

controlled substance.

(3) A law enforcement officer who is an employee of:

(A) a local, state, or federal law enforcement agency; or

(B) an entity that regulates controlled substances or enforces controlled substances rules or laws in another state;

that is certified to receive information from the INSPECT program.

(4) A practitioner or practitioner's agent certified to receive information from the INSPECT program.

(5) A controlled substance monitoring program in another state with which Indiana has established an interoperability agreement.

(6) The state toxicologist.

(7) A certified representative of the Medicaid retrospective and prospective drug utilization review program.

(8) A substance abuse assistance program for a licensed health care provider who:

(A) has prescriptive authority under IC 25; and

(B) is participating in the assistance program.

~~(f)~~ **(e)** Information provided to an individual under:

(1) subsection ~~(c)(3)~~ **(d)(3)** is limited to information:

(A) concerning an individual or proceeding involving the unlawful diversion or misuse of a schedule II, III, IV, or V controlled substance; and

(B) that will assist in an investigation or proceeding; and

(2) subsection ~~(c)(4)~~ **(d)(4)** may be released only for the purpose of:

(A) providing medical or pharmaceutical treatment; or

(B) evaluating the need for providing medical or pharmaceutical treatment to a patient.

~~(g)~~ **(f)** Before the ~~advisory committee~~ **board** releases confidential information under subsection ~~(c),~~ **(d),** the applicant must be approved by the INSPECT program in a manner prescribed by the ~~advisory committee.~~ **board.**

~~(h)~~ **(g)** The ~~advisory committee~~ **board** may release to:

(1) a member of the board ~~the advisory committee,~~ or another governing body that licenses practitioners;

(2) an investigator for the consumer protection division of the office of the attorney general, a prosecuting attorney, the attorney

general, a deputy attorney general, or an investigator from the office of the attorney general; or

(3) a law enforcement officer who is:

(A) authorized by the state police department to receive the type of information released; and

(B) approved by the ~~advisory committee~~ **board** to receive the type of information released;

confidential information generated from computer records that identifies practitioners who are prescribing or dispensing large quantities of a controlled substance.

~~(i)~~ **(h)** The information described in subsection ~~(h)~~ **(g)** may not be released until it has been reviewed by:

(1) a member of the ~~advisory committee~~ **board** who is licensed in the same profession as the prescribing or dispensing practitioner identified by the data; or

(2) the ~~advisory committee's~~ **board's** designee;

and until that member or the designee has certified that further investigation is warranted. However, failure to comply with this subsection does not invalidate the use of any evidence that is otherwise admissible in a proceeding described in subsection ~~(j).~~ **(i).**

~~(j)~~ **(i)** An investigator or a law enforcement officer receiving confidential information under subsection **(c),** (d), ~~(e),~~ or ~~(h)~~ **(g)** may disclose the information to a law enforcement officer or an attorney for the office of the attorney general for use as evidence in the following:

(1) A proceeding under IC 16-42-20.

(2) A proceeding under any state or federal law that involves a controlled substance.

(3) A criminal proceeding or a proceeding in juvenile court that involves a controlled substance.

~~(k)~~ **(j)** The ~~advisory committee~~ **board** may compile statistical reports from the information described in subsection ~~(b).~~ **(a).** The reports must not include information that identifies any practitioner, ultimate user, or other person administering a controlled substance. Statistical reports compiled under this subsection are public records.

~~(l)~~ **(k)** This section may not be construed to require a practitioner to obtain information about a patient from the data base.

~~(m)~~ **(l)** A practitioner is immune from civil liability for an injury, death, or loss to a person solely due to a practitioner seeking or not

seeking information from the INSPECT program. The civil immunity described in this subsection does not extend to a practitioner if the practitioner receives information directly from the INSPECT program and then negligently misuses this information. This subsection does not apply to an act or omission that is a result of gross negligence or intentional misconduct.

~~(m)~~ **(m)** The ~~advisory committee~~ **board** may review the records of the INSPECT program. If the ~~advisory committee~~ **board** determines that a violation of the law may have occurred, the ~~advisory committee~~ **board** shall notify the appropriate law enforcement agency or the relevant government body responsible for the licensure, regulation, or discipline of practitioners authorized by law to prescribe controlled substances.

(n) A practitioner who in good faith discloses information based on a report from the INSPECT program to a law enforcement agency is immune from criminal or civil liability. A practitioner that discloses information to a law enforcement agency under this subsection is presumed to have acted in good faith.

SECTION 100. IC 35-48-7-11.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 11.5. (a) Each board of a health care provider that prescribes or dispenses prescription drugs shall do the following:**

(1) Establish prescribing norms and dispensing guidelines for the unsolicited dissemination of exception reports under section 11.1(d) of this chapter.

(2) Provide the information determined in subdivision (1) to the board.

(b) The exception reports that are disseminated based on the prescribing norms and dispensing guidelines established under subsection (a) must comply with the following requirements:

(1) A report of prescriptive activity of a practitioner to the practitioner's professional licensing board designee when the practitioner deviates from the dispensing guidelines or the prescribing norms for the prescribing of a controlled substance within a particular drug class.

(2) A reporting of recipient activity to the practitioners who prescribed or dispensed the controlled substance when the

recipient deviates from the dispensing guidelines of a controlled substance within a particular drug class.

(c) The board designee may, at the designee's discretion, forward the exception report under subsection (b)(2) to only the following for purposes of an investigation:

(1) A law enforcement agency.

(2) The attorney general.

SECTION 101. IC 35-48-7-12.1, AS ADDED BY P.L.65-2006, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 12.1. ~~(a) This section applies after June 30, 2007.~~

~~(b)~~ **(a)** The ~~advisory committee~~ **board** shall adopt rules under IC 4-22-2 to implement this chapter, including the following:

(1) Information collection and retrieval procedures for the INSPECT program, including the controlled substances to be included in the program required under section 8.1 of this chapter.

(2) Design for the creation of the data base required under section 10.1 of this chapter.

(3) Requirements for the development and installation of online electronic access by the ~~advisory committee~~ **board** to information collected by the INSPECT program.

(4) Identification of emergency situations or other circumstances in which a practitioner may prescribe, dispense, and administer a prescription drug specified in section 8.1 of this chapter without a written prescription or on a form other than a form specified in section ~~8.1(b)(4)~~ **8.1(4)** of this chapter.

~~(c)~~ **(b)** The ~~advisory committee~~ **board** may:

(1) set standards for education courses for individuals authorized to use the INSPECT program;

(2) identify treatment programs for individuals addicted to controlled substances monitored by the INSPECT program; **and**

(3) work with impaired practitioner associations to provide intervention and treatment.

SECTION 102. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2010]: IC 25-7; IC 25-8-3-3; IC 25-8-3-4; IC 25-20.5-1; IC 25-32-1; IC 35-48-1-4; IC 35-48-2-1.5; IC 35-48-7-1.

SECTION 103. [EFFECTIVE JULY 1, 2010] **(a) The definitions in IC 25-8, as amended by this act, apply to this SECTION.**

(b) Any license by the:

(1) state board of barber examiners (IC 25-7-5-1 (before its repeal by this act)); or

(2) state board of cosmetology examiners (IC 25-8-3-1);

as effective on June 30, 2010, and before July 1, 2010, shall be treated after June 30, 2010, as if the license had been issued by the state board of cosmetology and barber examiners under IC 25-8-3-1, as amended by this act.

(c) On July 1, 2010, all the powers, duties, orders, and liabilities of the:

(1) state board of barber examiners (IC 25-7-5-1 (before its repeal by this act)); or

(2) state board of cosmetology examiners (IC 25-8-3-1);

concerning the examination, licensing, and disciplining of a person licensed or an applicant applying for a license under IC 25-7 (before its repeal by this act) or IC 25-8, as amended by this act, are transferred to the state board of cosmetology and barber examiners under IC 25-8-3-1, as amended by this act.

(d) On July 1, 2010, the property and records of the:

(1) state board of barber examiners (IC 25-7-5-1 (before its repeal by this act)); or

(2) state board of cosmetology examiners (IC 25-8-3-1);

concerning the examination, licensing, and disciplining of a person licensed or an applicant applying for a license under IC 25-7 (before its repeal by this act) or IC 25-8, as amended by this act, are transferred to the state board of cosmetology and barber examiners under IC 25-8-3-1, as amended by this act.

(e) Any rules adopted by the:

(1) state board of barber examiners (IC 25-7-5-1 (before its repeal by this act)); or

(2) state board of cosmetology examiners (IC 25-8-3-1); and

in effect on June 30, 2010, shall be treated as rules of the state board of cosmetology and barber examiners on July 1, 2010.

(f) Notwithstanding IC 25-8-3-7, the initial terms of office of the members of the board appointed under IC 25-8-3-5 (as amended by this act) are as follows:

(1) One (1) member appointed under IC 25-8-3-5(b)(1), as amended by this act, and one (1) member appointed under IC 25-8-3-5(b)(2), as amended by this act, three (3) years.

(2) One (1) member appointed under IC 25-8-3-5(b)(2), as

amended by this act, one (1) member appointed under IC 25-8-3-5(b)(3), as amended by this act, and one (1) member appointed under IC 25-8-3-5(b)(4), as amended by this act, two (2) years.

(3) One (1) member appointed under IC 25-8-3-5(b)(1), as amended by this act, and one (1) member appointed under IC 25-8-3-5(b)(5), as amended by this act, one (1) year.

The governor shall specify the terms of the cosmetologist and barber members described in subdivisions (1), (2), and (3) when making the initial appointments.

(g) The initial terms of the appointed members begin July 1, 2010.

(h) This SECTION expires July 1, 2015.

SECTION 104. [EFFECTIVE JULY 1, 2010] **(a) Any license issued by the controlled substances advisory committee before its abolishment and effective on June 30, 2010, and before July 1, 2010, shall be treated after June 30, 2010, as if the license had been issued by the Indiana board of pharmacy (IC 25-26).**

(b) On July 1, 2010, the powers, duties, orders, liabilities, property, and records of the controlled substances advisory committee, before its abolishment, concerning the investigation, licensing, and disciplining of a person licensed or an applicant applying for a license under IC 35-48, as amended by this act, are transferred to the Indiana board of pharmacy (IC 25-26).

(c) This SECTION expires July 1, 2015.

SECTION 105. [EFFECTIVE JULY 1, 2010] **(a) Before November 1, 2010, the health finance commission established by IC 2-5-23-3 shall study and make recommendations concerning whether a paramedic board should be established to license paramedics instead of paramedics being certified by the emergency medical services commission.**

(b) This SECTION expires December 1, 2010.

SECTION 106. **An emergency is declared for this act.**

P.L.85-2010
[S.382. Approved March 18, 2010.]

AN ACT to amend the Indiana Code concerning transportation.

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

SECTION 1. IC 8-15-2-4, AS AMENDED BY P.L.235-2005, SECTION 116, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. As used in this chapter, the following words and terms shall have the following meanings, unless the context shall indicate another or different meaning or intent:

(1) "Authority" refers to the Indiana finance authority established under IC 4-4-11.

(2) "Capitalized interest" means:

(A) interest costs on toll road revenue bonds before and during the period of construction of the project for the payment of the cost of which the bonds were issued, and for one (1) year after completion of construction; and

(B) interest costs on succeeding lien bonds authorized by this chapter for the period from the date of such bonds until the date when the prior outstanding toll road revenue bonds, for which revenues are pledged, are retired, but not later than ten (10) years from the date of issue of the succeeding lien bonds.

(3) "Department" refers to the Indiana department of transportation.

(4) "Project" or "toll road project" means any **new or existing** express highway, **limited access facility,** superhighway, or motorway constructed under the provisions of this chapter or accepted as a toll road under IC 8-23-7, including all bridges, tunnels, overpasses, underpasses, interchanges, entrance plazas, approaches, tollhouses, service stations, and administration, storage, and other buildings and facilities which the authority may deem necessary or desirable for the operation of the project,

together with all property, rights, easements, and interests which may be acquired by the authority for the construction or the operation of the project. "Project" or "toll road project" includes any subsequent improvement, betterment, enlargement, extension, or reconstruction of an existing project. **"Project" or "toll road project" also includes a project connecting the state of Indiana with an adjacent state.** Each project or toll road project may be constructed or extended in such sections as the authority may from time to time determine, and shall be separately designated by name or number, which designation shall also apply to any project which is a subsequent improvement, betterment, enlargement, extension, or reconstruction of such project. The construction, maintenance, or operation, of transient lodging facilities on, or adjacent to any such project, or the contracting therefor, shall not be considered as within the definition of "project" or "toll road project".

(5) "Cost" as applied to a toll road project or any part of a toll road project includes:

(A) the cost of construction, including bridges over or under existing highways and railroads;

(B) the cost of acquisition of all land, rights-of-way, property, rights, easements, and interests acquired by the authority for such construction;

(C) the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved;

(D) the cost of diverting highways, interchange of highways, and access roads to private property, including the cost of land or easements therefor;

(E) the cost of all machinery and equipment;

(F) financing charges and capitalized interest;

(G) the cost of funding any reserves to secure the payment of toll road revenue bonds;

(H) the cost of traffic estimates and of engineering and legal expenses, plans, specifications, surveys, estimates of cost and revenues;

(I) other expenses necessary or incident to determining the feasibility or practicability of constructing any such project;

(J) administrative expense;

(K) such other expenses as may be necessary or incident to the construction of the project, the financing of such construction, and the placing of the project in operation; and

(L) the cost of conversion to a toll road project of a state highway or part of a highway accepted as a toll road project under IC 8-23-7.

Any obligation or expense incurred by the department for surveys, borings, preparation of plans and specifications, and other engineering services in connection with the construction of a project under this chapter or for the repayment of a grant from a federal agency which the authority itself would be authorized to repay under section 5(9) of this chapter in connection with such project or with the issuance of bonds for the payment of the cost of such project, shall be regarded as a part of the cost of such project and shall be reimbursed to the state out of the proceeds of toll road revenue bonds as authorized.

(6) "Owner" includes all individuals, copartnerships, associations, limited liability companies, or corporations having any title or interest in any property, rights, easements, and interests authorized to be acquired by this chapter.

(7) "Revenues" means all tolls, rentals, gifts, grants, money, and all other funds and property coming into the possession or under the control of the authority by virtue of the terms and provisions of this chapter, except the proceeds from the sale of bonds issued under the provisions of this chapter and earnings thereon.

(8) "Public roads" includes all public highways, roads, and streets in the state, whether maintained by the state, county, city, township, or other political subdivision.

(9) "Transient lodging facility" means accommodations for overnight or temporary habitation, including, but not limited to, hotels, motels, motor courts, lodges, and inns, for persons using any toll road project.

(10) "Toll road bonds" means all bonds issued under the provisions of this chapter, including refunding bonds and succeeding lien bonds.

(11) "State highway" means a public road for which the department is responsible under IC 8-23-2.

SECTION 2. IC 8-15-3-7, AS AMENDED BY P.L.47-2006, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. As used in this chapter, "tollway" includes any combination or part of:

(1) an express highway, **limited access facility,** superhighway, bridge, tunnel, or motor way, including express lanes and managed lanes, constructed under this chapter or IC 8-15.7 or, subject to section 10 of this chapter, converted to a tollway under IC 8-23-7-22;

(2) any bridge, tunnel, overpass, underpass, interchange, structure, ramp, access road, service road, entrance plaza, approach, tollhouse, utility corridor, toll gantry, rest stop, service station, or administration, storage, or other buildings or facilities, including temporary facilities and buildings, facilities, and structures that will not be tolled, that the department considers appurtenant to or necessary or desirable for the financing, construction, operation, or maintenance of one (1) or more of the items described in subdivision (1); ~~and~~

(3) any subsequent improvement, betterment, enlargement, extension, or reconstruction of one (1) or more items described in this section, including any nontolled part, that are separately designated by name or number; **and**

(4) a project connecting the state of Indiana with an adjacent state.

SECTION 3. IC 8-15-3-9, AS AMENDED BY P.L.47-2006, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) Subject to subsection (e), the governor must approve the location of any tollway.

(b) The department may, in any combination, plan, design, develop, construct, reconstruct, maintain, repair, police, finance, and operate tollways, public improvements, and arterial streets and roads at those locations that the governor approves.

(c) The department may, in any combination, plan, design, develop, construct, reconstruct, improve, finance, operate, repair, or maintain public improvements such as roads and streets, sewer lines, water lines, and other utilities if these improvements are:

(1) adjacent or appurtenant to a tollway; or

(2) necessary or desirable for the financing, construction,

operation, or maintenance of a tollway.

(d) The department may, in any combination, plan, design, develop, construct, reconstruct, improve, maintain, repair, operate, or finance the construction or reconstruction of an arterial highway or an arterial street that:

(1) is adjacent to, appurtenant to, or interchanges with a tollway; or

(2) intersects with a road or street that interchanges with a tollway.

(e) Notwithstanding any other law, the governor, the department, or an operator may not carry out any of the following activities under this chapter unless the general assembly enacts a statute authorizing that activity:

(1) Approve the location of a tollway, other than:

(A) Interstate Highway 69 between Interstate Highway 64 and a city having a population of more than eleven thousand five hundred (11,500) but less than eleven thousand seven hundred forty (11,740);

(B) the Illiana Expressway, a limited access facility connecting Interstate Highway 65 in northwestern Indiana with an interstate highway in Illinois; or

(C) a project that is located within a metropolitan planning area (as defined by 23 U.S.C. 134) and that connects the state of Indiana with the commonwealth of Kentucky.

(2) Carry out construction for Interstate Highway 69 in a township having a population of more than seventy-five thousand (75,000) and less than ninety-three thousand five hundred (93,500).

(3) Impose tolls on motor vehicles for use of the part of an interstate highway that connects a consolidated city and a city having a population of more than eleven thousand five hundred (11,500) but less than eleven thousand seven hundred forty (11,740).

SECTION 4. IC 8-15.5-1-2, AS ADDED BY P.L.47-2006, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) This article contains full and complete authority for public-private agreements between the authority and a private entity. Except as provided in this article, no law, procedure, proceeding, publication, notice, consent, approval, order, or act by the

authority or any other officer, department, agency, or instrumentality of the state or any political subdivision is required for the authority to enter into a public-private agreement with a private entity under this article, or for a toll road project that is the subject of a public-private agreement to be constructed, acquired, maintained, repaired, operated, financed, transferred, or conveyed.

(b) **This subsection does not apply to a project for the construction of the Illiana Expressway, a limited access facility connecting Interstate Highway 65 in northwestern Indiana with an interstate highway in Illinois, or a project that is located within a metropolitan planning area (as defined by 23 U.S.C. 134) and that connects the state of Indiana with the commonwealth of Kentucky.** Notwithstanding any other law, after August 1, 2006, neither the authority nor the department may:

(1) issue a request for proposals for; or

(2) enter into;

a public-private agreement under this article that would authorize an operator to impose tolls for the operation of motor vehicles on all or part of a project, unless the general assembly adopts a statute authorizing the imposition of tolls.

(c) Notwithstanding any other law, neither the authority nor an operator may carry out any of the following activities under this article unless the general assembly enacts a statute authorizing that activity:

(1) Carrying out construction for Interstate Highway 69 in a township having a population of more than seventy-five thousand (75,000) and less than ninety-three thousand five hundred (93,500).

(2) Imposing tolls on motor vehicles for use of the part of an interstate highway that connects a consolidated city and a city having a population of more than eleven thousand five hundred (11,500) but less than eleven thousand seven hundred forty (11,740).

SECTION 5. IC 8-15.5-1-3, AS ADDED BY P.L.47-2006, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The general assembly finds and determines that:

(1) the state has limited resources to fund the maintenance and expansion of the state transportation system, including toll roads,

and therefore alternative funding sources should be developed to supplement public revenue sources;

(2) the Indiana finance authority should be authorized to solicit, evaluate, negotiate, and administer agreements with the private sector for the purposes described in subdivision (1); ~~and~~

(3) it is necessary to serve the public interest and to provide for the public welfare by adopting this article for the purposes described in this article;

(4) public-private agreements entered into by private entities and the Indiana finance authority under this article should allow for:

(A) transparency, oversight, and public information sharing;

(B) compliance with all state and federal environmental laws; and

(C) fairness for local jurisdictions when negotiating the public-private agreements.

SECTION 6. IC 8-15.5-2-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.5. "Governmental entity" means:**

(1) any state;

(2) any authority, board, bureau, commission, committee, department, division, or other instrumentality established by any state; or

(3) any entity established by the laws of another state in which the state of Indiana has been invited to participate.

SECTION 7. IC 8-15.5-4-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1.5. (a) The authority may not issue a request for proposals for a toll road project under this article unless the authority has received a preliminary feasibility study and an economic impact study for the project from the department, prepared in the same manner as required by IC 8-15.7-4-1.**

(b) The economic impact study must, at a minimum, include an analysis of the following matters with respect to the proposed project:

(1) Economic impacts on existing commercial and industrial development.

(2) Potential impacts on employment.

(3) Potential for future development near the project area, including consideration of locations for interchanges that will maximize opportunities for development.

(4) Fiscal impacts on revenues to local units of government.

(5) Demands on government services, such as public safety, public works, education, zoning and building, and local airports.

The authority shall post a copy of the economic impact study on the authority's Internet web site and shall also provide copies of the study to the governor and the legislative council (in an electronic format under IC 5-14-6).

(c) After completion of the economic impact study, the authority must conduct a public hearing on the results of the study in the county seat of the county in which the proposed project would be located. At least ten (10) days before each public hearing, the authority shall:

(1) post notice of the public hearing on the authority's Internet web site;

(2) publish notice of the public hearing one (1) time in accordance with IC 5-3-1 in two (2) newspapers of general circulation in the county; and

(3) include in the notices under subdivisions (1) and (2):

(A) the date, time, and place of the hearing;

(B) the subject matter of the hearing;

(C) a description of the purpose of the economic impact study;

(D) a description of the proposed project and its location; and

(E) a statement concerning the availability of the study on the authority's Internet web site.

At the hearing, the authority shall allow the public to be heard on the economic impact study and the proposed project.

SECTION 8. IC 8-15.5-4-9, AS ADDED BY P.L.47-2006, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. **(a)** If the authority makes a preliminary selection of an operator under section 8 of this chapter, the authority

shall schedule a public hearing on the preliminary selection and **the terms of the public-private agreement for the project. The hearing shall be conducted in the county seat of the county in which the proposed project is to be located.**

(b) At least ten (10) days before the public hearing, the authority shall post on its Internet web site:

(1) the proposal submitted by the offeror that has been preliminarily selected as the operator for the project, except for those parts of the proposal that are confidential under this article; and

(2) the proposed public-private agreement for the project.

(c) At least ten (10) days before the public hearing, the authority shall:

(1) post notice of the public hearing on the authority's Internet web site; and

(2) publish notice of the hearing one (1) time in accordance with IC 5-3-1 ~~at least seven (7) days before the hearing.~~ **in two (2) newspapers of general circulation in the county in which the proposed project is to be located.**

(d) The ~~notice~~ **notices required by subsection (c)** must include the following:

(1) The date, time, and place of the hearing.

(2) The subject matter of the hearing.

(3) A description of the related toll road project and of the public-private agreement to be awarded.

(4) The identity of the offeror that has been preliminarily selected as the operator for the project.

(5) The address and telephone number of the authority.

(6) A statement indicating that, subject to section 6 of this chapter, and except for those portions that are confidential under ~~IC 5-14-3,~~ **this chapter, the following** are available **on the authority's Internet web site and are also available** for public inspection and copying at the principal office of the authority during regular business hours**:**

(A) The selected offer. ~~and~~

(B) An explanation of the basis upon which the preliminary selection was made.

(C) The proposed public-private agreement for the project.

(e) At the hearing, the authority shall allow the public to be heard on the preliminary selection of the operator for the proposed project and the terms of the public-private agreement for the proposed project.

SECTION 9. IC 8-15.5-5-2, AS ADDED BY P.L.47-2006, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. A public-private agreement entered into under this article must provide for the following:

(1) The original term of the public-private agreement, which may not exceed seventy-five (75) years.

(2) Provisions for a:

(A) lease, franchise, or license of the toll road project and the real property owned by the authority upon which the toll road project is located or is to be located; or

(B) management agreement or other contract to operate the toll road project and the real property owned by the authority upon which the toll road project is located or is to be located;

for a predetermined period. The public-private agreement must provide for ownership of all improvements and real property by the authority in the name of the state.

(3) Monitoring of the operator's maintenance practices by the authority and the taking of actions by the authority that it considers appropriate to ensure that the toll road project is properly maintained.

(4) The basis upon which user fees that may be collected by the operator, as determined under this article, are established.

(5) Compliance with applicable state and federal laws and local ordinances.

(6) Grounds for termination of the public-private agreement by the authority or the operator.

(7) The date of termination of the operator's authority and duties under this article.

(8) Procedures for amendment of the agreement.

(9) Provisions requiring the completion of all environmental analyses of the toll road project required by state and federal law in the manner and at the times required by the appropriate state and federal agencies.

(10) An expedited method for resolving disputes between or

among the authority, the parties to the public-private agreement, and units of local government that contain any part of the toll road project, as required by IC 8-15.5-10-8.

SECTION 10. IC 8-15.5-6-2, AS ADDED BY P.L.47-2006, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. **(a)** Unless otherwise provided by federal law **or this section,** the operator or any contractor or subcontractor of the operator engaged in the construction of a toll road project is not required to comply with IC 4-13.6 or IC 5-16 concerning state public works, IC 5-17 concerning purchases of materials and supplies, or other statutes concerning procedures for procurement of public works or personal property as a condition of being awarded and performing work on the project.

(b) IC 5-16-7 concerning the common construction wage applies to the operator or any contractor or subcontractor of the operator engaged in a project for the construction of the Illiana Expressway, a limited access facility connecting Interstate Highway 65 in northwestern Indiana with an interstate highway in Illinois.

SECTION 11. IC 8-15.5-10-5, AS ADDED BY P.L.47-2006, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. **(a) Subject to subsection (b),** the authority may exercise any of its powers under IC 8-15-2 or any other provision of the Indiana Code as necessary or desirable for the performance of the authority's duties and the execution of the authority's powers under this article.

(b) For purposes of subsection (a), the following are governed by IC 8-15-2, IC 32-24, and any other applicable provision of the Indiana Code as in effect on January 1, 2010, and are not affected by amendments to those statutes enacted after December 31, 2009:

(1) The authority's use of the power of eminent domain to acquire property or interests in property for a project under this article.

(2) The rights of property owners who are affected by the authority's use of the power of eminent domain for a project under this article.

SECTION 12. IC 8-15.5-10-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 8. The authority shall**

establish an expedited method for resolving disputes between or among the authority, the parties to a public-private agreement, and units of local government that contain any part of the toll road project, and shall set forth that method in the public-private agreement.

SECTION 13. IC 8-15.7-1-1, AS ADDED BY P.L.47-2006, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. The general assembly finds the following:

(1) There is a public need for timely development and operation of transportation facilities in Indiana that address the needs identified by the department, through the department's transportation plan and otherwise, by accelerating project delivery, improving safety, reducing congestion, increasing mobility, improving connectivity, increasing capacity, enhancing economic efficiency, promoting economic development, or any combination of those methods.

(2) This public need may not be wholly satisfied by existing methods of procurement and project delivery in which transportation facilities are developed, financed, or operated.

(3) Authorizing private entities to do all or part of the development, planning, design, construction, maintenance, repair, rehabilitation, expansion, financing, and operation of one (1) or more transportation facilities may result in the availability of the transportation facilities to the public in a more timely, more efficient, or less costly fashion, thereby serving the public safety and welfare.

(4) Public-private agreements entered into by private entities and the department under this article should allow for:

(A) transparency, oversight, and public information sharing;

(B) compliance with all state and federal environmental laws; and

(C) fairness for local jurisdictions when negotiating the public-private agreements.

SECTION 14. IC 8-15.7-1-5, AS AMENDED BY P.L.203-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) This article contains full and complete authority for agreements and leases with private entities to carry out the

activities described in this article. Except as provided in this article, no procedure, proceeding, publication, notice, consent, approval, order, or act by the authority, the department, or any other state or local agency or official is required to enter into an agreement or lease, and no law to the contrary affects, limits, or diminishes the authority for agreements and leases with private entities, except as provided by this article.

(b) Notwithstanding any other law, the department, the authority, or an operator may not carry out any of the following activities under this article unless the general assembly enacts a statute authorizing that activity:

(1) Issuing a request for proposals for, or entering into, a public-private agreement concerning a project other than:

(A) Interstate Highway 69 between Interstate Highway 465 and Interstate Highway 64;

(B) the Illiana Expressway, a limited access facility connecting Interstate Highway 65 in northwestern Indiana with an interstate highway in Illinois; or

(C) a project that is located within a metropolitan planning area (as defined by 23 U.S.C. 134) and that connects the state of Indiana with the commonwealth of Kentucky.

(2) Carrying out construction for Interstate Highway 69 in a township having a population of more than seventy-five thousand (75,000) and less than ninety-three thousand five hundred (93,500).

(3) Imposing user fees on motor vehicles for use of the part of an interstate highway that connects a consolidated city and a city having a population of more than eleven thousand five hundred (11,500) but less than eleven thousand seven hundred forty (11,740).

(c) Notwithstanding subsection (b) or any other law, the department or the authority may enter into a public-private agreement concerning a project consisting of a passenger or freight railroad system described in IC 8-15.7-2-14(a)(4). Such an agreement is subject to review and appropriation by the general assembly. However, this subsection does not prohibit the department from:

(1) conducting preliminary studies that the department considers necessary to determine the feasibility of such a project; or

(2) issuing a request for qualifications or a request for proposals,

or both, under IC 8-15.7-4 for such a project.

SECTION 15. IC 8-15.7-2-12.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 12.5. "Governmental entity" means:**

(1) any state;

(2) any authority, board, bureau, commission, committee, department, division, or other instrumentality established by any state; or

(3) any entity established by the laws of another state in which the state of Indiana has been invited to participate.

SECTION 16. IC 8-15.7-4-1, AS ADDED BY P.L.47-2006, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The department may request proposals from private entities for all or part of the development, financing, and operation of one (1) or more projects.

(b) If all or part of the project will consist of a tollway, the department shall take the following steps before the commencement of the procurement process under this chapter:

(1) **Except as provided by subsection (c),** the department shall cause to be prepared a preliminary feasibility study **and an economic impact study** on that part of the project consisting of a tollway by a firm or firms internationally recognized in the preparation of studies or reports on the financial feasibility **and economic impact** of proposed toll road projects. **Before the preparation of the preliminary feasibility study and the economic impact study, the department must conduct a public hearing on the proposed studies in the county seat of the county in which the proposed project would be located. At least ten (10) days before each public hearing, the authority shall:**

(A) post notice of the public hearing on the department's Internet web site;

(B) publish notice of the public hearing one (1) time in accordance with IC 5-3-1 in two (2) newspapers of general circulation in the county in which the proposed project would be located; and

(C) include in the notices under clauses (A) and (B):

(i) the date, time, and place of the hearing;

(ii) the subject matter of the hearing;

(iii) a description of the purpose of the proposed preliminary feasibility study and economic impact study; and

(iv) a description of the proposed project and its location.

At the hearing, the department shall allow the public to be heard on the proposed studies and the proposed project.

(2) The preliminary feasibility study must be based upon a public-private financial and project delivery structure. **The economic impact study must, at a minimum, include an analysis of the following matters with respect to the proposed project:**

(A) Economic impacts on existing commercial and industrial development.

(B) Potential impacts on employment.

(C) Potential for future development near the project area, including consideration of locations for interchanges that will maximize opportunities for development.

(D) Fiscal impacts on revenues to local units of government.

(E) Demands on government services, such as public safety, public works, education, zoning and building, and local airports.

The department shall post copies of the preliminary feasibility study and the economic impact study on the department's Internet web site and shall also provide copies of the studies to the governor and to the legislative council (in an electronic format under IC 5-14-6).

~~(2)~~ **(3)** After the completion of the preliminary feasibility study **and the economic impact statement,** the department shall schedule a public hearing on the proposed project and the ~~preliminary feasibility study and~~ **studies in the county seat of the county that would be an affected jurisdiction for purposes of the proposed project. At least ten (10) days before the public hearing, the department shall:**

(A) post notice of the public hearing on the department's Internet web site;

(B) publish notice of the hearing one (1) time in accordance with IC 5-3-1 ~~at least seven (7) days before the hearing.~~ **in two (2) newspapers of general circulation in the county; and**

(C) ~~the notice must~~ include the following **in the notices under clauses (A) and (B):**

~~(A)~~ **(i)** The date, time, and place of the hearing.

~~(B)~~ **(ii)** The subject matter of the hearing.

~~(C)~~ **(iii)** A description of the proposed project, its location, the part of the project consisting of a tollway, and, consistent with the assessments reached in the preliminary feasibility study, the estimated total cost of the acquisition, construction, installation, equipping, and improving of the proposed project, as well as the part of the project consisting of a tollway.

~~(D)~~ **(iv)** The address and telephone number of the department.

(v) A statement concerning the availability of the preliminary feasibility study and the economic impact study on the department's Internet web site.

~~(3)~~ **(4)** At the hearing, the department shall allow the public to be heard on the proposed project, ~~and~~ the preliminary feasibility study, **and the economic impact study.**

~~(4)~~ **(5)** After the **completion of the** public ~~hearing~~ **hearings** described in subdivision ~~(2),~~ **(3),** the department shall submit the preliminary feasibility study **and the economic impact study** to the budget committee for its review before the commencement of the procurement process under this chapter.

(c) The following provisions apply if the department determines that a feasibility study for the Illiana Expressway that was prepared before March 15, 2010, meets the requirements of subsection (b) concerning the preparation of a preliminary feasibility study:

(1) The department is not required to prepare an additional preliminary feasibility study.

(2) The requirement under subsection (b)(1) for a public hearing before preparation of a preliminary feasibility study does not apply. However, the requirement under subsection (b)(1) for a public hearing on the economic impact study does

apply.

(3) The feasibility study prepared before March 15, 2010, is considered to be the preliminary feasibility study for purposes of subsection (b)(3) through (b)(5).

SECTION 17. IC 8-15.7-4-2, AS ADDED BY P.L.47-2006, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) This section establishes the competitive proposal procedure that the department shall use to enter into a public-private agreement with an operator under this article.

(b) The department may pursue a competitive proposal procedure using a request for qualifications and a request for proposals process or proceed directly to a request for proposals.

(c) If the department elects to use a request for qualifications phase, it must provide a public notice of the request for qualifications, for the period considered appropriate by the department, before the date set for receipt of submittals in response to the solicitation. The department shall provide the notice by posting in a designated public area and publication in a newspaper of general circulation, in the manner provided by IC 5-3-1. In addition, submittals in response to the solicitation may be solicited directly from potential offerors.

(d) The department shall evaluate qualification submittals based on the requirements and evaluation criteria set forth in the request for qualifications.

(e) If the department has undertaken a request for qualifications phase resulting in one (1) or more prequalified or shortlisted offerors, the request for proposals shall be limited to those offerors that have been prequalified or shortlisted.

(f) If the department has not issued a request for qualifications and intends to use only a one (1) phase request for proposals procurement, the department must provide a public notice of the request for proposals for the period considered appropriate by the department, before the date set for receipt of proposals. The department shall provide the notice by posting in a designated public area and publication in a newspaper of general circulation, in the manner provided by IC 5-3-1. In addition, proposals may be solicited directly from potential offerors.

(g) The department shall submit a draft of the request for proposals to the budget committee for its review before the issuance by the

department of the request for proposals to potential offerors. The request for proposals must:

(1) indicate in general terms the scope of work, goods, and services sought to be procured;

(2) contain or incorporate by reference the specifications and contractual terms and conditions applicable to the procurement and the qualifying project;

(3) specify the factors, criteria, and other information that will be used in evaluating the proposals;

(4) specify any requirements or goals for use of:

(A) minority business enterprises and women's business enterprises certified under IC 4-13-16.5;

(B) disadvantaged business enterprises under federal or state law;

(C) businesses defined under IC 5-22-15-20.5 as Indiana businesses, to the extent permitted by applicable federal and state law and regulations; and

(D) businesses that qualify for a small business set-aside under IC 4-13.6-2-11;

(5) if all or part of the project will consist of a tollway, require any offeror to submit a proposal based upon that part of the project that will consist of a tollway, as set forth in the request for proposals, and permit any offeror to submit one (1) or more alternative proposals based upon the assumption that a different part or none of the project will consist of a tollway;

(6) contain or incorporate by reference the other applicable contractual terms and conditions; and

(7) contain or incorporate by reference any other provisions, materials, or documents that the department considers appropriate.

(h) The department shall determine the evaluation criteria that are appropriate for each project and shall set those criteria forth in the request for proposals. The department may use a selection process that results in selection of the proposal offering the best value to the public, a selection process that results in selection of the proposal offering the lowest price or cost or the highest payment to, or revenue sharing with, the department, or any other selection process that the department determines is in the best interests of the state and the public.

(i) The department shall evaluate proposals based on the requirements and evaluation criteria set forth in the request for proposals.

(j) The department may select one (1) or more offerors for negotiations based on the evaluation criteria set forth in the request for proposals. If the department believes that negotiations with the selected offeror or offerors are not likely to result in a public-private agreement, or, in the case of a best value selection process, no longer reflect the best value to the state and the public, the department may commence negotiations with other responsive offerors, if any, and may suspend, terminate, or continue negotiations with the original offeror or offerors. If negotiations are unsuccessful, the department shall terminate the procurement, may not award the public-private agreement, and may commence a new procurement for a public-private agreement. If the department determines that negotiations with an offeror have been successfully completed, the department shall, subject to the other requirements of this article, award the public-private agreement to the offeror.

(k) Before awarding a public-private agreement to an operator, the department shall schedule a public hearing on the **preliminary selection of the operator and the terms of the** proposed public-private agreement. ~~and~~ **The hearing shall be conducted in the county seat of the county that would be an affected jurisdiction for purposes of the proposed project. The department shall do the following:**

(1) At least ten (10) days before the public hearing, post on the department's Internet web site:

(A) the proposal submitted by the offeror that has been preliminarily selected as the operator for the project, except for those parts of the proposal that are confidential under this article; and

(B) the proposed public-private agreement for the project.

(2) At least ten (10) days before the public hearing:

(A) post notice of the public hearing on the department's Internet web site; and

(B) publish notice of the hearing one (1) time in accordance with IC 5-3-1 ~~at least seven (7) days before the hearing. The notice must~~ **in two (2) newspapers of general circulation in**

the county that would be an affected jurisdiction for purposes of the proposed project.

(3) Include the following **in the notices required by subdivision (2):**

~~(1)~~ **(A)** The date, time, and place of the hearing.

~~(2)~~ **(B)** The subject matter of the hearing.

~~(3)~~ **(C)** A description of the agreement to be awarded.

~~(4)~~ **(D)** The recommendation that has been made to award the agreement to an identified offeror or offerors.

~~(5)~~ **(E)** The address and telephone number of the department.

(F) A statement indicating that, subject to section 6 of this chapter, and except for those portions that are confidential under IC 5-14-3, the following are available on the department's Internet web site and are also available for public inspection and copying at the principal office of the department during regular business hours:

(i) The selected offer.

(ii) An explanation of the basis upon which the preliminary selection was made.

(iii) The proposed public-private agreement for the project.

(l) At the hearing, the department shall allow the public to be heard on the **preliminary selection of the operator and the terms of the** proposed public-private agreement.

(m) When the terms and conditions of multiple awards are specified in the request for proposals, awards may be made to more than one (1) offeror.

SECTION 18. IC 8-15.7-5-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1.5. In addition to the other requirements of this article, a public-private agreement entered into under this article must include the following:**

(1) A requirement for the completion of all environmental analyses of the project required by state and federal law in the manner and at the times required by the appropriate state and federal agencies.

(2) A requirement for ownership by the department in the name of the state of Indiana of:

(A) all the real property on which the project is located; and

(B) all of the improvements on that real property.

(3) An expedited method for resolving disputes between or among the department, the parties to the public-private agreement, and affected jurisdictions, as required by IC 8-15.7-12-2.

SECTION 19. IC 8-15.7-6-2, AS ADDED BY P.L.47-2006, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. **(a)** Unless otherwise provided by federal law **or this section,** the operator or any contractor or subcontractor of the operator engaged in the construction of a project is not required to comply with IC 4-13.6 or IC 5-16 concerning state public works, IC 5-17 concerning purchases of materials and supplies, or other statutes concerning procedures for procurement of public works or personal property as a condition of being awarded and performing work on the project.

(b) IC 5-16-7 concerning the common construction wage applies to the operator or any contractor or subcontractor of the operator engaged in a project for the construction of the Illiana Expressway, a limited access facility connecting Interstate Highway 65 in northwestern Indiana with an interstate highway in Illinois.

SECTION 20. IC 8-15.7-12-2, AS ADDED BY P.L.47-2006, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The department shall establish an expedited method for resolving disputes between **or among** the department, ~~and~~ the parties to a public-private agreement, **and affected jurisdictions,** and shall set forth that method in the public-private agreement.

SECTION 21. IC 8-15.7-14-5, AS ADDED BY P.L.47-2006, SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. **(a) Subject to subsection (b),** the department may exercise any of its powers under IC 8-15-3 as necessary or desirable for the performance of its duties and the execution of its powers under this article. In connection with or in anticipation of the exercise by the authority of any powers granted to the authority by this article, the department may authorize the authority to exercise all or part of the powers of the department under this article as necessary or desirable to accomplish the purposes of this article.

(b) For purposes of subsection (a):

(1) the department's or the authority's use of the power of eminent domain to acquire property or interests in property for a project under this article; and

(2) the rights of property owners who are affected by the authority's use of the power of eminent domain for a project under this article;

are governed by IC 8-15-3, IC 8-23-7, IC 32-24, and any other applicable provision of the Indiana Code as in effect on January 1, 2010, and are not affected by amendments to those statutes enacted after December 31, 2009.

SECTION 22. IC 8-16-1-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 0.5. This chapter does not apply to a project under IC 8-15.5 or IC 8-15.7 that is located within a metropolitan planning area (as defined by 23 U.S.C. 134) and that connects the state of Indiana with the commonwealth of Kentucky.**

SECTION 23. IC 8-16-2-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 0.5. This chapter does not apply to a project under IC 8-15.5 or IC 8-15.7 that is located within a metropolitan planning area (as defined by 23 U.S.C. 134) and that connects the state of Indiana with the commonwealth of Kentucky.**

SECTION 24. IC 8-23-7-22, AS AMENDED BY P.L.47-2006, SECTION 41, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. (a) Subject to subsection (b), the department may, after issuing an order and receiving the governor's approval, determine that a state highway should become a tollway. After the order becomes effective, the department shall maintain and operate the tollway and levy and collect tolls as provided in IC 8-15-3 or enter into a public-private agreement with an operator with respect to the tollway under IC 8-15.7. Before issuing an order under this section, the department shall submit to the governor a plan to bring the tollway to the current design standards of the department for new state highways within a specified period. The specified period may not exceed five (5) years.

(b) Notwithstanding any other law, the governor, the department, or an operator may not carry out any of the following activities under this

section unless the general assembly enacts a statute authorizing that activity:

(1) Determine that a highway, other than:

(A) Interstate Highway 69 between Interstate Highway 64 and a city having a population of more than eleven thousand five hundred (11,500) but less than eleven thousand seven hundred forty (11,740);

(B) the Illiana Expressway, a limited access facility connecting Interstate Highway 65 in northwestern Indiana with an interstate highway in Illinois; or

(C) a project that is located within a metropolitan planning area (as defined by 23 U.S.C. 134) and that connects the state of Indiana with the commonwealth of Kentucky.

should become a tollway.

(2) Carry out construction for Interstate Highway 69 in a township having a population of more than seventy-five thousand (75,000) and less than ninety-three thousand five hundred (93,500).

(3) Impose tolls on motor vehicles for use of the part of an interstate highway that connects a consolidated city and a city having a population of more than eleven thousand five hundred (11,500) but less than eleven thousand seven hundred forty (11,740).

SECTION 25. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "application" refers to the application form submitted by the department for Track 2-Corridor Programs of the Federal Railroad Administration's High-Speed Intercity Passenger Rail (HSIPR) Program.**

(b) As used in this SECTION, "department" refers to the Indiana department of transportation established under IC 8-23-2-1.

(c) The department may not amend, submit, or resubmit an application for the IN-Chicago Cleveland-HSR Service until the department completes a comprehensive study of a route that provides direct high speed rail passenger service to both South Bend and Fort Wayne. The department shall complete the study required by this subsection not later than July 1, 2011.

(d) Not later than November 1, 2010, the department shall report to the joint study committee on mass transit and

transportation alternatives established under IC 2-5-28-2 on the following:

(1) The status of the department's study and, if applicable, application.

(2) The department's participation in planning and promoting high speed rail passenger service in Indiana, including the priority of high speed rail passenger service in the department's long term transportation plan.

(e) This SECTION expires January 1, 2012.

SECTION 26. [EFFECTIVE UPON PASSAGE] **This act applies only to public-private agreements entered into under IC 8-15.5 or IC 8-15.7 after March 14, 2010.**

SECTION 27. **An emergency is declared for this act.**

P.L.86-2010

[S.400. Approved March 18, 2010.]

AN ACT to amend the Indiana code concerning motorized vehicles and civil law.

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

SECTION 1. IC 9-13-2-60, AS AMENDED BY P.L.150-2009, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 60. (a) "Farm wagon" means ~~either~~ **any** of the following:

(1) A wagon, other than an implement of agriculture, that is used primarily for transporting farm products and farm supplies in connection with a farming operation.

(2) A three (3), four (4), or six (6) wheeled motor vehicle with a folding hitch on the front of the motor vehicle, manufactured with seating for not more than four (4) individuals, that is used primarily:

(A) to transport an individual from one (1) farm field to another, whether or not the motor vehicle is operated on a highway in order to reach the other farm field;

(B) for the transportation of an individual upon farm premises; or

(C) for both purposes set forth in clauses (A) and (B).

(3) A three (3), four (4), or six (6) wheeled construction related motor vehicle, capable of cross-country travel:

(A) without the benefit of a road; and

(B) on or immediately over land, water, snow, ice, marsh, swampland, or other natural terrain;

that is used primarily for construction related purposes, including hauling building materials.

(b) The term includes a motor vehicle described in subsection (a)(2) that is used for the incidental transportation of farm supplies or farm implements at the same time it is used for the transportation of an individual.

SECTION 2. IC 14-8-2-5.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 5.7. "All-terrain vehicle", for purposes of IC 14-8-2-185, means a motorized, off-highway vehicle that:**

(1) is fifty (50) inches or less in width;

(2) has a dry weight of twelve hundred (1,200) pounds or less;

(3) is designed for travel on at least three (3) nonhighway or off-highway tires;

(4) is designed for recreational use by one (1) or more individuals;

(5) has a seat or saddle designed to be straddled by the operator; and

(6) has handlebars for steering control.

The term includes parts, equipment, or attachments sold with the vehicle.

SECTION 3. IC 14-8-2-185, AS AMENDED BY P.L.150-2009, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 185. (a) "Off-road vehicle", for purposes of IC 14-16-1 and IC 14-19-1-0.5, means a motor driven vehicle capable of cross-country travel:

(1) without benefit of a road; and

(2) on or immediately over land, water, snow, ice, marsh, swampland, or other natural terrain.

(b) The term includes the following:

(1) A multiwheel drive or low pressure tire vehicle.

(2) An amphibious machine.

(3) A ground effect air cushion vehicle.

(4) An all-terrain vehicle (as defined in section 5.7 of this chapter).

(5) A recreational off-highway vehicle (as defined in section 233.5 of this chapter).

~~(4)~~ **(6)** Other means of transportation deriving motive power from a source other than muscle or wind.

(c) The term does not include the following:

(1) A farm vehicle being used for farming, including, but not limited to, a farm wagon (as defined in IC 9-13-2-60(a)(2)).

(2) A vehicle used for military or law enforcement purposes.

(3) A construction, mining, or other industrial related vehicle used in performance of the vehicle's common function, **including, but not limited to, a farm wagon (as defined in IC 9-13-2-60(a)(3)).**

(4) A snowmobile (as defined by section 261 of this chapter).

(5) A registered aircraft.

(6) Any other vehicle properly registered by the bureau of motor vehicles.

(7) Any watercraft that is registered under Indiana statutes.

(8) A golf cart vehicle.

SECTION 4. IC 14-8-2-233.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 233.5. "Recreational off-road vehicle", for purposes of IC 14-8-2-185, means a motorized, off-highway vehicle that:**

(1) is sixty-four (64) inches or less in width;

(2) has a dry weight of two thousand (2,000) pounds or less;

(3) is designed for travel on at least four (4) nonhighway or off-highway tires;

(4) is designed for recreational use by one (1) or more individuals;

(5) has a nonstraddle seat or saddle; and

(6) has a steering wheel for steering control.

SECTION 5. IC 14-16-1-1.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 1.8. As used in this chapter, "collector snowmobile" means a snowmobile that is:**

(1) at least twenty-five (25) years old; and

(2) owned and operated as a collector snowmobile for participation in special events of limited duration, including races, parades, and other group events.

SECTION 6. IC 14-16-1-8, AS AMENDED BY P.L.225-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8. (a) Except as otherwise provided, the following may not be operated on public property unless registered:

(1) An off-road vehicle.

(2) A snowmobile **(including a collector snowmobile).**

(b) Except as provided under subsection (c), ~~a vehicle that is purchased after December 31, 2003,~~ **the following** must be registered under this chapter:

(1) A vehicle that is purchased after December 31, 2003.

(2) A collector snowmobile.

(c) Registration is not required for the following vehicles:

(1) ~~A~~ **An off-road** vehicle that is exclusively operated in a special event of limited duration that is conducted according to a prearranged schedule under a permit from the governmental unit having jurisdiction.

(2) A vehicle being operated by a nonresident of Indiana as authorized under section 19 of this chapter.

(3) A vehicle being operated for purposes of testing or demonstration with temporary placement of numbers as set forth in section 16 of this chapter.

(4) A vehicle the operator of which has in the operator's possession a bill of sale from a dealer or private individual that includes the following:

(A) The purchaser's name and address.

(B) A date of purchase that is not more than thirty-one (31) days preceding the date that the operator is required to show the bill of sale.

(C) The make, model, and vehicle number of the vehicle

provided by the manufacturer as required by section 13 of this chapter.

SECTION 7. IC 14-16-1-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 22. A county, city, or town may pass an ordinance regulating the operation of vehicles if the ordinance meets substantially the minimum requirements of this chapter. However, a county, city, or town may not adopt an ordinance that does any of the following:

(1) Imposes a fee for a license.

(2) Specifies accessory equipment to be carried on the vehicles.

(3) Requires a vehicle operator to possess a driver's license issued under IC 9-24-11 while operating an off-road vehicle or snowmobile.

(4) Imposes a dry weight limitation of less than two thousand (2,000) pounds.

SECTION 8. IC 14-16-1-31 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 31. The department may not adopt a rule, regulation, or guideline that, with respect to an off-road vehicle, imposes a dry weight limitation of less than two thousand (2,000) pounds.**

SECTION 9. IC 15-12-3-2, AS ADDED BY P.L.2-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. As used in this chapter, "all terrain vehicle" ~~means a motorized, off-highway vehicle that:~~

~~(1) is fifty (50) inches or less in width;~~

~~(2) has a dry weight of six hundred (600) pounds or less;~~

~~(3) is designed for travel on at least three (3) low pressure tires;~~

~~(4) is designed for operator use only with no passengers;~~

~~(5) has a seat or saddle designed to be straddled by the operator; and~~

~~(6) has handlebars for steering control.~~

~~The term includes parts, equipment, or attachments sold with the vehicle.~~ **has the meaning set forth in IC 14-8-2-5.7.**

SECTION 10. IC 34-13-3-3, AS AMENDED BY P.L.121-2009, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. A governmental entity or an employee acting within the scope of the employee's employment is not liable if a loss results from the following:

(1) The natural condition of unimproved property.
(2) The condition of a reservoir, dam, canal, conduit, drain, or similar structure when used by a person for a purpose that is not foreseeable.
(3) The temporary condition of a public thoroughfare or extreme sport area that results from weather.
(4) The condition of an unpaved road, trail, or footpath, the purpose of which is to provide access to a recreation or scenic area.
(5) The design, construction, control, operation, or normal condition of an extreme sport area, if all entrances to the extreme sport area are marked with:

(A) a set of rules governing the use of the extreme sport area;
(B) a warning concerning the hazards and dangers associated with the use of the extreme sport area; and
(C) a statement that the extreme sport area may be used only by persons operating extreme sport equipment.

This subdivision shall not be construed to relieve a governmental entity from liability for the continuing duty to maintain extreme sports areas in a reasonably safe condition.
(6) The initiation of a judicial or an administrative proceeding.
(7) The performance of a discretionary function; however, the provision of medical or optical care as provided in IC 34-6-2-38 shall be considered as a ministerial act.
(8) The adoption and enforcement of or failure to adopt or enforce a law (including rules and regulations), unless the act of enforcement constitutes false arrest or false imprisonment.
(9) An act or omission performed in good faith and without malice under the apparent authority of a statute which is invalid if the employee would not have been liable had the statute been valid.
(10) The act or omission of anyone other than the governmental entity or the governmental entity's employee.
(11) The issuance, denial, suspension, or revocation of, or failure or refusal to issue, deny, suspend, or revoke any permit, license, certificate, approval, order, or similar authorization, where the authority is discretionary under the law.
(12) Failure to make an inspection, or making an inadequate or

negligent inspection, of any property, other than the property of a governmental entity, to determine whether the property complied with or violates any law or contains a hazard to health or safety.

(13) Entry upon any property where the entry is expressly or impliedly authorized by law.

(14) Misrepresentation if unintentional.

(15) Theft by another person of money in the employee's official custody, unless the loss was sustained because of the employee's own negligent or wrongful act or omission.

(16) Injury to the property of a person under the jurisdiction and control of the department of correction if the person has not exhausted the administrative remedies and procedures provided by section 7 of this chapter.

(17) Injury to the person or property of a person under supervision of a governmental entity and who is:

(A) on probation; or

(B) assigned to an alcohol and drug services program under IC 12-23, a minimum security release program under IC 11-10-8, a pretrial conditional release program under IC 35-33-8, or a community corrections program under IC 11-12.

(18) Design of a highway (as defined in IC 9-13-2-73), toll road project (as defined in IC 8-15-2-4(4)), tollway (as defined in IC 8-15-3-7), or project (as defined in IC 8-15.7-2-14) if the claimed loss occurs at least twenty (20) years after the public highway, toll road project, tollway, or project was designed or substantially redesigned; except that this subdivision shall not be construed to relieve a responsible governmental entity from the continuing duty to provide and maintain public highways in a reasonably safe condition.

(19) Development, adoption, implementation, operation, maintenance, or use of an enhanced emergency communication system.

(20) Injury to a student or a student's property by an employee of a school corporation if the employee is acting reasonably under a discipline policy adopted under IC 20-33-8-12.

(21) An act or omission performed in good faith under the

apparent authority of a court order described in IC 35-46-1-15.1 that is invalid, including an arrest or imprisonment related to the enforcement of the court order, if the governmental entity or employee would not have been liable had the court order been valid.

(22) An act taken to investigate or remediate hazardous substances, petroleum, or other pollutants associated with a brownfield (as defined in IC 13-11-2-19.3) unless:

(A) the loss is a result of reckless conduct; or

(B) the governmental entity was responsible for the initial placement of the hazardous substances, petroleum, or other pollutants on the brownfield.

(23) The operation of an off-road vehicle (as defined in IC 14-8-2-185) by a nongovernmental employee, or by a governmental employee not acting within the scope of the employment of the employee, on a public highway in a county road system outside the corporate limits of a city or town, unless the loss is the result of an act or omission amounting to:

(A) gross negligence;

(B) willful or wanton misconduct; or

(C) intentional misconduct.

This subdivision shall not be construed to relieve a governmental entity from liability for the continuing duty to maintain highways in a reasonably safe condition for the operation of motor vehicles licensed by the bureau of motor vehicles for operation on public highways.

P.L.87-2010
[S.407. Approved March 18, 2010.]

AN ACT to amend the Indiana Code concerning motor vehicles and to make an appropriation.

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

SECTION 1. IC 6-6-5.1-15, AS ADDED BY P.L.131-2008, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 15. (a) This section applies only to recreational vehicles.

(b) With respect to a recreational vehicle that has been acquired, has been brought into Indiana, or for any other reason becomes subject to registration after the regular annual registration date in the year on or before which the owner of the recreational vehicle is required under the state motor vehicle registration laws to register vehicles, the tax imposed by this chapter is due and payable at the time the recreational vehicle is acquired, is brought into Indiana, or otherwise becomes subject to registration. The amount of tax to be paid by the owner for the remainder of the year shall be reduced by ~~ten~~ **eight and thirty-three hundredths** percent ~~(10%)~~ **(8.33%)** for each full calendar month that has elapsed since the regular annual registration date in the year fixed by the state motor vehicle registration laws for annual registration by the owner. The tax shall be paid at the time of the registration of the recreational vehicle.

(c) If a recreational vehicle is acquired, is brought into Indiana, or for any other reason becomes subject to registration after January 1 of any year, the owner may pay the applicable registration fee on the recreational vehicle as provided in the state motor vehicle registration laws and may pay any excise tax due on the recreational vehicle for the remainder of the annual registration year and simultaneously register the recreational vehicle and pay the applicable registration fee and the excise tax due for the next succeeding annual registration year.

(d) Except as provided in subsection (h), a reduction in the applicable annual excise tax may not be allowed to an Indiana resident applicant upon registration of a recreational vehicle that was owned by the applicant on or before the first day of the applicant's annual registration period. A recreational vehicle that is owned by an Indiana resident applicant and that was located in and registered for use in another state during the same calendar year is entitled to the same reduction when registered in Indiana.

(e) The owner of a recreational vehicle who sells the recreational vehicle in a year in which the owner has paid the tax imposed by this chapter shall receive a credit equal to the remainder of:

(1) the tax paid for the recreational vehicle; minus

(2) ~~ten~~ **eight and thirty-three hundredths** percent ~~(10%)~~ **(8.33%)** for each full or partial calendar month that has elapsed in the owner's annual registration year before the date of the sale.

The credit shall be applied to the tax due on any other recreational vehicle purchased or subsequently registered by the owner in the owner's annual registration year. If the credit is not fully used and the amount of the credit remaining is at least four dollars ($4), the owner is entitled to a refund in the amount of the unused credit. The owner must pay a fee of three dollars ($3) to the bureau to cover costs of providing the refund, which may be deducted from the refund. The bureau shall issue the refund. The bureau shall transfer three dollars ($3) of the fee to the bureau of motor vehicles commission to cover the commission's costs in processing the refund. To claim the credit and refund provided by this subsection, the owner of the recreational vehicle must present to the bureau proof of sale of the recreational vehicle.

(f) Subject to the requirements of subsection (g), if a recreational vehicle is destroyed in a year in which the owner has paid the tax imposed by this chapter and the recreational vehicle is not replaced by a replacement vehicle for which a credit is issued under this section, the owner is entitled to a refund in an amount equal to ~~ten~~ **eight and thirty-three hundredths** percent ~~(10%)~~ **(8.33%)** of the tax paid for each full calendar month remaining in the owner's annual registration year after the date of destruction, but only upon presentation or return to the bureau of the following:

(1) A request for refund on a form furnished by the bureau.

(2) A statement of proof of destruction on an affidavit furnished by the bureau.

(3) The license plate from the recreational vehicle.

(4) The registration from the recreational vehicle.

However, the refund may not exceed ninety percent (90%) of the tax paid on the destroyed recreational vehicle. The amount shall be refunded by a warrant issued by the auditor of the county that received the excise tax revenue and shall be paid out of the special account created under section 21 of this chapter for settlement of the excise tax collections. For purposes of this subsection, a recreational vehicle is considered destroyed if the cost of repair of damages suffered by the recreational vehicle exceeds the recreational vehicle's fair market value.

(g) To claim a refund under subsection (f) for a recreational vehicle that is destroyed, the owner of the recreational vehicle must present to the bureau a valid registration for the recreational vehicle within ninety (90) days after the date that the recreational vehicle is destroyed. The bureau shall then fix the amount of the refund that the owner is entitled to receive.

(h) If the name of the owner of a recreational vehicle is legally changed and the change has caused a change in the owner's annual registration date, the excise tax liability of the owner for the recreational vehicle shall be adjusted as follows:

(1) If the name change requires the owner to register sooner than the owner would have been required to register if there had been no name change, the owner is, at the time the name change is reported, entitled to a refund from the county treasurer in the amount of the product of:

(A) ~~ten~~ **eight and thirty-three hundredths** percent ~~(10%)~~ **(8.33%)** of the owner's last preceding annual excise tax liability; multiplied by

(B) the number of full calendar months beginning after the owner's new regular annual registration month and ending before the next succeeding regular annual registration month that is based on the owner's former name.

(2) If the name change requires the owner to register later than the owner would have been required to register if there had been no name change, the recreational vehicle is subject to excise tax for

the period beginning after the month in which the owner would have been required to register if there had been no name change and ending before the owner's new regular annual registration month in the amount of the product of:

(A) ~~ten~~ **eight and thirty-three hundredths** percent ~~(10%)~~ **(8.33%)** of the owner's excise tax liability computed as of the time the owner would have been required to register if there had been no name change; multiplied by

(B) the number of full calendar months beginning after the month in which the owner would have been required to register if there had been no name change and ending before the owner's new regular annual registration month.

SECTION 2. IC 6-6-5.1-16, AS ADDED BY P.L.131-2008, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 16. (a) This section applies only to truck campers.

(b) With respect to a truck camper that has been acquired, has been brought into Indiana, or for any other reason becomes subject to taxation after the regular annual registration date in the year on or before which the owner of the truck camper is required under the state motor vehicle registration laws to register vehicles, the tax imposed by this chapter is due and payable at the time the truck camper is acquired, is brought into Indiana, or otherwise becomes subject to taxation under this chapter. The amount of tax to be paid by the owner for the remainder of the year shall be reduced by ~~ten~~ **eight and thirty-three hundredths** percent ~~(10%)~~ **(8.33%)** for each full calendar month that has elapsed since the regular annual registration date in the year fixed by the state motor vehicle registration laws for annual registration by the owner. The tax shall be paid within thirty (30) days after the date on which the truck camper is acquired, is brought into Indiana, or otherwise becomes subject to taxation under this chapter.

(c) If a truck camper is acquired, is brought into Indiana, or for any other reason becomes subject to taxation under this chapter after January 1 of any year, the owner may pay any excise tax due on the truck camper for the remainder of the annual registration year and simultaneously pay the excise tax due for the next succeeding annual registration year.

(d) The owner of a truck camper who sells the truck camper in a year in which the owner has paid the tax imposed by this chapter shall

receive a credit equal to the remainder of:

(1) the tax paid for the truck camper; reduced by

(2) ~~ten~~ **eight and thirty-three hundredths** percent ~~(10%)~~ **(8.33%)** for each full or partial calendar month that has elapsed in the owner's annual registration year before the date of the sale.

The credit shall be applied to the tax due on any other truck camper acquired by the owner in the owner's annual registration year. If the credit is not fully used and the amount of the credit remaining is at least four dollars ($4), the owner is entitled to a refund in the amount of the unused credit. The owner must pay a fee of three dollars ($3) to the bureau to cover the costs of providing the refund, which may be deducted from the refund. The bureau shall issue the refund. The bureau shall transfer three dollars ($3) of the fee to the bureau of motor vehicles commission to cover the commission's costs in processing the refund. To claim the credit and refund provided by this subsection, the owner of the truck camper must present to the bureau proof of sale of the truck camper.

(e) Subject to the requirements of subsection (f), if a truck camper is destroyed in a year in which the owner has paid the tax imposed by this chapter and the truck camper is not replaced by a replacement truck camper for which a credit is issued under this section, the owner is entitled to a refund in an amount equal to ~~ten~~ **eight and thirty-three hundredths** percent ~~(10%)~~ **(8.33%)** of the tax paid for each full calendar month remaining in the owner's annual registration year after the date of destruction, but only upon presentation or return to the bureau of the following:

(1) A request for refund on a form furnished by the bureau.

(2) A statement of proof of destruction on an affidavit furnished by the bureau.

However, the refund may not exceed ninety percent (90%) of the tax paid on the destroyed truck camper. The amount shall be refunded by a warrant issued by the auditor of the county that received the excise tax revenue and shall be paid out of the special account created under section 21 of this chapter for settlement of the excise tax collections. For purposes of this subsection, a truck camper is considered destroyed if the cost of repair of damages suffered by the truck camper exceeds the truck camper's fair market value.

(f) To claim a refund under subsection (e) for a truck camper that is

destroyed, the owner of the truck camper must present to the bureau a valid receipt for the excise tax paid under this chapter on the truck camper within ninety (90) days after the date that the truck camper is destroyed. The bureau shall then fix the amount of the refund that the owner is entitled to receive.

(g) If the name of the owner of a truck camper is legally changed and the change has caused a change in the owner's annual registration date, the excise tax liability of the owner for the truck camper shall be adjusted as follows:

(1) If the name change requires the owner to register a motor vehicle sooner than the owner would have been required to register if there had been no name change, the owner is, at the time the name change is reported, entitled to a refund from the county treasurer in the amount of the product of:

(A) ~~ten~~ **eight and thirty-three hundredths** percent ~~(10%)~~ **(8.33%)** of the owner's last preceding annual excise tax liability; multiplied by

(B) the number of full calendar months beginning after the owner's new regular annual registration month and ending before the next succeeding regular annual registration month that is based on the owner's former name.

(2) If the name change requires the owner to register a motor vehicle later than the owner would have been required to register if there had been no name change, the truck camper is subject to excise tax for the period beginning after the month in which the owner would have been required to register if there had been no name change and ending before the owner's new regular annual registration month in the amount of the product of:

(A) ~~ten~~ **eight and thirty-three hundredths** percent ~~(10%)~~ **(8.33%)** of the owner's excise tax liability computed as of the time the owner would have been required to register a motor vehicle if there had been no name change; multiplied by

(B) the number of full calendar months beginning after the month in which the owner would have been required to register a motor vehicle if there had been no name change and ending before the owner's new regular annual registration month.

SECTION 3. IC 6-6-5.1-17, AS ADDED BY P.L.131-2008,

SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 17. (a) This section applies only to recreational vehicles.

(b) The owner of a recreational vehicle registered with the bureau is entitled to a refund of taxes paid under this chapter if, after the owner's regular registration date, the owner:

(1) registers the recreational vehicle for use in another state; and

(2) pays tax for use of the recreational vehicle to another state for the same period for which the tax was paid under this chapter.

(c) The refund provided under subsection (b) is equal to:

(1) the annual license excise tax paid for use of the recreational vehicle by the owner of the vehicle for the year; minus

(2) ~~ten~~ **eight and thirty-three hundredths** percent ~~(10%)~~ **(8.33%)** of the annual license excise tax paid for use of the recreational vehicle for each full or partial calendar month beginning after the date the annual license excise tax was due and ending before the date the owner registered the recreational vehicle for use in another state.

(d) To claim the refund provided by this section, the owner of the recreational vehicle must provide the bureau with:

(1) a request for a refund on a form furnished by the bureau; and

(2) proof that a tax described in subsection (b)(2) was paid.

SECTION 4. IC 6-6-5.1-18, AS ADDED BY P.L.131-2008, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 18. (a) This section applies only to truck campers.

(b) The owner of a truck camper is entitled to a refund of taxes paid under this chapter if, after the owner's regular vehicle registration date:

(1) the owner moves and registers the truck on which the truck camper is installed for use in another state;

(2) the owner pays tax for use of the truck camper to another state for the same period for which the tax was paid under this chapter; and

(3) the truck camper is located and used in the other state for the same period for which the tax was paid under this chapter.

(c) The refund provided under subsection (b) is equal to:

(1) the annual excise tax paid for use of the truck camper by the owner of the truck camper for the year; minus

(2) ~~ten~~ **eight and thirty-three hundredths** percent ~~(10%)~~

(8.33%) of the annual excise tax paid for use of the truck camper for each full or partial calendar month beginning after the date the annual excise tax was due and ending before the date the owner registered the truck for use in another state.

SECTION 5. IC 9-13-2-69.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: **Sec. 69.8. "Gold Star family member" for purposes of IC 9-18-54, has the meaning set forth in IC 9-18-54-1.**

SECTION 6. IC 9-14-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. A placard issued under this chapter must be displayed on the dashboard of a motor vehicle that is parked in a parking space reserved for persons with physical disabilities under this chapter unless the motor vehicle bears a license plate for a person with a disability issued under IC 9-18-22, a disabled **Hoosier** veteran's license plate issued under IC 9-18-18, or an equivalent parking permit issued under the laws of another state. If a placard is lost, stolen, damaged, or destroyed, the bureau shall provide a duplicate placard upon the application of the person who was issued the placard.

SECTION 7. IC 9-18-2-28, AS AMENDED BY P.L.103-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 28. Notwithstanding any other law, license plates for:

(1) passenger motor vehicles;

(2) recreational vehicles;

(3) motor vehicles registered to disabled veterans under IC 9-18-18; or

(4) motor vehicles registered to former prisoners of war under IC 9-18-17;

that contain any of the numerals 1 through 100 following the prefix numbers and letter shall be issued ~~biennially~~ by the bureau.

SECTION 8. IC 9-18-2-47, AS AMENDED BY P.L.103-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 47. (a) The commissioner shall adopt rules under IC 4-22-2 prescribing the cycle for the issuance and replacement of license plates under this article. The rules adopted under this section shall provide that a license plate for a vehicle issued under this article

is valid for five (5) years.

(b) The rules adopted under this section do not apply to:

~~(1) low digit license plates issued under section 28 of this chapter;~~

~~(2)~~ **(1)** truck license plates issued under section 4.5 or 18 of this chapter;

~~(3)~~ **(2)** general assembly and other state official license plates issued under IC 9-18-16; and

~~(4)~~ **(3)** personalized license plates issued under IC 9-18-15.

SECTION 9. IC 9-18-12-2.5, AS ADDED BY P.L.79-2006, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2.5. (a) ~~After December 31, 2007,~~ A person who registers an antique motor vehicle under this chapter may:

(1) furnish; and

(2) display on the antique motor vehicle;

an Indiana license plate from the model year of the antique motor vehicle.

(b) A license plate furnished and displayed under this section must be an authentic license plate from the model year of the antique motor vehicle.

(c) Before a license plate is mounted on an antique motor vehicle under this section, the license plate must be inspected by the bureau to determine whether the license plate:

(1) complies with this section;

(2) is in suitable condition to be displayed; and

(3) bears a unique plate number at the time of the registration of the antique motor vehicle.

The bureau **shall authorize the display of a restored or refurbished authentic license plate, but** may prohibit the display of an authentic license plate under this section if the authentic license plate is not in conformance with this subsection.

(d) If an Indiana license plate from the model year of the antique motor vehicle is displayed on a motor vehicle registered as an antique motor vehicle under this chapter, the current certificate of registration of the antique motor vehicle shall be:

(1) kept at all times in the vehicle; and

(2) made available for inspection upon the demand of a law enforcement officer.

Notwithstanding IC 9-18-2-21, this subsection is not satisfied by

keeping a reproduction of the certificate of registration in the vehicle or making a reproduction of the certificate of registration available for inspection.

(e) The fee to register and display an authentic license plate from the model year of an antique motor vehicle is as provided in IC 9-29-5-32.5.

SECTION 10. IC 9-18-15-1, AS AMENDED BY P.L.182-2009(ss), SECTION 286, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) A person who is the registered owner or lessee of a:

(1) passenger motor vehicle;

(2) motorcycle;

(3) recreational vehicle; or

(4) vehicle registered as a truck with a declared gross weight of not more than

~~(A)~~ eleven thousand (11,000) pounds;

~~(B) nine thousand (9,000) pounds; or~~

~~(C) seven thousand (7,000) pounds;~~

registered with the bureau or who makes an application for an original registration or renewal registration of a vehicle may apply to the bureau for a personalized license plate to be affixed to the vehicle for which registration is sought instead of the regular license plate.

(b) A person who:

(1) is the registered owner or lessee of a vehicle described in subsection (a); and

(2) is eligible to receive a license plate for the vehicle under:

(A) IC 9-18-17 (prisoner of war license plates);

(B) IC 9-18-18 (disabled **Hoosier** veteran license plates);

(C) IC 9-18-19 (Purple Heart license plates);

(D) IC 9-18-20 (Indiana National Guard license plates);

(E) IC 9-18-21 (Indiana Guard Reserve license plates);

(F) IC 9-18-22 (license plates for persons with disabilities);

(G) IC 9-18-23 (amateur radio operator license plates);

(H) IC 9-18-24 (civic event license plates);

(I) IC 9-18-24.5 (In God We Trust license plates);

(J) IC 9-18-25 (special group recognition license plates);

(K) IC 9-18-29 (environmental license plates);

(L) IC 9-18-30 (kids first trust license plates);

(M) IC 9-18-31 (education license plates);
(N) IC 9-18-32.2 (drug free Indiana trust license plates);
(O) IC 9-18-33 (Indiana FFA trust license plates);
(P) IC 9-18-34 (Indiana firefighter license plates);
(Q) IC 9-18-35 (Indiana food bank trust license plates);
(R) IC 9-18-36 (Indiana girl scouts trust license plates);
(S) IC 9-18-37 (Indiana boy scouts trust license plates);
(T) IC 9-18-38 (Indiana retired armed forces member license plates);
(U) IC 9-18-39 (Indiana antique car museum trust license plates);
(V) IC 9-18-40 (D.A.R.E. Indiana trust license plates);
(W) IC 9-18-41 (Indiana arts trust license plates);
(X) IC 9-18-42 (Indiana health trust license plates);
(Y) IC 9-18-43 (Indiana mental health trust license plates);
(Z) IC 9-18-44 (Indiana Native American trust license plates);
(AA) IC 9-18-45.8 (Pearl Harbor survivor license plates);
(BB) IC 9-18-46.2 (Indiana state educational institution trust license plates);
(CC) IC 9-18-47 (Lewis and Clark bicentennial license plates);
(DD) IC 9-18-48 (Riley Children's Foundation license plates);
(EE) IC 9-18-49 (National Football League franchised professional football team license plates);
(FF) IC 9-18-50 (Hoosier veteran license plates);
(GG) IC 9-18-51 (support our troops license plates);
(HH) IC 9-18-52 (Abraham Lincoln bicentennial license plates); ~~or~~
(II) IC 9-18-53 (Earlham College ~~Trust)~~ Trust license plates); **or**
(JJ) IC 9-18-54 (Indiana Gold Star family member license plates);

may apply to the bureau for a personalized license plate to be affixed to the vehicle for which registration is sought instead of the regular special recognition license plate.

SECTION 11. IC 9-18-15-6, AS AMENDED BY P.L.233-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. If a person who has been issued a personalized license plate reserves the same configuration of letters or numbers, or

both, for the next plate cycle, ~~as set forth in section 5 of this chapter,~~ that configuration of letters or numbers, or both, is not available to another person until the following plate cycle.

SECTION 12. IC 9-18-18-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) A person may apply for, receive, and display a disabled **Hoosier** veteran license plate on the person's vehicle for private and personal use if the person, as the result of having served in the armed forces of the United States, has:

(1) lost sight in both eyes or suffered permanent impairment of vision in both eyes to the extent of being eligible for service-connected compensation for the loss;

(2) suffered the loss of one (1) or both feet or the permanent loss of use of one (1) or both feet;

(3) suffered the loss of one (1) or both hands or the permanent loss of use of one (1) or both hands; ~~or~~

(4) a **United States Department of Veterans Affairs disability rating for a** physical condition that precludes the person from walking without pain or difficulty; **or**

(5) been rated by the United States Department of Veterans Affairs as being one hundred percent (100%) disabled and is receiving service related compensation from the United States Department of Veterans Affairs.

(b) An application for a disabled **Hoosier** veteran license plate must be accompanied by a certificate from the:

(1) United States Department of Veterans Affairs; or

(2) appropriate branch of the armed forces of the United States;

confirming the eligibility of the person submitting the application for the disabled **Hoosier** veteran license plate.

SECTION 13. IC 9-18-18-2, AS AMENDED BY P.L.6-2009, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) A person qualifying under section 1 of this chapter may not be:

(1) charged a fee for parking in a metered space; or

(2) assessed a penalty for parking in a metered space for longer than the time permitted.

(b) This section does not authorize parking of a motor vehicle in a parking place during a time when parking in the space is prohibited if the prohibition is:

(1) posted; and

(2) authorized:

(A) by ordinances in cities and towns; or

(B) by order of the Indiana department of transportation.

(c) A person other than the owner of the motor vehicle displaying a disabled **Hoosier** veteran license plate authorized by this chapter is not entitled to the parking privileges authorized by this section.

SECTION 14. IC 9-18-18-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. The bureau:

(1) may design and issue disabled **Hoosier** veteran license plates to implement this chapter; and

(2) shall administer this chapter relating to proper certification for a person applying for a disabled **Hoosier** veteran license plate.

SECTION 15. IC 9-18-18-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. Not more than two (2) disabled **Hoosier** veteran license plates may be issued to each eligible person.

SECTION 16. IC 9-18-18-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. The disabled **Hoosier** veteran license plates authorized under this chapter shall be issued by the bureau for any classification of vehicle required to be registered under Indiana law, but the license plate may not be used for commercial vehicles.

SECTION 17. IC 9-18-18-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. A ~~Class I~~ **disabled Hoosier veteran** license plate must be ~~blue and~~ gold in color **with blue lettering** and contain the following:

(1) Identification numerals.

(2) The words "Disabled ~~Am Vet".~~ **Hoosier Veteran".**

SECTION 18. IC 9-18-25-1, AS AMENDED BY P.L.30-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: Sec. 1. This chapter does not apply to the following:

(1) Antique motor vehicle license plates (IC 9-18-12).

(2) Recovery vehicle license plates (IC 9-18-13).

(3) Personalized license plates (IC 9-18-15).

(4) Prisoner of war license plates (IC 9-18-17).

(5) Disabled **Hoosier** veteran license plates (IC 9-18-18).

(6) Purple Heart license plates (IC 9-18-19).

(7) Indiana National Guard license plates (IC 9-18-20).

(8) Person with a disability license plates (IC 9-18-22).

(9) Amateur radio operator license plates (IC 9-18-23).

(10) In God We Trust license plates (IC 9-18-24.5).

(11) Pearl Harbor survivor license plates (IC 9-18-45.8).

(12) Hoosier veteran license plates (IC 9-18-50).

(13) Support our troops license plates (IC 9-18-51).

(14) Abraham Lincoln bicentennial license plates (IC 9-18-52).

(15) Indiana Gold Star family member license plates (IC 9-18-54).

SECTION 19. IC 9-18-25-17.7, AS ADDED BY P.L.117-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 17.7. (a) Notwithstanding any other law, representatives of a special group that participates in the special group recognition plate program may request that the bureau collect an annual fee of twenty-five dollars ($25) on behalf of the special group.

(b) If a request is made under subsection (a), the bureau shall collect the following fees:

(1) The appropriate fee under IC 9-29-5-38(a).

(2) An annual fee of twenty-five dollars ($25).

(c) The annual fee referred to in subsection (b)(2) shall be collected by the bureau and deposited in a trust fund for the special group established under subsection (d).

(d) The treasurer of state shall establish a trust fund for each special group for which the bureau collects fees under this section.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds are invested. Interest that accrues from these investments shall be deposited in the fund. Money in the fund is continuously appropriated for the purposes of this section. Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(f) The commissioner shall administer the fund. Expenses of administering the fund shall be paid from money in the fund.

(g) Before June 30 of each year, the commissioner shall distribute the money from the fund to the special group for which the bureau has collected fees under this section.

(h) **Subject to section 18 of this chapter,** the bureau may not disclose information that identifies the persons to whom special group license plates have been issued under this section.

(i) If:

(1) representatives of a special group have collected an annual fee as set forth in subsection (a) from purchasers of the special group recognition license plates that was paid directly to the special group; and

(2) the representatives of the special group request the bureau to collect the annual fee on behalf of the special group as set forth in subsection (a);

representatives of the special group may request the bureau to change the method of collection of the annual fee for the following calendar year. The representatives of the special group must make a request under this subsection by July 1 of the year preceding the year for which the change has been requested. The group may request only one (1) change in the method of collection in a plate cycle.

(j) If:

(1) the bureau collects an annual fee as set forth in subsection (a) on behalf of a special group; and

(2) representatives of the special group request the bureau to cease collection of the annual fee as set forth in subsection (a) on behalf of the special group as the annual fee will be paid directly to the special group by purchasers of the special group recognition license plates;

representatives of the special group may request the bureau to change the method of collection of the annual fee for the following calendar year. The representatives of the special group must make a request under this subsection by July 1 of the year preceding the year for which the change has been requested. The group may request only one (1) change in the method of collection in a plate cycle.

SECTION 20. IC 9-18-25-18 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 18. (a) This section applies to an application form for a special group recognition license plate that:**

(1) is subject to an annual special group fee; and

(2) does not require an applicant to obtain authorization from the special group that sponsors the license plate.

(b) The application form must include a box for the applicant to check that states the following:

"By checking the above box, I am authorizing the bureau of motor vehicles to disclose my personal information included on this application form to the special group that sponsors the license plate for which I am applying. I understand that:

(1) the special group may contact me with information about its activities but may not use my personal information primarily for fundraising or solicitation purposes;

(2) the bureau will not disclose my personal information to any other person or group; and

(3) the special group will not disclose my personal information to any other person or group without my written consent.".

(c) If an applicant checks the box described in subsection (b), the bureau may disclose personal information about the applicant included on the application form only to the special group that sponsors the license plate.

(d) If a special group receives personal information disclosed under subsection (c), the special group:

(1) may contact the applicant with information about the special group's activities;

(2) may not contact the applicant primarily for fundraising or solicitation purposes; and

(3) may not disclose the applicant's personal information to any other person or group without the applicant's written consent.

SECTION 21. IC 9-18-52-2, AS ADDED BY P.L.30-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. An Abraham Lincoln bicentennial license plate shall be available for issuance through December 31, ~~2009.~~ **2013.**

SECTION 22. IC 9-18-52-3, AS ADDED BY P.L.30-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. The renewal of the registration of an Abraham Lincoln bicentennial license plate must be available through the renewal cycle in ~~2012,~~ **2016,** subject to ~~IC 9-18-2-8(g).~~ **IC 9-18-2-8(a).** Notwithstanding section 8 of this chapter, a vehicle

may display an Abraham Lincoln bicentennial license plate in ~~2013,~~ **2017,** subject to ~~IC 9-18-2-8(g).~~ **IC 9-18-2-8(a).**

SECTION 23. IC 9-18-52-6, AS ADDED BY P.L.30-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. A person who is a resident of Indiana and who is eligible to register and display a license plate on a vehicle under this title may apply for and receive an Abraham Lincoln bicentennial license plate for one (1) or more vehicles after doing the following:

(1) Completing an application for an Abraham Lincoln bicentennial license plate.

(2) Paying the ~~fee~~ **fees** under section 7 of this chapter.

SECTION 24. IC 9-18-52-7, AS ADDED BY P.L.30-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. **(a)** The ~~fee~~ **fees** for an Abraham Lincoln bicentennial license plate ~~is the appropriate fee under IC 9-29-5-34.5.~~ **are as follows:**

(1) The appropriate fee under IC 9-29-5-34.7.

(2) An annual fee of twenty-five dollars ($25).

(b) The annual fee described in subsection (a)(2) shall be collected by the bureau.

(c) The annual fee described in subsection (a)(2) shall be deposited in the Indiana State Museum Foundation trust fund established by section 7.5 of this chapter.

SECTION 25. IC 9-18-52-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7.5. (a) The Indiana State Museum Foundation trust fund is established.**

(b) The treasurer of state shall invest the money in the Indiana State Museum Foundation trust fund not currently needed to meet the obligations of the Indiana State Museum Foundation trust fund in the same manner as other public funds are invested. Interest that accrues from these investments shall be deposited in the Indiana State Museum Foundation trust fund. Money in the Indiana State Museum Foundation trust fund is continuously appropriated for the purposes of this section.

(c) The commissioner shall administer the Indiana State Museum Foundation trust fund. Expenses of administering the Indiana State Museum Foundation trust fund shall be paid from

money in the fund.

(d) On June 30 of each year, the commissioner shall distribute the money from the Indiana State Museum Foundation trust fund to the Indiana State Museum Foundation, Inc. for use concerning the Lincoln collection.

(e) Money in the Indiana State Museum Foundation trust fund at the end of a state fiscal year does not revert to the state general fund.

SECTION 26. IC 9-18-52-8, AS ADDED BY P.L.30-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. This chapter expires December 31, ~~2013.~~ **2017.**

SECTION 27. IC 9-18-54 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]:

Chapter 54. Indiana Gold Star Family Member License Plate

Sec. 1. As used in this chapter, "Gold Star family member" means:

(1) a biological parent;
(2) an adoptive parent;
(3) a stepparent;
(4) a biological child;
(5) an adopted child;
(6) a stepchild;
(7) a sibling by blood;
(8) a sibling by half blood;
(9) a sibling by adoption;
(10) a stepsibling;
(11) a grandparent;
(12) a great-grandparent; or
(13) the spouse;

of an individual who has died while serving on active duty, or dies as a result of injuries sustained while serving on active duty, as a member of the armed forces of the United States or the national guard (as defined in IC 10-16-1-13).

Sec. 2. The bureau shall design and issue an Indiana Gold Star family member license plate beginning January 1, 2010.

Sec. 3. An Indiana Gold Star family member license plate must include the following:

(1) A basic design for the plate, with consecutive numbers or letters, or both, to properly identify the vehicle.

(2) A background design, an emblem, or colors that designate the license plate as an Indiana Gold Star family member license plate.

(3) Any other information that the bureau considers necessary.

Sec. 4. An Indiana Gold Star family member license plate issued under this chapter may be displayed on the following:

(1) A passenger motor vehicle.

(2) A truck registered as a truck with a declared gross weight of not more than eleven thousand (11,000) pounds.

(3) A recreational vehicle.

Sec. 5. A person who is an Indiana Gold Star family member and who is eligible to register and display a license plate on a vehicle under this title may receive an Indiana Gold Star family member license plate for one (1) or more vehicles after doing the following:

(1) Completing an application for an Indiana Gold Star family member license plate.

(2) Providing the bureau with appropriate documentation as defined by the bureau to establish eligibility as an Indiana Gold Star family member.

(3) Paying the fee under section 6 of this chapter.

Sec. 6. The fee for an Indiana Gold Star family member license plate is the appropriate fee under IC 9-29-5-38.6.

SECTION 28. IC 9-19-7-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) Except as provided in subsection (b), a motorcycle operated on the streets or highways by a resident of Indiana must meet the following requirements:

(1) Be equipped with handlebars that rise not ~~more than fifteen (15) inches above the level of~~ **higher than the shoulders of the driver when the driver is seated in** the driver's seat or saddle. ~~when occupied.~~

(2) Be equipped with brakes in good working order on both front and rear wheels.

(3) Be equipped with footrests or pegs for both operator and

passenger.

(4) Be equipped with lamps and reflectors meeting the standards of the United States Department of Transportation.

(b) A motorcycle manufactured before January 1, 1956, is not required to be equipped with lamps and other illuminating devices under subsection (a) if the motorcycle is not operated at the times when lighted head lamps and other illuminating devices are required under IC 9-21-7-2.

SECTION 29. IC 9-24-1-7, AS AMENDED BY P.L.150-2009, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. (a) Sections 1 through 5 of this chapter do not apply to the following individuals:

(1) An individual in the service of the armed forces of the United States while operating an official motor vehicle in that service.

(2) An individual while operating:

(A) a road roller;

(B) road construction or maintenance machinery, except where the road roller or machinery is required to be registered under Indiana law;

(C) a ditch digging apparatus;

(D) a well drilling apparatus;

(E) a concrete mixer; or

(F) a farm tractor, a farm wagon (as defined in IC 9-13-2-60(a)(2)), or an implement of agriculture designed to be operated primarily in a farm field or on farm premises;

that is being temporarily drawn, moved, or propelled on a public highway. However, to operate a farm wagon (as defined in IC 9-13-2-60(a)(2)) on a highway, an individual must be at least fifteen (15) years of age.

(3) A nonresident who:

(A) is at least sixteen (16) years and one (1) month of age; ~~and~~

(B) has in the nonresident's immediate possession a valid operator's license that was issued to the nonresident in the nonresident's home state or country; **and**

(C) is lawfully admitted into the United States;

while operating a motor vehicle in Indiana only as an operator.

(4) A nonresident who:

(A) is at least eighteen (18) years of age; ~~and~~

(B) has in the nonresident's immediate possession a valid chauffeur's license that was issued to the nonresident in the nonresident's home state or country; **and**

(C) is lawfully admitted into the United States;

while operating a motor vehicle upon a public highway, either as an operator or a chauffeur.

(5) A nonresident who:

(A) is at least eighteen (18) years of age; and

(B) has in the nonresident's immediate possession a valid license issued by the nonresident's home state for the operation of any motor vehicle upon a public highway when in use as a public passenger carrying vehicle;

while operating a motor vehicle upon a public highway.

~~(6) A nonresident whose home state or country does not require the licensing of operators or chauffeurs and who has not been licensed as an operator or a chauffeur in the nonresident's home state or country as an operator if the nonresident is at least sixteen (16) years and thirty (30) days of age and less than eighteen (18) years of age or as a chauffeur if the nonresident is at least eighteen (18) years of age, for not more than sixty (60) days in any one (1) year if the following conditions exist:~~

~~(A) The unlicensed nonresident is the owner of the motor vehicle or the authorized driver of the vehicle.~~

~~(B) The vehicle has been registered for the current year in the state or country of which the owner is a resident.~~

~~(C) The motor vehicle at all times displays a registration plate issued in the home state or country of the owner.~~

~~(D) The nonresident owner or driver has in the owner's or driver's immediate possession a registration card evidencing ownership and registration in the owner's or driver's home state or country or is able at any required time or place to do the following:~~

~~(i) Prove lawful possession or the right to operate the motor vehicle.~~

~~(ii) Establish the nonresident's proper identity.~~

~~(7)~~ **(6)** An individual who is legally licensed to operate a motor vehicle in the state of the individual's residence and who is employed in Indiana, subject to the restrictions imposed by the

state of the individual's residence.

~~(8)~~ **(7)** A new resident of Indiana who possesses an unexpired driver's license issued by the resident's former state of residence, for a period of sixty (60) days after becoming a resident of Indiana.

~~(9)~~ **(8)** An individual who is an engineer, a conductor, a brakeman, or another member of the crew of a locomotive or a train that is being operated upon rails, including the operation of the locomotive or the train on a crossing over a street or a highway. An individual described in this subdivision is not required to display a license to a law enforcement officer in connection with the operation of a locomotive or a train in Indiana.

(b) An ordinance adopted under IC 9-21-1-3((a)(14) or IC 9-21-1-3.3(a) must require that an individual who operates a golf cart in the city or town hold a driver's license.

SECTION 30. IC 9-24-12-1, AS AMENDED BY P.L.101-2009, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) Except as provided in subsections (b) and (d) and section 10 of this chapter, an operator's license issued under this article before January 1, 2006, expires at midnight of the birthday of the holder that occurs four (4) years following the date of issuance.

(b) Except as provided in sections 10, 11, and 12 of this chapter, an operator's license issued to an applicant who is at least seventy-five (75) years of age expires at midnight of the birthday of the holder that occurs three (3) years following the date of issuance.

(c) Except as provided in subsections (b) and (d) and sections 10, 11, and 12 of this chapter, an operator's license issued under this article expires at midnight of the birthday of the holder that occurs six (6) years following the date of issuance.

(d) A probationary operator's license issued under IC 9-24-11-3 ~~or IC 9-24-11-3.3~~ expires at midnight of the twenty-first birthday of the holder.

(e) A probationary license issued under IC 9-24-11-3.3 to an individual who complies with IC 9-24-9-2.5(5) through IC 9-24-9-2.5(9) expires:

(1) at midnight one (1) year after issuance if there is no expiration date on the authorization granted to the individual to remain in the

United States; or

(2) if there is an expiration date on the authorization granted to the individual to remain in the United States, the earlier of the following:

(A) At midnight of the date the authorization to remain in the United States expires.

(B) At midnight of the **date thirty (30) days after the** twenty-first birthday of the holder.

(f) Except as provided in subsection (e), a probationary operator's license issued under IC 9-24-11-3.3 expires at midnight of the date thirty (30) days after the twenty-first birthday of the holder.

SECTION 31. IC 9-24-12-5, AS AMENDED BY P.L.76-2009, SECTION 2, AND AS AMENDED BY P.L.162-2009, SECTION 5, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except as provided in subsection (b), an individual applying for renewal of an operator's, a motorcycle operator's, a chauffeur's, or a public passenger chauffeur's license must apply in person at a license branch and do the following:

(1) Pass an eyesight examination.

(2) Pass a written examination if:

(A) the applicant has at least six (6) active points on the applicant's driving record maintained by the bureau; or

(B) the applicant holds a valid operator's license, has not reached the applicant's twenty-first birthday, and has active points on the applicant's driving record maintained by the bureau.

(b) The bureau may adopt rules under IC 4-22-2 concerning the ability of a holder of an operator's, a motorcycle operator's, a chauffeur's, or a public passenger chauffeur's license to renew the license by mail or by electronic service. If rules are adopted under this subsection, the rules must provide that an individual's renewal of a license by mail or by electronic service is subject to the following conditions:

(1) A valid computerized image of the individual must exist within the records of the bureau.

(2) The previous renewal of the individual's operator's, motorcycle operator's, chauffeur's, or public passenger chauffeur's license

must not have been by mail or by electronic service.

(3) The application for or previous renewal of the individual's license must have included a test of the individual's eyesight approved by the bureau.

(4) If the individual were applying for the license renewal in person at a license branch, the individual would not be required under subsection (a)(2) to submit to a written examination.

(5) The individual must be a citizen of the United States, as shown in the records of the bureau.

(6) There must not have been any change in the:

(A) address; or

(B) name;

of the individual since the issuance or previous renewal of the individual's operator's, motorcycle operator's, chauffeur's, or public passenger chauffeur's license.

(7) The operator's, motorcycle operator's, chauffeur's, or public passenger chauffeur's license of the individual must not be:

(A) suspended; or

(B) expired;

at the time of the application for renewal.

(8) The individual must be less than *seventy (70)* ~~*seventy-five (75)*~~ years of age at the time of the application for renewal.

(c) An individual applying for the renewal of an operator's, a motorcycle operator's, a chauffeur's, or a public passenger chauffeur's license must apply in person at a license branch under subsection (a) if the individual is not entitled to apply by mail or by electronic service under rules adopted under subsection (b).

SECTION 32. IC 9-24-14-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. If a permit or license issued under this article, except section 2 of this chapter, is lost or destroyed, **and as provided in section 3.5 of this chapter,** the individual to whom the permit or license was issued may obtain a replacement if the individual does the following:

(1) Furnishes proof satisfactory to the bureau that the permit or license was lost or destroyed.

(2) Pays the required fee for a replacement permit or license under IC 9-29-9.

SECTION 33. IC 9-24-14-3.5 IS ADDED TO THE INDIANA

CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 3.5. (a) The bureau may adopt rules under IC 4-22-2 concerning the ability of an individual to apply for a replacement of an operator's, a motorcycle operator's, a chauffeur's, or a public passenger chauffeur's license or a learner's permit to the holder of the license or learner's permit by electronic service. If rules are adopted under this subsection, the rules must provide that issuance of a replacement license or learner's permit by electronic service is subject to the following conditions:**

(1) A valid computerized image or digital photograph of the individual must exist within the records of the bureau.

(2) The individual must be a citizen of the United States, as shown in the records of the bureau.

(b) An individual applying for a replacement of an operator's, a motorcycle operator's, a chauffeur's, or a public passenger chauffeur's license or a learner's permit must apply in person at a license branch if the individual is not entitled to apply by mail or by electronic service under rules adopted under subsection (a).

SECTION 34. IC 9-24-16-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 4.5. (a) The bureau may adopt rules under IC 4-22-2 concerning the ability of an individual to renew an identification card under section 5 of this chapter or apply for a duplicate identification card under section 6, 8, or 9 of this chapter by electronic service. If rules are adopted under this subsection, the rules must provide that an individual's renewal or duplication of an identification card by electronic service is subject to the following conditions:**

(1) A valid computerized image or digital photograph of the individual must exist within the records of the bureau.

(2) The individual must be a citizen of the United States, as shown in the records of the bureau.

(b) An individual applying for:

(1) the renewal of an identification card; or

(2) a duplicate identification card;

must apply in person at a license branch if the individual is not entitled to apply by mail or by electronic service under rules adopted under subsection (a).

SECTION 35. IC 9-24-16-5, AS AMENDED BY P.L.162-2009, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) An application for renewal of an identification card may be made not more than twelve (12) months before the expiration date of the card. However, when the applicant complies with section 3.5(1)(E) through 3.5(1)(J) of this chapter, an application for renewal of an identification card may be filed not more than one (1) month before the expiration date of the identification card held by the applicant. A renewal application received after the date of expiration is considered to be a new application.

(b) Except as provided in subsection (e), a renewed card ~~issued:~~

~~(1) before January 1, 2006, becomes valid on the birth date of the holder and remains valid for four (4) years; and~~

~~(2) after December 31, 2005,~~ is valid on the birth date of the holder and remains valid for six (6) years.

(c) If renewal has not been made within six (6) months after expiration, the bureau shall destroy all records pertaining to the former cardholder.

(d) Renewal may not be granted if the cardholder was issued a driver's license subsequent to the last issuance of an identification card.

(e) A renewed identification card issued under this article after December 31, 2007, to an applicant who complies with section 3.5(1)(E) through 3.5(1)(J) of this chapter expires:

(1) at midnight one (1) year after issuance, if there is no expiration date on the authorization granted to the individual to remain in the United States; or

(2) if there is an expiration date on the authorization granted to the individual to remain in the United States, the earlier of the following:

(A) At midnight of the date the authorization of the holder to be a legal permanent resident or conditional resident alien of the United States expires.

(B) At midnight of the birthday of the holder that occurs six (6) years after the date of issuance.

SECTION 36. IC 9-28-5.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

Chapter 5.1. International Reciprocity

Sec. 1. To facilitate the exchange of driver's licenses, the bureau shall negotiate and enter into a reciprocal agreement with a foreign country. However, the bureau may not negotiate or enter into a reciprocal agreement with a country that is listed as a state sponsor of terrorism as determined by the Secretary of State of the United States.

Sec. 2. A reciprocal agreement entered into under section 1 of this chapter must authorize the bureau to enter into a written agreement with a foreign country to waive one (1) or more of the examination requirements under IC 9-24 for obtaining an operator's license from this state.

Sec. 3. A written reciprocity agreement entered into under section 2 of this chapter must require an applicant from the foreign country for an operator's license to possess:

(1) a valid operator's license or the equivalent from the foreign country; or

(2) an international driving permit.

Sec. 4. The bureau shall report annually in an electronic format under IC 5-14-6 regarding reciprocal agreements entered into under this chapter to the general assembly before February 1 of each year.

Sec. 5. The bureau shall adopt rules under IC 4-22-2 to carry out this chapter.

SECTION 37. IC 9-29-5-34.5, AS AMENDED BY P.L.30-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 34.5. A vehicle registered under

~~(1)~~ IC 9-18-24.5 ~~or~~

~~(2) IC 9-18-52;~~

is subject to an annual registration fee and any other fee or tax required of a person registering a vehicle under this title.

SECTION 38. IC 9-29-5-34.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 34.7. In addition to the fee described in IC 9-18-52-7(a)(2), a vehicle registered under IC 9-18-52 is subject to an annual registration fee for a vehicle of the same classification under this chapter and any other fee or tax required of a person registering a vehicle under this title.**

SECTION 39. IC 9-29-5-38.6 IS ADDED TO THE INDIANA

CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: **Sec. 38.6. A vehicle registered under IC 9-18-54 is subject to an annual registration fee and any other fee or tax required of a person registering a vehicle under this title.**

SECTION 40. IC 14-19-3-4, AS AMENDED BY P.L.1-2006, SECTION 211, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) Upon application to the department, a resident of Indiana:

(1) who:

(A) if born in 1933, 1934, 1935, 1936, or 1937, is at least sixty (60) years of age; or

(B) if born before 1933 or after 1937, is at least sixty-five (65) years of age;

(2) who is eligible for Social Security disability payments under 42 U.S.C. 423;

(3) who is eligible for a disabled **Hoosier** veteran license plate under IC 9-18-18-1; or

(4) who is issued a prisoner of war license plate under IC 9-18-17-1;

may purchase or is eligible to receive an annual Golden Hoosier Passport.

(b) A Golden Hoosier Passport entitles:

(1) the resident;

(2) the resident's motor vehicle; and

(3) the resident's passengers;

to unlimited admission for one (1) calendar year to the Indiana state parks, recreation areas, reservoirs, forests, historic sites, museums, memorials, and other department properties for which admission is charged during the year for which the passport was issued.

(c) Except as provided in subsection (d), the fee for an annual Golden Hoosier Passport issued under this section is fifty percent (50%) of the fee that the department charges a resident who is not described in subsection (a)(1), (a)(2), or (a)(3) for unlimited admission for one (1) calendar year to the Indiana state parks, recreation areas, reservoirs, forests, historic sites, museums, memorials, and other department properties for which admission is charged.

(d) A fee may not be charged for an annual Golden Hoosier Passport

issued under this section to a resident described in subsection (a)(4).

SECTION 41. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2010]: IC 9-18-15-5; IC 9-18-15-15; IC 9-18-18-6.

SECTION 42. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding IC 9-28-5.1-5, as added by this act, the bureau of motor vehicles shall carry out the duties imposed upon the bureau of motor vehicles under IC 9-28-5.1-5, as added by this act, under interim written guidelines approved by the commissioner of the bureau of motor vehicles.**

(b) This SECTION expires on the earlier of the following:

(1) The date rules are adopted under IC 9-28-5.1-5, as added by this act.

(2) December 31, 2011.

SECTION 43. [EFFECTIVE JULY 1, 2010] **(a) IC 9-18-18-7, as amended by this act, applies to license plates issued or renewed after December 31, 2010.**

(b) This SECTION expires June 30, 2015.

SECTION 44. **An emergency is declared for this act.**

P.L.88-2010

[H.1008. Approved March 18, 2010.]

AN ACT to amend the Indiana Code concerning pensions.

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

SECTION 1. IC 36-8-8-8.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 8.8. (a) This section applies to a fund member who, after June 30, 2010, completes service for which the 1977 fund gives credit.**

(b) As used in this section, "out-of-state service" means service in another state in a comparable position for which the fund

member would receive service credit in the 1977 fund if the service had been performed in Indiana.

(c) Subject to subsections (d) through (g), a fund member may purchase out-of-state service credit if the fund member meets the following requirements:

(1) The fund member has at least one (1) year of credited service in the 1977 fund.

(2) Before the fund member retires, the fund member makes contributions to the 1977 fund as follows:

(A) Contributions that are equal to the product of the following:

(i) The salary of a first class patrolman or firefighter at the time the fund member makes a contribution for the service credit.

(ii) A rate, determined by the actuary for the 1977 fund, that is based on the age of the fund member at the time the fund member makes a contribution for the service credit and that is computed to result in a contribution amount that approximates the actuarial present value of the retirement benefit attributable to the service credit purchased.

(iii) The number of years of out-of-state service credit the fund member intends to purchase.

(B) Contributions for any accrued interest, at a rate determined by the actuary for the 1977 fund, for the period from the fund member's initial membership in the 1977 fund to the date payment is made by the fund member.

(3) The fund member has received verification from the 1977 fund that the out-of-state service is, as of the date payment is made by the fund member, valid.

(d) A fund member must have at least twenty (20) years of service before the fund member may receive a benefit based on service credit purchased under this section. A fund member's years of service may not exceed thirty-two (32) years with the inclusion of service credit purchased under this section.

(e) A fund member may not receive service credit under this section if the service for which the fund member requests credit also qualifies the fund member for a benefit in another governmental retirement system.

(f) A fund member who:

(1) terminates service before satisfying the eligibility requirements necessary to receive a retirement benefit payment from the 1977 fund; or

(2) receives a retirement benefit for the same service from another retirement system, other than under the federal Social Security Act;

may withdraw the fund member's contributions made under this section plus accumulated interest after submitting to the 1977 fund a properly completed application for a refund.

(g) The following apply to the purchase of service credit under this section:

(1) The PERF board may allow a fund member to make periodic payments of the contributions required for the purchase of the service credit. The PERF board shall determine the length of the period during which the payments must be made.

(2) The PERF board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) The fund member may not claim the service credit for purposes of determining eligibility or computing benefits unless the fund member has made all payments required for the purchase of the service credit.

(h) To the extent permitted by the Internal Revenue Code and the applicable regulations, the 1977 fund may accept, on behalf of a fund member who is purchasing service credit under this section, a rollover of a distribution from any of the following:

(1) A qualified plan described in Section 401(a) or Section 403(a) of the Internal Revenue Code.

(2) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(3) An eligible plan that is maintained by a state, a political subdivision of a state, or an agency or instrumentality of a state or a political subdivision of a state under Section 457(b) of the Internal Revenue Code.

(4) An individual retirement account or annuity described in Section 408(a) or 408(b) of the Internal Revenue Code.

(i) To the extent permitted by the Internal Revenue Code and

the applicable regulations, the 1977 fund may accept, on behalf of a fund member who is purchasing service credit under this section, a trustee to trustee transfer from any of the following:

(1) An annuity contract or account described in Section 403(b) of the Internal Revenue Code.

(2) An eligible deferred compensation plan under Section 457(b) of the Internal Revenue Code.

P.L.89-2010

[H.1059. Approved March 18, 2010.]

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 5-13-6-3, AS AMENDED BY P.L.146-2008, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) All taxes collected by the county treasurer shall be deposited as one (1) fund in the several depositories selected for the deposit of county funds and, except as provided in subsection (b), remain in the depositories until distributed at the following semiannual distribution made by the county auditor.

(b) Every county treasurer who, by virtue of the treasurer's office, is the collector of any taxes for any political subdivision wholly or partly within the county shall, not later than thirty (30) days after receipt of a written request for funds filed with the treasurer by a proper officer of any political subdivision within the county, advance to that political subdivision a portion of the taxes collected before the semiannual distribution. The amount advanced may not exceed the lesser of:

(1) ninety-five percent (95%) of the total amount collected at the time of the advance; or

(2) ninety-five percent (95%) of the amount to be distributed at the semiannual distribution.

(c) Upon notice from the county treasurer of the amount to be advanced, the county auditor shall draw a warrant upon the county treasurer for the amount. The amount of the advance must be available immediately for the use of the political subdivision.

(d) At the semiannual distribution all the advances made to any political subdivision under subsection (b) shall be deducted from the total amount due any political subdivision as shown by the distribution.

(e) If a county auditor fails to make a distribution of tax collections by the deadline for distribution under subsection (b), a political subdivision that was to receive a distribution may recover interest on the undistributed tax collections under IC 6-1.1-27-1.

SECTION 2. IC 6-1.1-22.5-6, AS AMENDED BY P.L.87-2009, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) ~~Except as provided in subsection (c), with respect to~~ **This section applies to** property taxes payable under this article on assessments determined for the 2003 assessment date or the assessment date in any later year. The county treasurer ~~may, except as provided by section 7 of this chapter,~~ **shall** use a provisional statement under this chapter if the county auditor fails to deliver the abstract for that assessment date to the county treasurer under IC 6-1.1-22-5 before March 16 of the year following the assessment date **(for property taxes first due and payable before 2011) or April 1 of the year following the assessment date (for property taxes first due and payable after 2010). The amount to be billed for each installment of the provisional statement is the amount determined under section 9 of this chapter.**

(b) The county treasurer shall give notice of the provisional statement, including disclosure of the method that is to be used in determining the tax liability to be indicated on the provisional statement, by publication one (1) time:

(1) in the form prescribed by the department of local government finance; and

(2) in the manner described in IC 6-1.1-22-4(b).

The notice may be combined with the notice required under section 10 of this chapter.

(c) Subsection (a) ~~does not apply if~~ **applies regardless of whether** the county auditor fails to deliver the abstract as provided in IC 6-1.1-22-5(b). **Section 7 of this chapter does not apply to this**

section.

(d) This subsection applies after June 30, 2009. Immediately upon determining to use provisional statements under subsection (a), the county treasurer shall give notice of the determination to the county fiscal body (as defined in IC 36-1-2-6).

(e) In a county in which an authorizing ordinance is adopted under IC 6-1.1-22-8.1(h), a person may direct the county treasurer to transmit a provisional statement by electronic mail under IC 6-1.1-22-8.1(h).

(f) The department of local government finance may waive the requirement under subsection (a) that a provisional statement must be used for property taxes first due and payable in a calendar year, if:

(1) the county fiscal body or the county treasurer requests the waiver; and

(2) the department of local government finance determines that:

(A) the county will be able to send a property tax statement under IC 6-1.1-22 with a due date that is not later than June 10 of that calendar year; or

(B) the failure to send a property tax statement under IC 6-1.1-22 in a timely manner is due to a change by the county in computer software, and the county will be able to send a property tax statement under IC 6-1.1-22 with a due date that is not later than June 10 of that calendar year.

SECTION 3. IC 6-1.1-22.5-7, AS AMENDED BY P.L.182-2009(ss), SECTION 160, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. (a) The county auditor of a county or fifty (50) property owners in the county may, not more than five (5) days after the publication of the notice required under section ~~6(b) or~~ 6.5(f) of this chapter, request in writing that the department of local government finance waive the use of a provisional statement under this chapter as to that county for a particular year.

(b) With respect to the use of a provisional statement required under section 6 of this chapter, upon receipt of a request under subsection (a), the department of local government finance shall give notice of a hearing concerning the request in the manner provided by IC 5-3-1. The notice must state:

(1) the date and time of the hearing;
(2) the location of the hearing, which must be in the county; and
(3) that the purpose of the hearing is to hear:
(A) the request of the county treasurer and county auditor to waive the requirements of section 6 of this chapter; and
(B) taxpayers' comments regarding that request.

(c) After the hearing referred to in subsection (b), the department of local government finance may waive the use of a provisional statement under section 6 of this chapter for a particular year as to the county making the request if the department finds that the petitioners have presented sufficient evidence to establish that although the abstract required by IC 6-1.1-22-5 was not delivered in a timely manner:
(1) the abstract;
(A) was delivered as of the date of the hearing; or
(B) will be delivered not later than a date specified by the county auditor and county treasurer; and
(2) sufficient time remains or will remain after the date or anticipated date of delivery of the abstract to:
(A) permit the timely preparation and delivery of property tax statements in the manner provided by IC 6-1.1-22; and
(B) render the use of a provisional statement under section 6 of this chapter unnecessary.

(d) With respect to a determination to use a provisional statement under section 6.5 of this chapter, upon receipt of a request under subsection (a), the department of local government finance shall give notice of a hearing concerning the request in the manner provided by IC 5-3-1. The notice must state:
(1) the date and time of the hearing;
(2) the location of the hearing, which must be in the county; and
(3) that the purpose of the hearing is to hear:
(A) the request of the county treasurer and county auditor to waive the requirements of section 6.5 of this chapter; and
(B) taxpayers' comments regarding that request.

(e) After the hearing referred to in subsection (d), the department of local government finance may waive the use of a provisional statement under section 6.5 of this chapter for a particular year as to the county making the request if the department finds that the petitioners have presented sufficient evidence to establish that although the property tax

rate of one (1) or more cross-county entities with cross-county area in the county was not finally determined before the statement preparation date:

(1) that property tax rate:

(A) was determined as of the date of the hearing; or

(B) will be determined not later than a date specified by the county auditor and county treasurer; and

(2) sufficient time remains or will remain after the date or anticipated date of determination of the rate to:

(A) permit the timely preparation and delivery of property tax statements in the manner provided by IC 6-1.1-22; and

(B) render the use of a provisional statement under section 6.5 of this chapter unnecessary.

SECTION 4. IC 6-1.1-22.5-8, AS AMENDED BY P.L.182-2009(ss), SECTION 161, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8. (a) Subject to subsection (c), a provisional statement must:

(1) be on a form prescribed by the department of local government finance;

(2) except as provided in emergency rules adopted under section 20 of this chapter and subsection (b):

(A) for property taxes **first due and payable after 2010 and** billed using a provisional statement under section 6 of this chapter, indicate:

(i) that the first installment of the taxpayer's tax liability ~~in the~~ **is an** amount ~~of not more than one hundred percent (100%)~~ **equal to fifty percent (50%)** of the tax liability that was payable in the same year as the assessment date for the property for which the provisional statement is issued, subject to any adjustments to the tax liability ~~as prescribed~~ **authorized** by the department of local government finance **under subsection (e) and approved by the county treasurer; and**

(ii) that the second installment is either the amount specified in a reconciling statement or, if a reconciling statement is not sent until after the second installment is due, an amount equal to fifty percent (50%) of the tax liability that was payable in the same year as the

assessment date for the property for which the provisional statement is issued, subject to any adjustments to the tax liability authorized by the department of local government finance under subsection (e) and approved by the county treasurer; and

(B) for property taxes billed using a provisional statement under section 6.5 of this chapter, except as provided in subsection (d), indicate tax liability in an amount determined by the department of local government finance based on:

(i) subject to subsection (c), for the cross-county entity, the property tax rate of the cross-county entity for taxes first due and payable in the immediately preceding calendar year; and

(ii) for all other taxing units that make up the taxing district or taxing districts that comprise the cross-county area, the property tax rates of the taxing units for taxes first due and payable in the current calendar year;

(3) indicate:

(A) that the tax liability under the provisional statement is determined as described in subdivision (2); and

(B) that property taxes billed on the provisional statement:

(i) are due and payable in the same manner as property taxes billed on a tax statement under IC 6-1.1-22-8.1; and

(ii) will be credited against a reconciling statement;

(4) for property taxes billed using a provisional statement under section 6 of this chapter, include a statement in the following or a substantially similar form, as determined by the department of local government finance:

"Under Indiana law, _____ County (insert county) has sent provisional statements. ~~because the county did not complete the abstract of the property, assessments, taxes, deductions, and exemptions for taxes payable in (insert year) in each taxing district before March 16, (insert year).~~The statement is due to be paid in installments on _____ (insert date) and _____ (insert date). The ~~statement is based on _____ percent (___%) (insert percentage)~~ **first installment is equal to fifty percent (50%)** of your tax liability for taxes payable in _____ (insert year), subject to adjustment to the tax liability ~~as prescribed~~ **authorized** by the department of local government finance and

~~adjustment for any new construction on your property, or any damage to your property,~~ **approved by the county treasurer. The second installment is either the amount specified in a reconciling statement that will be sent to you, or (if a reconciling statement is not sent until after the second installment is due) an amount equal to fifty percent (50%) of your tax liability for taxes payable in _____ (insert year), subject to adjustment to the tax liability authorized by the department of local government finance and approved by the county treasurer.** After the abstract of property is complete, you will receive a reconciling statement in the amount of your actual tax liability for taxes payable in (insert year), minus the amount you pay under this provisional statement.";

(5) for property taxes billed using a provisional statement under section 6.5 of this chapter, include a statement in the following or a substantially similar form, as determined by the department of local government finance:

"Under Indiana law, _____ County (insert county) has elected to send provisional statements for the territory of _____ (insert cross-county entity) located in _____ County (insert county) because the property tax rate for _____ (insert cross-county entity) was not available in time to prepare final tax statements. The statement is due to be paid in installments on _____ (insert date) and _____ (insert date). The statement is based on the property tax rate of _____ (insert cross-county entity) for taxes first due and payable in _____ (insert immediately preceding calendar year). After the property tax rate of _____ (insert cross-county entity) is determined, you will receive a reconciling statement in the amount of your actual tax liability for taxes payable in _____ (insert year), minus the amount you pay under this provisional statement.";

(6) **in the case of a reconciling statement only,** indicate liability for:

(A) delinquent:

(i) taxes; and

(ii) special assessments;

(B) penalties; and

(C) interest;

is allowed to appear on the tax statement under IC 6-1.1-22-8.1 for the first installment of property taxes in the year in which the provisional tax statement is issued;

(7) **in the case of a reconciling statement only,** include:

(A) a checklist that shows:

(i) homestead credits under IC 6-1.1-20.4, IC 6-3.5-6-13, or another law and all property tax deductions; and

(ii) whether each homestead credit and property tax deduction was applied in the current provisional statement;

(B) an explanation of the procedure and deadline that a taxpayer must follow and the forms that must be used if a credit or deduction has been granted for the property and the taxpayer is no longer eligible for the credit or deduction; and

(C) an explanation of the tax consequences and applicable penalties if a taxpayer unlawfully claims a standard deduction under IC 6-1.1-12-37 on:

(i) more than one (1) parcel of property; or

(ii) property that is not the taxpayer's principal place of residence or is otherwise not eligible for a standard deduction; and

(8) include any other information the county treasurer requires.

(b) This subsection applies to property taxes first due and payable for assessment dates after January 15, 2009. The county may apply a standard deduction, supplemental standard deduction, or homestead credit calculated by the county's property system on a provisional bill for a qualified property. If a provisional bill has been used for property tax billings for two (2) consecutive years and a property qualifies for a standard deduction, supplemental standard deduction, or homestead credit for the second year a provisional bill is used, the county shall apply the standard deduction, supplemental standard deduction, or homestead credit calculated by the county's property system on the provisional bill.

(c) For purposes of this section, property taxes that are:

(1) first due and payable in the current calendar year on a provisional statement under section 6 or 6.5 of this chapter; and

(2) based on property taxes first due and payable in the immediately preceding calendar year or on a percentage of those

property taxes;

are determined after excluding from the property taxes first due and payable in the immediately preceding calendar year property taxes imposed by one (1) or more taxing units in which the tangible property is located that are attributable to a levy that no longer applies for property taxes first due and payable in the current calendar year.

(d) If there was no property tax rate of the cross-county entity for taxes first due and payable in the immediately preceding calendar year for use under subsection (a)(2)(B), the department of local government finance shall provide an estimated tax rate calculated to approximate the actual tax rate that will apply when the tax rate is finally determined.

(e) The department of local government finance shall:

(1) authorize the types of adjustments to tax liability that a county treasurer may approve under subsection (a)(2)(A) including:

(A) adjustments for any new construction on the property or any damage to the property; and

(B) any necessary adjustments for credits, deductions, or local option income taxes; and

(2) notify county treasurers in writing of the types of adjustments authorized under subdivision (1).

SECTION 5. IC 6-1.1-22.5-9, AS AMENDED BY P.L.87-2009, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9. (a) Except as provided in ~~subsections (b) and (c) and~~ section ~~12~~ **12(b)** of this chapter, property taxes billed on a provisional statement are due in two (2) equal installments on May 10 and November 10 of the year following the assessment date covered by the provisional statement.

~~(b) If in a county the notices of general reassessment under IC 6-1.1-4-4 or notices of assessment under IC 6-1.1-4-4.5 for an assessment date in a calendar year are given to the taxpayers in the county after March 26 of the immediately succeeding calendar year, the property taxes that would otherwise be due under subsection (a) on May 10 of the immediately succeeding calendar year are due on the later of:~~

~~(1) May 10 of the immediately succeeding calendar year; or~~

~~(2) forty-five (45) days after the mailing or transmittal of~~

~~provisional statements.~~

~~(c) If subsection (b) applies, the property taxes that would otherwise be due under subsection (a) on November 10 of the immediately succeeding calendar year referred to in subsection (b) are due on the later of:~~

~~(1) November 10 of the immediately succeeding calendar year; or~~

~~(2) a date determined by the county treasurer that is not later than December 31 of the immediately succeeding calendar year.~~

(b) The county treasurer may mail or transmit the provisional statement one (1) time each year at least fifteen (15) days before the date on which the first installment is due under subsection (a) in the manner provided in IC 6-1.1-22-8.1, regardless of whether the notice required under section 6(b) of this chapter has been published.

(c) This subsection applies to a provisional statement issued under section 6 of this chapter. Except when the second installment of a provisional statement is replaced by a final reconciling statement providing for taxes to be due on November 10, the amount of tax due for each installment of a provisional statement issued for a year after 2010 is fifty percent (50%) of the tax that was due for the immediately preceding year under IC 6-1.1-22 subject to any adjustments to the tax liability as prescribed by the department of local government finance. If no bill was issued in the prior year, the provisional bill shall be based on the amount that would have been due if a provisional tax statement had been issued for the immediately preceding year. The department of local government finance may prescribe standards to implement this subsection, including a method of calculating the taxes due when an abstract or other information is not complete.

(d) This subsection applies only if a provisional statement for payment of property taxes and special assessments by electronic mail is transmitted to a person under IC 6-1.1-22-8.1(h). If a response to the transmission of electronic mail to a person indicates that the electronic mail was not received, the county treasurer shall mail to the person a hard copy of the provisional statement in the manner required by this chapter for persons who do not opt to receive statements by electronic mail. The due date for the property taxes and special assessments under a provisional statement mailed to a person under this subsection is the

due date indicated in the statement transmitted to the person by electronic mail.

SECTION 6. IC 6-1.1-22.5-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 14. **(a) Subject to subsection (b),** not later than fifty-one (51) days after the due date of a provisional or reconciling statement under this chapter, the county auditor shall:

(1) file with the auditor of state a report of settlement; and

(2) distribute tax collections to the appropriate taxing units.

(b) The county treasurer shall:

(1) place in a separate account in the county general fund penalties collected as a result of late payments on statements issued under this chapter for the payment of property taxes;

(2) use the account only to defray the costs of mailing or transmission of statements under this chapter; and

(3) deposit additional funds, if any, remaining in the account after the payment of costs of mailing or transmission of statements under this chapter in the county's property reassessment fund established under IC 6-1.1-4-27.5.

SECTION 7. IC 6-1.1-27-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) On or before June 20th and December 20th of each year, the county auditor and the county treasurer shall meet in the office of the county auditor. Before each semi-annual meeting, the county auditor shall complete an audit of the county treasurer's monthly reports required under IC 36-2-10-16. In addition, the county auditor shall:

(1) prepare a certificate of settlement on the form prescribed by the state board of accounts; and

(2) deliver the certificate of settlement to the county treasurer at least two (2) days before each semi-annual meeting.

(b) If any county treasurer or auditor refuses, neglects, or fails to distribute tax money due to a ~~tax~~ **taxing** unit on or before:

(1) the fifty-first day immediately following each property tax due date under IC 6-1.1-22-9 or IC 6-1.1-37-10, whichever applies; **or**

(2) the deadline for a distribution requested under IC 5-13-6-3;

the county treasurer and auditor shall pay to the taxing unit from the county general fund interest on the taxing unit's undistributed tax

money if the county treasurer and auditor invest undistributed tax money in an interest bearing investment.

(c) The amount of interest to be paid **if subsection (b)(1) applies** equals the taxing unit's proportionate share of the actual amount of interest which is received from investments of the undistributed tax money from the fifty-second day immediately following the property tax due date under IC 6-1.1-22-9 or IC 6-1.1-37-10, whichever applies, to the date that the tax money is distributed.

(d) The amount of interest to be paid if subsection (b)(2) applies equals the taxing unit's proportionate share of the actual amount of interest that is received from investments of the undistributed tax money from the date the county treasurer receives the taxing unit's request for funds under IC 5-13-6-3(b) to the date the tax money is distributed.

P.L.90-2010
[H.1065. Approved March 18, 2010.]

AN ACT to amend the Indiana Code concerning firearms.

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

SECTION 1. IC 10-14-3-12, AS AMENDED BY P.L.1-2009, SECTION 90, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 12. (a) The governor shall declare a disaster emergency by executive order or proclamation if the governor determines that a disaster has occurred or that the occurrence or the threat of a disaster is imminent. The state of disaster emergency continues until the governor:

(1) determines that the threat or danger has passed or the disaster has been dealt with to the extent that emergency conditions no longer exist; and

(2) terminates the state of disaster emergency by executive order

or proclamation.

A state of disaster emergency may not continue for longer than thirty (30) days unless the state of disaster emergency is renewed by the governor. The general assembly, by concurrent resolution, may terminate a state of disaster emergency at any time. If the general assembly terminates a state of disaster emergency under this subsection, the governor shall issue an executive order or proclamation ending the state of disaster emergency. All executive orders or proclamations issued under this subsection must indicate the nature of the disaster, the area or areas threatened, and the conditions which have brought the disaster about or that make possible termination of the state of disaster emergency. An executive order or proclamation under this subsection shall be disseminated promptly by means calculated to bring the order's or proclamation's contents to the attention of the general public. Unless the circumstances attendant upon the disaster prevent or impede, an executive order or proclamation shall be promptly filed with the secretary of state and with the clerk of the city or town affected or with the clerk of the circuit court.

(b) An executive order or proclamation of a state of disaster emergency:

(1) activates the disaster response and recovery aspects of the state, local, and interjurisdictional disaster emergency plans applicable to the affected political subdivision or area; and

(2) is authority for:

(A) deployment and use of any forces to which the plan or plans apply; and

(B) use or distribution of any supplies, equipment, materials, and facilities assembled, stockpiled, or arranged to be made available under this chapter or under any other law relating to disaster emergencies.

(c) During the continuance of any state of disaster emergency, the governor is commander-in-chief of the organized and unorganized militia and of all other forces available for emergency duty. To the greatest extent practicable, the governor shall delegate or assign command authority by prior arrangement embodied in appropriate executive orders or regulations. This section does not restrict the governor's authority to delegate or assign command authority by orders issued at the time of the disaster emergency.

(d) In addition to the governor's other powers, the governor may do the following while the state of emergency exists:

(1) Suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules, or regulations of any state agency if strict compliance with any of these provisions would in any way prevent, hinder, or delay necessary action in coping with the emergency.

(2) Use all available resources of the state government and of each political subdivision of the state reasonably necessary to cope with the disaster emergency.

(3) Transfer the direction, personnel, or functions of state departments and agencies or units for performing or facilitating emergency services.

(4) Subject to any applicable requirements for compensation under section 31 of this chapter, commandeer or use any private property if the governor finds this action necessary to cope with the disaster emergency.

(5) Assist in the evacuation of all or part of the population from any stricken or threatened area in Indiana if the governor considers this action necessary for the preservation of life or other disaster mitigation, response, or recovery.

(6) Prescribe routes, modes of transportation, and destinations in connection with evacuation.

(7) Control ingress to and egress from a disaster area, the movement of persons within the area, and the occupancy of premises in the area.

(8) Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, ~~firearms,~~ explosives, and combustibles.

(9) Make provision for the availability and use of temporary emergency housing.

(10) Allow persons who:

(A) are registered as volunteer health practitioners by an approved registration system under IC 10-14-3.5; or

(B) hold a license to practice:

(i) medicine;

(ii) dentistry;

(iii) pharmacy;

(iv) nursing;

(v) engineering;

(vi) veterinary medicine;

(vii) mortuary service; and

(viii) similar other professions as may be specified by the governor;

to practice their respective profession in Indiana during the period of the state of emergency if the state in which a person's license **or registration** was issued has a mutual aid compact for emergency management with Indiana.

(11) Give specific authority to allocate drugs, foodstuffs, and other essential materials and services.

SECTION 2. IC 10-14-3-33.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 33.5. (a) Except as provided in subsection (b), the state, a political subdivision, or any other person may not prohibit or restrict the lawful possession, transfer, sale, transportation, storage, display, or use of firearms or ammunition during:**

(1) a disaster emergency;

(2) an energy emergency; or

(3) a local disaster emergency;

declared under this chapter.

(b) Subsection (a) does not authorize the possession, transfer, sale, transportation, storage, display, or use of firearms or ammunition during an emergency described in subsection (a):

(1) in or on school property, in or on property that is being used by a school for a school function, or on a school bus in violation of IC 20-33-8-16 or IC 35-47-9-2;

(2) on the property of:

(A) a child caring institution;

(B) an emergency shelter care child caring institution;

(C) a private secure facility;

(D) a group home; or

(E) an emergency shelter care group home;

in violation of 465 IAC 2-9-80, 465 IAC 2-10-79, 465 IAC 2-11-80, 465 IAC 2-12-78, or 465 IAC 2-13-77;

(3) on the property of a penal facility (as defined in IC 35-41-1-21);

(4) in violation of federal law;

(5) in or on property belonging to an approved postsecondary educational institution (as defined in IC 21-7-13-6(b));

(6) on the property of a domestic violence shelter;

(7) at a person's residence; or

(8) on property owned, operated, controlled, or used by an entity that:

(A) is required to:

(i) conduct a vulnerability assessment; and

(ii) develop and implement a site security plan;

under the United States Department of Homeland Security's Chemical Facility Anti-Terrorism Standards issued April 9, 2007; or

(B) is required to have a security plan under the Maritime Transportation Security Act of 2002, Public Law 107-295.

SECTION 3. IC 34-6-2-46.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 46.7. "Firearm", for purposes of **IC 34-28-7 and** IC 34-30-20, has the meaning set forth in IC 35-47-1-5.

SECTION 4. IC 34-6-2-49 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 49. **(a)** "Governmental entity", for purposes of section 91 of this chapter, IC 34-13-2, IC 34-13-3, and IC 34-13-4, means the state or a political subdivision of the state.

(b) "Governmental entity", for purposes of section 103(j) of this chapter, means the state or a political subdivision of the state.

SECTION 5. IC 34-6-2-103 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 103. (a) "Person", for purposes of IC 34-14, has the meaning set forth in IC 34-14-1-13.

(b) "Person", for purposes of IC 34-24-4, means:

(1) an individual;

(2) a governmental entity;

(3) a corporation;

(4) a firm;

(5) a trust;

(6) a partnership; or

(7) an incorporated or unincorporated association that exists under or is authorized by the laws of this state, another state, or a

foreign country.

(c) "Person", for purposes of section 44.8 of this chapter, means an adult or a minor.

(d) "Person", for purposes of IC 34-26-4, has the meaning set forth in IC 35-41-1-22.

(e) "Person", for purposes of IC 34-30-5, means any of the following:

(1) An individual.

(2) A corporation.

(3) A partnership.

(4) An unincorporated association.

(5) The state (as defined in IC 34-6-2-140).

(6) A political subdivision (as defined in IC 34-6-2-110).

(7) Any other entity recognized by law.

(f) "Person", for purposes of IC 34-30-6, means an individual, a corporation, a limited liability company, a partnership, an unincorporated association, or a governmental entity that:

(1) has qualifications or experience in:

(A) storing, transporting, or handling a hazardous substance or compressed gas;

(B) fighting fires;

(C) emergency rescue; or

(D) first aid care; or

(2) is otherwise qualified to provide assistance appropriate to remedy or contribute to the remedy of the emergency.

(g) "Person", for purposes of IC 34-30-18, includes:

(1) an individual;

(2) an incorporated or unincorporated organization or association;

(3) the state of Indiana;

(4) a political subdivision (as defined in IC 36-1-2-13);

(5) an agency of the state or a political subdivision; or

(6) a group of such persons acting in concert.

(h) "Person", for purposes of sections 42, 43, 69, and 95 of this chapter, means an individual, an incorporated or unincorporated organization or association, or a group of such persons acting in concert.

(i) "Person", for purposes of IC 34-30-10.5, means the following:

(1) A political subdivision (as defined in IC 36-1-2-13).

(2) A volunteer fire department (as defined in IC 36-8-12-2).

(3) An employee of an entity described in subdivision (1) or (2) who acts within the scope of the employee's responsibilities.

(4) A volunteer firefighter (as defined in IC 36-8-12-2) who is acting for a volunteer fire department.

(5) ~~After March 31, 2002,~~ A corporation, a limited liability company, a partnership, an unincorporated association, or any other entity recognized by law.

(j) "Person", for purposes of IC 34-28-7, means:

(1) an individual;

(2) a governmental entity;

(3) a corporation;

(4) a firm;

(5) a trust;

(6) a partnership; or

(7) an incorporated or unincorporated association that exists under or is authorized by the laws of this state, another state, or a foreign country.

SECTION 6. IC 34-6-2-140 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 140. "State":

(1) for purposes of **section 49(b) of this chapter and** IC 34-13-3, means Indiana and its state agencies; and

(2) for purposes of sections 48.5 and 71.7 of this chapter and IC 34-26-5, has the meaning set forth in IC 1-1-4-5.

SECTION 7. IC 34-28-7 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

Chapter 7. Possession of Firearms and Ammunition in Locked Vehicles

Sec. 1. This chapter applies only to possession of a firearm or ammunition by an individual who may possess the firearm or ammunition legally. This chapter does not apply to the possession of a firearm, ammunition, or other device for which an individual must possess a valid federal firearms license issued under 18 U.S.C. 923 to possess the firearm, ammunition, or other device.

Sec. 2. (a) Notwithstanding any other law and except as provided in subsection (b), a person may not adopt or enforce an ordinance, a resolution, a policy, or a rule that:

(1) prohibits; or

(2) has the effect of prohibiting;

an employee of the person, including a contract employee, from possessing a firearm or ammunition that is locked in the trunk of the employee's vehicle, kept in the glove compartment of the employee's locked vehicle, or stored out of plain sight in the employee's locked vehicle.

(b) Subsection (a) does not prohibit the adoption or enforcement of an ordinance, a resolution, a policy, or a rule that prohibits or has the effect of prohibiting an employee of the person, including a contract employee, from possessing a firearm or ammunition:

(1) in or on school property, in or on property that is being used by a school for a school function, or on a school bus in violation of IC 20-33-8-16 or IC 35-47-9-2;

(2) on the property of:

(A) a child caring institution;

(B) an emergency shelter care child caring institution;

(C) a private secure facility;

(D) a group home;

(E) an emergency shelter care group home; or

(F) a child care center;

in violation of 465 IAC 2-9-80, 465 IAC 2-10-79, 465 IAC 2-11-80, 465 IAC 2-12-78, 465 IAC 2-13-77, or 470 IAC 3-4.7-19;

(3) on the property of a penal facility (as defined in IC 35-41-1-21);

(4) in violation of federal law;

(5) in or on property belonging to an approved postsecondary educational institution (as defined in IC 21-7-13-6(b));

(6) on the property of a domestic violence shelter;

(7) at a person's residence;

(8) on the property of a person that is:

(A) subject to the United States Department of Homeland Security's Chemical Facility Anti-Terrorism Standards issued April 9, 2007; and

(B) licensed by the United States Nuclear Regulatory Commission under Title 10 of the Code of Federal Regulations;

(9) on property owned by:

(A) a public utility (as defined in IC 8-1-2-1) that generates and transmits electric power; or

(B) a department of public utilities created under IC 8-1-11.1; or

(10) in the employee's personal vehicle if the employee, including a contract employee, is a direct support professional who:

(A) works directly with individuals with developmental disabilities to assist the individuals to become integrated into the individuals' community or least restrictive environment; and

(B) uses the employee's personal vehicle while transporting an individual with developmental disabilities.

Sec. 3. (a) An individual who believes that the individual has been harmed by a violation of section 2 of this chapter may bring a civil action against the person who is alleged to have violated section 2 of this chapter, other than a person set forth in IC 34-6-2-103(j)(2).

(b) If a person is found by a court, in an action brought under subsection (a), to have violated section 2 of this chapter, the court may do the following:

(1) Award:

(A) actual damages; and

(B) court costs and attorney's fees;

to the prevailing individual.

(2) Enjoin further violations of this chapter.

Sec. 4. This chapter does not limit a person's rights or remedies under any other state or federal law.

Sec. 5. A court does not have jurisdiction over an action brought against an employer who is in compliance with section 2 of this chapter for any injury or damage resulting from the employer's compliance with section 2 of this chapter.

SECTION 8. IC 35-47-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) ~~Section 2 of~~ This chapter applies to all units (as defined in IC 36-1-2-23). ~~All other sections of this chapter apply to all units other than townships.~~

~~(b) This chapter applies only if a statute expressly grants a legislative body the authority to adopt an emergency ordinance under this chapter.~~

~~(c)~~ **(b)** This chapter does not affect the validity of an ordinance adopted before, and in effect on, January 1, 1994.

SECTION 9. IC 35-47-11-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. Notwithstanding IC 36-1-3, a unit may not regulate in any manner the ownership, possession, sale, transfer, or transportation of firearms (as defined in IC 35-47-1-5) or ammunition except as follows:

(1) This chapter does not apply to land, buildings, or other real property owned or administered by a unit, except highways (as defined in IC 8-23-1-23) or public highways (as defined in IC 8-2.1-17-14).

(2) Notwithstanding the limitation in this section, a unit may use the unit's planning and zoning powers under IC 36-7-4 to prohibit the sale of firearms within two hundred (200) feet of a school by a person having a business that did not sell firearms within two hundred (200) feet of a school before April 1, 1994.

~~(3) Notwithstanding the limitation in this section, a legislative body of a unit other than a township may adopt an emergency ordinance or a unit other than a township may take other action allowed under section 6 of this chapter to regulate the sale of firearms anywhere within the unit for a period of not more than seventy-two (72) hours after the regulatory action takes effect.~~

SECTION 10. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2010]: IC 35-47-11-3; IC 35-47-11-4; IC 35-47-11-5; IC 35-47-11-6.

P.L.91-2010
[H.1135. Approved March 18, 2010.]

AN ACT to amend the Indiana Code concerning education.

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

SECTION 1. IC 20-32-2-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 2.5. "Satisfactory score" means a score of 3, 4, or 5 on an advanced placement examination sponsored by the College Board's Advanced Placement Program.**

SECTION 2. IC 20-32-3-10, AS ADDED BY P.L.1-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10. A student who undergoes an advanced placement examination under IC 20-36-3 and receives a satisfactory score on the advanced placement examination is entitled to receive:

(1) a certificate of achievement; **and**

(2) postsecondary level academic credit at a state educational institution ~~for the particular subject area in which the student was tested.~~ **that counts toward meeting the student's degree requirements, if elective credit is part of the student's degree requirement. The state educational institution may require a score higher than 3 on an advanced placement test if the credit is to be used for meeting a course requirement for a particular major at the state educational institution.**

SECTION 3. IC 20-36-1-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 4. "Satisfactory score" means a score of 3, 4, or 5 on an advanced placement exam sponsored by the College Board's Advanced Placement Program.**

SECTION 4. IC 20-36-3-6, AS ADDED BY P.L.1-2005, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) Each student who enrolls in an advanced course may take the advanced placement examination to receive high school credit for the advanced course.

(b) Any rule adopted by the department concerning an academic honors diploma must provide that a successfully completed mathematics or science advanced course is credited toward fulfilling the requirements of an academic honors diploma.

(c) If a student who takes an advanced placement examination receives a satisfactory score on the examination, the student is entitled to receive:

(1) a certificate of achievement; **and**

(2) postsecondary level academic credit at a state educational institution that counts toward meeting the student's degree requirements, if elective credit is part of the student's degree requirement. The state educational institution may require a score higher than 3 on an advanced placement test if the credit is to be used for meeting a course requirement for a particular major at the state educational institution.

~~for the subject area included in the advanced placement examination.~~

SECTION 5. IC 20-36-3-11, AS AMENDED BY P.L.2-2007, SECTION 235, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 11. ~~Each state educational institution shall work with the department in the development of a policy of granting academic credit and advanced placement to students who:~~

~~(1) attend the state educational institution; and~~

~~(2) receive a satisfactory score as determined by the state educational institution on the advanced placement examination.~~

The department and the commission for higher education shall work with each state educational institution on implementing and communicating the state educational institution's policy for awarding advanced placement credits under IC 20-32-3-10 and section 6 of this chapter. The plan to implement each policy must be developed by March 1, 2011.

SECTION 6. [EFFECTIVE JULY 1, 2010] **(a) Not later than July 1, 2011, the department of education, in cooperation with other appropriate associations, shall develop a uniform job description for school counselors. The job description must allow school corporations flexibility in assigning duties to school counselors based on local needs.**

(b) This SECTION expires December 31, 2011.

P.L.92-2010
[H.1168. Approved March 18, 2010.]

AN ACT to amend the Indiana Code concerning education.

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

SECTION 1. IC 20-26-14-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 5.5. (a) Not later than three (3) business days after the association makes a decision concerning the application or interpretation of a rule of the association to an individual student, the association shall notify by registered or certified mail the following of the association's decision:**

(1) The student's parent.

(2) The student's school.

(b) In its notice to the parent under subsection (a)(1), the association shall include information about the process under this chapter for appealing the association's decision.

(c) The association shall conduct its investigation, review, and decision making in an expeditious manner.

SECTION 2. IC 20-26-14-6, AS ADDED BY P.L.1-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) The association must establish a case review panel that meets the following requirements:

(1) The panel has nine (9) members.

(2) The state superintendent or the state superintendent's designee is a member of the panel and is the chairperson of the panel.

(3) The state superintendent appoints as members of the panel persons having the following qualifications:

(A) Four (4) parents of high school students.

(B) Two (2) high school principals.

(C) Two (2) high school athletic directors.

(4) The state superintendent shall administer the functions of

the panel.

~~(4)~~ **(5)** A member of the panel serves for a four (4) year term, subject to the following:

(A) An appointee who ceases to meet the member's qualification under subdivision (3) ceases to be a member of the panel.

(B) The state superintendent shall appoint fifty percent (50%) of the initial appointees under each clause in subdivision (3) for terms of two (2) years, so that terms of the panel are staggered.

~~(5)~~ **(6)** The panel must meet monthly, unless there are no cases before the panel. The panel may meet more frequently at the call of the chairperson. However, the chairperson must call a meeting within five (5) business days, **or as soon thereafter as a quorum can be assembled,** after the panel receives a case in which time is a factor in relation to the scheduling of an athletic competition.

~~(6)~~ **(7)** A quorum of the panel is five (5) members. The affirmative vote of ~~five (5)~~ **the greater of the majority present or four (4)** members of the panel is required for the panel to take action.

(b) A student's parent who disagrees with a decision of the association concerning the application or interpretation of a rule of the association to the student shall have the right to do one (1) of the following:

(1) Accept the decision.

~~(2) Take legal action without first referring the case to the panel.~~

~~(3)~~ **(2)** Refer the case to the panel. **The parent must refer the case to the panel not later than thirty (30) days after the date of the association's decision.**

(c) ~~Upon receipt of~~ **After** a case **is referred under subsection (b)(2),** the panel must do the following:

(1) Collect testimony and information on the case, including testimony and information from both the association and the parent.

(2) Place the case on the panel's agenda and consider the case at a meeting of the panel.

(3) ~~Make~~ **Not later than ten (10) business days after the meeting at which the panel considers the case, issue a written**

decision that does one (1) of the following: ~~decisions:~~

(A) ~~Uphold~~ **Upholds** the association's decision on the case.

(B) ~~Modify~~ **Modifies** the association's decision on the case.

(C) ~~Nullify~~ **Nullifies** the association's decision on the case.

(d) **Subject to section 7 of this chapter,** the association must implement the decision of the panel on each case. However, a decision of the panel:

(1) applies only to the case before the panel; and

(2) does not affect any rule of the association or decision under any rule concerning any student other than the student whose parent referred the case to the panel.

(e) The association shall pay all costs attributable to the operation of the panel, including travel and ~~per diem~~ **a stipend of at least fifty dollars ($50) for each meeting** for panel members.

SECTION 3. IC 20-26-14-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 7. (a) If the association or the parent who referred a case to the panel under section 6(b)(2) of this chapter disagrees with the decision of the panel, the association or the parent may file a legal action to review the panel's decision.**

(b) An action must be filed under subsection (a) with a court with jurisdiction not later than forty-five (45) days after the panel issues its decision under section 6(c) of this chapter.

(c) In an action brought under this section, the court may reverse the panel's decision if the court, upon its own review of the facts and issues involved in the decision and the applicable rule of the association, determines that the decision of the panel, or the decision of the association upheld by the panel, is:

(1) not a fair and logical interpretation or application of the association's rule;

(2) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(3) contrary to a constitutional right, power, privilege, or immunity;

(4) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;

(5) without observance of procedure required by law; or

(6) unsupported by substantial evidence.

(d) The court reviewing a panel decision under this section may do any of the following:

(1) Affirm the panel's decision.

(2) Modify the panel's decision.

(3) Reverse the panel's decision and remand the action to the panel for action directed by the court.

(e) Notwithstanding this chapter, if an association fails to follow its bylaws regarding hearing and appeals procedures, a student or the student's parent may proceed directly to a court with jurisdiction to resolve a dispute.

SECTION 4. [EFFECTIVE JULY 1, 2010] **(a) As used in this SECTION, "association" means an organization that conducts, organizes, sanctions, or sponsors interscholastic high school athletic events as the association's primary purpose.**

(b) As used in this SECTION, "legal settlement" means a student's status with respect to the school corporation that has the responsibility to allow the student to attend its local public schools without the payment of tuition, or to pay transfer tuition under IC 20-26-11 if the student attends school in a local public school of another school corporation.

(c) The association in collaboration with the department of education shall study the following:

(1) The feasibility of allowing a high school student who attends:

(A) a nonpublic nonaccredited school;

(B) a nonpublic school; or

(C) a charter school;

that is not a member of an association to participate in high school athletics at a public high school that is a member of an association if the public high school is located within the legal settlement of the student.

(2) The impact of allowing a high school student who attends:

(A) a nonpublic nonaccredited school;

(B) a nonpublic school; or

(C) a charter school;

that is not a member of an association to participate in high school athletics at a public high school that is a member of an association if the public high school is located within the legal settlement of the student.

(3) The practices of other states concerning participation in organized high school athletic events by nonpublic schools, identifying strengths and weaknesses in the practices of those states, as well as the correlation to Indiana's rules and practices governing interscholastic high school athletics.

(d) The association, in collaboration with the department of education, shall prepare a report concerning the topics set forth in subsection (c) and submit the report to the legislative council in an electronic format under IC 5-14-6 not later than December 31, 2010.

(e) The report must include findings regarding other states' practices concerning participation in organized high school athletic events by nonpublic schools, identifying strengths and weaknesses of the practices of those states, as well as the correlation to Indiana's rules and practices governing interscholastic high school athletics.

(f) This SECTION expires January 1, 2011.

P.L.93-2010
[H.1188. Approved March 18, 2010.]

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-13-2-42, AS AMENDED BY P.L.147-2009, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 42. (a) "Dealer" means, except as otherwise provided in this section, a person who sells to the general public, including a person who sells directly by the Internet or other computer network, at least twelve (12) vehicles each year for delivery in Indiana. The term includes a person who sells off-road vehicles. A dealer must have an established place of business that meets the minimum

standards prescribed by the ~~bureau~~ **secretary of state** under rules adopted under IC 4-22-2.

(b) The term does not include the following:

(1) A receiver, trustee, or other person appointed by or acting under the judgment or order of a court.

(2) A public officer while performing official duties.

(3) A person who is a dealer solely because of activities as a transfer dealer.

(4) An automotive mobility dealer.

(c) "Dealer", for purposes of IC 9-31, means a person that sells to the general public for delivery in Indiana at least six (6):

(1) boats; or

(2) trailers:

(A) designed and used exclusively for the transportation of watercraft; and

(B) sold in general association with the sale of watercraft;

per year.

SECTION 2. IC 9-13-2-97.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 97.5. "Manufacturer of a vehicle subcomponent system" means a manufacturer of a vehicle subcomponent system essential to the operation of a motor vehicle. The term includes a public or private university that is engaged in the:**

(1) research;

(2) development; or

(3) manufacture;

of a vehicle subcomponent system.

SECTION 3. IC 9-17-8-8, AS AMENDED BY P.L.147-2009, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8. (a) Before obtaining a manufacturer's, a converter manufacturer's, an automotive mobility dealer's, or a dealer's license from the ~~bureau,~~ **secretary of state,** a person must agree to allow a police officer or an authorized representative of the ~~bureau~~ **secretary of state** to inspect:

(1) certificates of origin, certificates of title, assignments of certificates of origin and certificates of title, or other proof of ownership or evidence of right of possession as determined by the

secretary of state; and

(2) motor vehicles, semitrailers, or recreational vehicles that are held for resale by the manufacturer, converter manufacturer, automotive mobility dealer, or dealer;

in the manufacturer's, converter manufacturer's, automotive mobility dealer's, or dealer's place of business during reasonable business hours.

(b) A certificate of title, a certificate of origin, and any other proof of ownership described under subsection (a):

(1) must be readily available for inspection by or delivery to the proper persons; and

(2) may not be removed from Indiana.

SECTION 4. IC 9-18-26-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2.5. (a) The secretary of state shall:**

(1) issue a research and development license plate under this chapter to a manufacturer of a vehicle subcomponent system; and

(2) adopt rules under IC 4-22-2 to prescribe the general conditions for the:

(A) application;

(B) issuance; and

(C) use;

of research and development license plates for manufacturers of vehicle component systems.

(b) The fee for a research and development license plate for a manufacturer of a vehicle subcomponent system is the fee under IC 9-29-5-14.5.

(c) A research and development license plate for a manufacturer of a vehicle subcomponent system shall be displayed in accordance with IC 9-18-2-26.

SECTION 5. IC 9-18-26-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8. Dealer-new, dealer-used, and manufacturer license plates may be used without restriction by a designee of a dealer or a designee of a manufacturer under rules adopted by the ~~bureau.~~ **secretary of state.** The rules must provide the following:

(1) The dealer or manufacturer is to be assessed and pay the motor vehicle excise tax under IC 6-6-5 attributable to that part of

the total year that the designee operates the motor vehicle.

(2) The dealer or manufacturer shall report to the ~~bureau~~ **secretary of state** the date of assignment to a designee, the designee's name and address, and the date of termination of the assignment within ten (10) days of the assignment or termination.

(3) The tax calculated in subdivision (1) shall be paid within thirty (30) days of the termination of the assignment to the designee or at the time the dealer or manufacturer purchases license plates under this chapter.

SECTION 6. IC 9-18-26-12, AS AMENDED BY P.L.106-2008, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. A person who knowingly violates a rule adopted by the secretary of state regarding the classification and use of a dealer plate **or the use of a research and development license plate** commits a Class A infraction.

SECTION 7. IC 9-22-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. A business that is registered with the ~~department~~ **secretary of state** as a dealer under IC 9-23 may reassign a certificate of salvage title one (1) time without applying to the bureau for the issuance of a new certificate of salvage title.

SECTION 8. IC 9-22-3-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 20. Unless otherwise specified or required, the records required under section 19 of this chapter shall be retained for a period of five (5) years from the date the vehicle or major component part was acquired, in the form prescribed by the ~~bureau.~~ **secretary of state.**

SECTION 9. IC 9-22-3-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 21. The records required under section 19 of this chapter must be available to and produced at the request of a police officer or an authorized agent of the ~~bureau~~ **secretary of state** under this chapter.

SECTION 10. IC 9-22-3-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 24. The ~~bureau,~~ **secretary of state,** a police officer, or an agent of the ~~bureau~~ **secretary of state** or a police officer may enter upon the premises of a disposal facility, insurance company, or other business dealing in salvage vehicles during normal business hours to inspect a motor vehicle, semitrailer, recreational vehicle, major component part, records,

certificate of title, and other ownership documents to determine compliance with this chapter.

SECTION 11. IC 9-23-2-2, AS AMENDED BY P.L.147-2009, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) An application for a license under this chapter must:

(1) be accompanied by the fee required under IC 9-29-8;

(2) be on a form prescribed by the secretary of state;

(3) contain the information the secretary of state considers necessary to enable the secretary of state to determine fully the following information:

(A) The qualifications and eligibility of the applicant to receive the license.

(B) The location of each of the applicant's places of business in Indiana.

(C) The ability of the applicant to conduct properly the business for which the application is submitted; and

(4) contain evidence of ~~the~~ **a** bond required in subsection (e).

(b) An application for a license as a dealer must show whether the applicant proposes to sell new or used motor vehicles, or both.

(c) An applicant who proposes to use the Internet or other computer network in aid of its sale of motor vehicles to consumers in Indiana, which activities may result in the creation of business records outside Indiana, shall provide the division with the name, address, and telephone number of the person who has control of those business records. The secretary of state may not issue a license to a dealer who transacts business in this manner who does not have an established place of business in Indiana.

(d) This subsection applies to an application for a license as a dealer in a city having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000). The application must include an affidavit from:

(1) the person charged with enforcing a zoning ordinance described in this subsection; or

(2) the zoning enforcement officer under IC 36-7-4, if one exists;

who has jurisdiction over the real property where the applicant wants to operate as a dealer. The affidavit must state that the proposed location is zoned for the operation of a dealer's establishment. The

applicant may file the affidavit at any time after the filing of the application. However, the secretary of state may not issue a license until the applicant files the affidavit.

(e) A licensee shall maintain a bond satisfactory to the secretary of state in the amount of twenty-five thousand dollars ($25,000), which must:

(1) be in favor of the state; and

(2) secure payment of fines, penalties, costs, and fees assessed by the secretary of state after notice, opportunity for a hearing, and opportunity for judicial review, in addition to securing the payment of damages to a person aggrieved by a violation of this chapter by the licensee after a judgment has been issued.

(f) Service shall be made in accordance with the Indiana Rules of Trial Procedure.

(g) Instead of meeting the requirement in subsection (e), a licensee may submit to the secretary of state evidence that the licensee is a member of a risk retention group regulated by the Indiana department of insurance.

SECTION 12. IC 9-23-2-11, AS AMENDED BY P.L.184-2007, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 11. A person who ceases a business activity for which a license was issued under this chapter shall do the following:

(1) Notify the secretary of state of the date that the business activity will cease.

(2) Deliver all permanent dealer license plates and interim license plates issued to the person to the ~~bureau~~ **secretary of state** within ten (10) days of the date the business activity will cease.

SECTION 13. IC 9-28-5.1 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

Chapter 5.1. International Reciprocity

Sec. 1. To facilitate the exchange of driver's licenses, the bureau shall negotiate and enter into a reciprocal agreement with a foreign country. However, the bureau may not negotiate or enter into a reciprocal agreement with a country that is listed as a state sponsor of terrorism as determined by the Secretary of State of the United States.

Sec. 2. A reciprocal agreement entered into under section 1 of

this chapter must authorize the bureau to enter into a written agreement with a foreign country to waive one (1) or more of the examination requirements under IC 9-24 for obtaining an operator's license from this state.

Sec. 3. A written reciprocity agreement entered into under section 2 of this chapter must require an applicant from the foreign country for an operator's license to possess:

(1) a valid operator's license or the equivalent from the foreign country; or

(2) an international driving permit.

Sec. 4. The bureau shall report annually in an electronic format under IC 5-14-6 regarding reciprocal agreements entered into under this chapter to the general assembly before February 1 of each year.

Sec. 5. The bureau shall adopt rules under IC 4-22-2 to carry out this chapter.

SECTION 14. IC 9-29-5-14.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 14.5. The fee for a research and development license plate for a manufacturer of a vehicle subcomponent system under IC 9-18-26-2.5(a) is twenty dollars ($20). There is no fee in addition to the regular registration fee for a research and development license plate for a manufacturer of a vehicle subcomponent system.**

SECTION 15. IC 9-29-5-43, AS AMENDED BY P.L.106-2008, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 43. (a) Except as otherwise provided by this chapter, subsection (b), **subsection (c),** and IC 9-29-1-2, registration fees collected under this chapter shall be paid into the state general fund for credit to the motor vehicle highway account.

(b) Fees collected under this chapter for license plates issued under IC 9-18-26 by the secretary of state shall be deposited as follows:

(1) Thirty percent (30%) to the dealer compliance account established by IC 9-23-2-18.

(2) Seventy percent (70%) to the motor vehicle highway account.

(c) Notwithstanding subsection (b), fees collected under this chapter for interim license plates issued under IC 9-18-26-10 by the secretary of state shall be deposited as follows:

(1) Ninety percent (90%) to the dealer compliance account established by IC 9-23-2-18.

(2) Ten percent (10%) to the motor vehicle highway account.

SECTION 16. IC 9-31-3-6, AS AMENDED BY P.L.106-2008, SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) The secretary of state shall furnish temporary permits and registration forms to a registered dealer upon request.

(b) A plate or card described in subsection (a) must display the following information:

(1) The dealer's license number.

(2) The date of purchase, plainly stamped or stenciled on the plate or card.

(c) A temporary permit may not be used or displayed unless the plate or card is furnished by the ~~bureau.~~ **secretary of state.**

(d) A dealer who authorizes the use of a temporary permit under this section does not assume responsibility or incur liability for injury to a person or property during the period the temporary permit is in effect.

SECTION 17. IC 27-8-9-7, AS AMENDED BY P.L.74-2009, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. (a) This section does not apply to cases covered by section 10 or 11 of this chapter.

(b) In any case arising from a permittee's use of a motor vehicle for which the owner of the vehicle has motor vehicle insurance coverage, the owner's motor vehicle insurance coverage is considered primary if both of the following apply:

(1) The vehicle, at the time damage occurred, was operated with the permission of the owner of the motor vehicle.

(2) The use was within the scope of the permission granted.

(c) The permittee may not recover under any other motor vehicle insurance coverage available to the permittee until the limit of all coverage provided by the owner's policy is first exhausted.

(d) In a case arising from an owner's use of a motor vehicle for which the owner of the vehicle has motor vehicle insurance coverage, the owner's motor vehicle insurance policy is considered primary for any claim made by a passenger in the motor vehicle.

(e) A passenger in a motor vehicle at the time a case described in subsection (b) or (d) arises may not recover under any other motor

vehicle insurance coverage available to the passenger until the limit of all coverage ~~provided by~~ **available to the passenger under** the owner's **motor vehicle insurance** policy is first exhausted.

SECTION 18. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding IC 9-18-26-2.5(a)(2), as added by this act, and IC 9-13-2-42(a) and IC 9-18-26-8, both as amended by this act, the secretary of state shall carry out the duties imposed upon the secretary of state under IC 9-18-26-2.5(a)(2), as added by this act, and IC 9-13-2-42(a) and IC 9-18-26-8, both as amended by this act, under interim written guidelines approved by the secretary of state.**

(b) This SECTION expires on the earlier of the following:

(1) The date rules are adopted under IC 9-18-26-2.5(a)(2), as added by this act, and IC 9-13-2-42(a) and IC 9-18-26-8, both as amended by this act.

(2) December 31, 2011.

SECTION 19. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding IC 9-28-5.1-5, as added by this act, the bureau of motor vehicles shall carry out the duties imposed upon the bureau of motor vehicles under IC 9-28-5.1-5, as added by this act, under interim written guidelines approved by the commissioner of the bureau of motor vehicles.**

(b) This SECTION expires on the earlier of the following:

(1) The date rules are adopted under IC 9-28-5.1-5, as added by this act.

(2) December 31, 2011.

SECTION 20. **An emergency is declared for this act.**

P.L.94-2010
[H.1234. Approved March 18, 2010.]

AN ACT to amend the Indiana Code concerning criminal procedures and controlled substances.

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

SECTION 1. IC 5-14-3-4, AS AMENDED BY P.L.120-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) The following public records are excepted from section 3 of this chapter and may not be disclosed by a public agency, unless access to the records is specifically required by a state or federal statute or is ordered by a court under the rules of discovery:

(1) Those declared confidential by state statute.

(2) Those declared confidential by rule adopted by a public agency under specific authority to classify public records as confidential granted to the public agency by statute.

(3) Those required to be kept confidential by federal law.

(4) Records containing trade secrets.

(5) Confidential financial information obtained, upon request, from a person. However, this does not include information that is filed with or received by a public agency pursuant to state statute.

(6) Information concerning research, including actual research documents, conducted under the auspices of a state educational institution, including information:

(A) concerning any negotiations made with respect to the research; and

(B) received from another party involved in the research.

(7) Grade transcripts and license examination scores obtained as part of a licensure process.

(8) Those declared confidential by or under rules adopted by the supreme court of Indiana.

(9) Patient medical records and charts created by a provider, unless the patient gives written consent under IC 16-39 **or as provided under IC 16-41-8.**

(10) Application information declared confidential by the board of the Indiana economic development corporation under IC 5-28-16.

(11) A photograph, a video recording, or an audio recording of an autopsy, except as provided in IC 36-2-14-10.

(12) A Social Security number contained in the records of a public agency.

(b) Except as otherwise provided by subsection (a), the following public records shall be excepted from section 3 of this chapter at the discretion of a public agency:

(1) Investigatory records of law enforcement agencies. However, certain law enforcement records must be made available for inspection and copying as provided in section 5 of this chapter.

(2) The work product of an attorney representing, pursuant to state employment or an appointment by a public agency:

(A) a public agency;

(B) the state; or

(C) an individual.

(3) Test questions, scoring keys, and other examination data used in administering a licensing examination, examination for employment, or academic examination before the examination is given or if it is to be given again.

(4) Scores of tests if the person is identified by name and has not consented to the release of the person's scores.

(5) The following:

(A) Records relating to negotiations between the Indiana economic development corporation, the ports of Indiana, the Indiana state department of agriculture, the Indiana finance authority, an economic development commission, a local economic development organization (as defined in IC 5-28-11-2(3)), or a governing body of a political subdivision with industrial, research, or commercial prospects, if the records are created while negotiations are in progress.

(B) Notwithstanding clause (A), the terms of the final offer of public financial resources communicated by the Indiana economic development corporation, the ports of Indiana, the Indiana finance authority, an economic development commission, or a governing body of a political subdivision to

an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.

(C) When disclosing a final offer under clause (B), the Indiana economic development corporation shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

(6) Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with a public agency, that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision making.

(7) Diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal.

(8) Personnel files of public employees and files of applicants for public employment, except for:

(A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;

(B) information relating to the status of any formal charges against the employee; and

(C) the factual basis for a disciplinary action in which final action has been taken and that resulted in the employee being suspended, demoted, or discharged.

However, all personnel file information shall be made available to the affected employee or the employee's representative. This subdivision does not apply to disclosure of personnel information generally on all employees or for groups of employees without the request being particularized by employee name.

(9) Minutes or records of hospital medical staff meetings.

(10) Administrative or technical information that would jeopardize a record keeping or security system.

(11) Computer programs, computer codes, computer filing systems, and other software that are owned by the public agency or entrusted to it and portions of electronic maps entrusted to a public agency by a utility.

(12) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1. However, this subdivision does not apply to that information required to be available for inspection and copying under subdivision (8).

(13) The work product of the legislative services agency under personnel rules approved by the legislative council.

(14) The work product of individual members and the partisan staffs of the general assembly.

(15) The identity of a donor of a gift made to a public agency if:

(A) the donor requires nondisclosure of the donor's identity as a condition of making the gift; or

(B) after the gift is made, the donor or a member of the donor's family requests nondisclosure.

(16) Library or archival records:

(A) which can be used to identify any library patron; or

(B) deposited with or acquired by a library upon a condition that the records be disclosed only:

(i) to qualified researchers;

(ii) after the passing of a period of years that is specified in the documents under which the deposit or acquisition is made; or

(iii) after the death of persons specified at the time of the acquisition or deposit.

However, nothing in this subdivision shall limit or affect contracts entered into by the Indiana state library pursuant to IC 4-1-6-8.

(17) The identity of any person who contacts the bureau of motor vehicles concerning the ability of a driver to operate a motor vehicle safely and the medical records and evaluations made by the bureau of motor vehicles staff or members of the driver licensing medical advisory board regarding the ability of a driver to operate a motor vehicle safely. However, upon written request to the commissioner of the bureau of motor vehicles, the driver must be given copies of the driver's medical records and evaluations.

(18) School safety and security measures, plans, and systems, including emergency preparedness plans developed under 511 IAC 6.1-2-2.5.

(19) A record or a part of a record, the public disclosure of which would have a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack. A record described under this subdivision includes:

(A) a record assembled, prepared, or maintained to prevent, mitigate, or respond to an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2;

(B) vulnerability assessments;

(C) risk planning documents;

(D) needs assessments;

(E) threat assessments;

(F) intelligence assessments;

(G) domestic preparedness strategies;

(H) the location of community drinking water wells and surface water intakes;

(I) the emergency contact information of emergency responders and volunteers;

(J) infrastructure records that disclose the configuration of critical systems such as communication, electrical, ventilation, water, and wastewater systems; and

(K) detailed drawings or specifications of structural elements, floor plans, and operating, utility, or security systems, whether in paper or electronic form, of any building or facility located on an airport (as defined in IC 8-21-1-1) that is owned, occupied, leased, or maintained by a public agency. A record described in this clause may not be released for public inspection by any public agency without the prior approval of the public agency that owns, occupies, leases, or maintains the airport. The public agency that owns, occupies, leases, or maintains the airport:

(i) is responsible for determining whether the public disclosure of a record or a part of a record has a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack; and

(ii) must identify a record described under item (i) and clearly mark the record as "confidential and not subject to public disclosure under IC 5-14-3-4(b)(19)(J) without approval of (insert name of submitting public agency)".

This subdivision does not apply to a record or portion of a record pertaining to a location or structure owned or protected by a public agency in the event that an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2 has occurred at that location or structure, unless release of the record or portion of the record would have a reasonable likelihood of threatening public safety by exposing a vulnerability of other locations or structures to terrorist attack.

(20) The following personal information concerning a customer of a municipally owned utility (as defined in IC 8-1-2-1):

(A) Telephone number.

(B) Address.

(C) Social Security number.

(21) The following personal information about a complainant contained in records of a law enforcement agency:

(A) Telephone number.

(B) The complainant's address. However, if the complainant's address is the location of the suspected crime, infraction, accident, or complaint reported, the address shall be made available for public inspection and copying.

(22) Notwithstanding subdivision (8)(A), the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first employment of a law enforcement officer who is operating in an undercover capacity.

(23) Records requested by an offender that:

(A) contain personal information relating to:

(i) a correctional officer (as defined in IC 5-10-10-1.5);

(ii) the victim of a crime; or

(iii) a family member of a correctional officer or the victim of a crime; or

(B) concern or could affect the security of a jail or correctional facility.

(c) Nothing contained in subsection (b) shall limit or affect the right of a person to inspect and copy a public record required or directed to be made by any statute or by any rule of a public agency.

(d) Notwithstanding any other law, a public record that is classified as confidential, other than a record concerning an adoption **or patient**

medical records, shall be made available for inspection and copying seventy-five (75) years after the creation of that record.

(e) Only the content of a public record may form the basis for the adoption by any public agency of a rule or procedure creating an exception from disclosure under this section.

(f) Except as provided by law, a public agency may not adopt a rule or procedure that creates an exception from disclosure under this section based upon whether a public record is stored or accessed using paper, electronic media, magnetic media, optical media, or other information storage technology.

(g) Except as provided by law, a public agency may not adopt a rule or procedure nor impose any costs or liabilities that impede or restrict the reproduction or dissemination of any public record.

~~(e)~~ **(h)** Notwithstanding subsection (d) and section 7 of this chapter:

(1) public records subject to IC 5-15 may be destroyed only in accordance with record retention schedules under IC 5-15; or

(2) public records not subject to IC 5-15 may be destroyed in the ordinary course of business.

SECTION 2. IC 8-1-19.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. As used in this chapter, "human services" means services provided by government or nonprofit organizations to ensure the health and well-being of Indiana citizens. The term includes services designed to:

(1) provide relief or assistance after a natural or nonnatural disaster; **and**

(2) assist parents with stress issues.

SECTION 3. IC 8-1-19.5-9.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 9.5. A recognized 211 service provider shall provide assistance with parental stress issues if requested by a person calling 211.**

SECTION 4. IC 16-41-6-1, AS AMENDED BY P.L.125-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) Except as provided in **IC 16-41-8-6,** IC 16-41-10-2.5, and subsection (b), a person may not perform a screening or confirmatory test for the antibody or antigen to HIV without the oral or written consent of the individual to be tested or a representative as authorized under IC 16-36-1. A physician ordering

the test or the physician's authorized representative shall document whether or not the individual has consented. The test for the antibody or antigen to HIV may not be performed on a woman under section 5 or 6 of this chapter if the woman refuses under section 7 of this chapter to consent to the test.

(b) The test for the antibody or antigen to HIV may be performed if one (1) of the following conditions exists:

(1) If ordered by a physician who has obtained a health care consent under IC 16-36-1 or an implied consent under emergency circumstances and the test is medically necessary to diagnose or treat the patient's condition.

(2) Under a court order based on clear and convincing evidence of a serious and present health threat to others posed by an individual. A hearing held under this subsection shall be held in camera at the request of the individual.

(3) If the test is done on blood collected or tested anonymously as part of an epidemiologic survey under IC 16-41-2-3 or IC 16-41-17-10(a)(5).

(4) The test is ordered under section 4 of this chapter.

(5) The test is required or authorized under IC 11-10-3-2.5.

(c) A court may order a person to undergo testing for HIV under IC 35-38-1-10.5(a) or IC 35-38-2-2.3(a)(16).

SECTION 5. IC 16-41-8-5, AS ADDED BY P.L.125-2009, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. **(a) This section does not apply to medical testing of an individual for whom an indictment or information is filed for a sex crime and for whom a request to have the individual tested under section 6 of this chapter is filed.**

~~(a)~~ **(b)** The following definitions apply throughout this section:

(1) "Bodily fluid" means blood, human waste, or any other bodily fluid.

(2) "Dangerous disease" means any of the following:

(A) Chancroid.

(B) Chlamydia.

(C) Gonorrhea.

(D) Hepatitis.

(E) Human immunodeficiency virus (HIV).

(F) Lymphogranuloma venereum.

(G) Syphilis.

(H) Tuberculosis.

(3) "Offense involving the transmission of a bodily fluid" means any offense (including a delinquent act that would be a crime if committed by an adult) in which a bodily fluid is transmitted from the defendant to the victim in connection with the commission of the offense.

~~(b)~~ **(c)** This subsection applies only to a defendant who has been charged with a potentially disease transmitting offense. At the request of an alleged victim of the offense, the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, or the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2), the prosecuting attorney shall petition a court to order a defendant charged with the commission of a potentially disease transmitting offense to submit to a screening test to determine whether the defendant is infected with a dangerous disease. In the petition, the prosecuting attorney must set forth information demonstrating that the defendant has committed a potentially disease transmitting offense. The court shall set the matter for hearing not later than forty-eight (48) hours after the prosecuting attorney files a petition under this subsection. The alleged victim, the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, and the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2) are entitled to receive notice of the hearing and are entitled to attend the hearing. The defendant and the defendant's counsel are entitled to receive notice of the hearing and are entitled to attend the hearing. If, following the hearing, the court finds probable cause to believe that the defendant has committed a potentially disease transmitting offense, the court may order the defendant to submit to a screening test for one (1) or more dangerous diseases. If the defendant is charged with committing battery by body waste (IC 35-42-2-6), the court may limit testing under this subsection to a test only for human immunodeficiency virus (HIV). However, the court may order additional testing for human immunodeficiency virus (HIV) as may be medically appropriate. The court shall take actions to ensure the confidentiality of evidence introduced at the hearing.

~~(c)~~ **(d)** This subsection applies only to a defendant who has been

charged with an offense involving the transmission of a bodily fluid. At the request of an alleged victim of the offense, the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, or the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2), the prosecuting attorney shall petition a court to order a defendant charged with the commission of an offense involving the transmission of a bodily fluid to submit to a screening test to determine whether the defendant is infected with a dangerous disease. In the petition, the prosecuting attorney must set forth information demonstrating that:

(1) the defendant has committed an offense; and

(2) a bodily fluid was transmitted from the defendant to the victim in connection with the commission of the offense.

The court shall set the matter for hearing not later than forty-eight (48) hours after the prosecuting attorney files a petition under this subsection. The alleged victim of the offense, the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, and the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2) are entitled to receive notice of the hearing and are entitled to attend the hearing. The defendant and the defendant's counsel are entitled to receive notice of the hearing and are entitled to attend the hearing. If, following the hearing, the court finds probable cause to believe that the defendant has committed an offense and that a bodily fluid was transmitted from the defendant to the alleged victim in connection with the commission of the offense, the court may order the defendant to submit to a screening test for one (1) or more dangerous diseases. If the defendant is charged with committing battery by body waste (IC 35-42-2-6), the court may limit testing under this subsection to a test only for human immunodeficiency virus (HIV). However, the court may order additional testing for human immunodeficiency virus (HIV) as may be medically appropriate. The court shall take actions to ensure the confidentiality of evidence introduced at the hearing.

~~(d)~~ **(e)** The testimonial privileges applying to communication between a husband and wife and between a health care provider and the health care provider's patient are not sufficient grounds for not testifying or providing other information at a hearing conducted in accordance with this section.

~~(e)~~ **(f)** A health care provider (as defined in IC 16-18-2-163) who discloses information that must be disclosed to comply with this section is immune from civil and criminal liability under Indiana statutes that protect patient privacy and confidentiality.

~~(f)~~ **(g)** The results of a screening test conducted under this section shall be kept confidential if the defendant ordered to submit to the screening test under this section has not been convicted of the potentially disease transmitting offense or offense involving the transmission of a bodily fluid with which the defendant is charged. The results may not be made available to any person or public or private agency other than the following:

(1) The defendant and the defendant's counsel.

(2) The prosecuting attorney.

(3) The department of correction or the penal facility, juvenile detention facility, or secure private facility where the defendant is housed.

(4) The alleged victim or the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, or the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2), and the alleged victim's counsel.

The results of a screening test conducted under this section may not be admitted against a defendant in a criminal proceeding or against a child in a juvenile delinquency proceeding.

~~(g)~~ **(h)** As soon as practicable after a screening test ordered under this section has been conducted, the alleged victim or the parent, guardian, or custodian of an alleged victim who is less than eighteen (18) years of age, or the parent, guardian, or custodian of an alleged victim who is an endangered adult (as defined in IC 12-10-3-2), and the victim's counsel shall be notified of the results of the test.

~~(h)~~ **(i)** An alleged victim may disclose the results of a screening test to which a defendant is ordered to submit under this section to an individual or organization to protect the health and safety of or to seek compensation for:

(1) the alleged victim;

(2) the alleged victim's sexual partner; or

(3) the alleged victim's family.

~~(i)~~ **(j)** The court shall order a petition filed and any order entered

under this section sealed.

~~(j)~~ **(k)** A person that knowingly or intentionally:

(1) receives notification or disclosure of the results of a screening test under this section; and

(2) discloses the results of the screening test in violation of this section;

commits a Class B misdemeanor.

SECTION 6. IC 16-41-8-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6. (a) If an indictment or information alleges that the defendant compelled another person to engage in sexual activity by force or threat of force, the alleged victim of the offense described in the indictment or information may request that the defendant against whom the indictment or information is filed be tested for the human immunodeficiency virus (HIV).**

(b) Not later than forty-eight (48) hours after an alleged victim described in subsection (a) requests that the defendant be tested for the human immunodeficiency virus (HIV), the defendant must be tested for the human immunodeficiency virus (HIV).

(c) As soon as practicable, the results of a test for the human immunodeficiency virus (HIV) conducted under subsection (b) shall be sent to:

(1) the alleged victim;

(2) the parent or guardian of the alleged victim, if the alleged victim is less than eighteen (18) years of age; and

(3) the defendant.

(d) If follow-up testing of the defendant for the human immunodeficiency virus (HIV) is necessary, the results of follow-up testing of the defendant shall be sent to:

(1) the alleged victim;

(2) the parent or guardian of the alleged victim if the alleged victim is less than eighteen (18) years of age; and

(3) the defendant.

SECTION 7. IC 25-15-2-24 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 24. "Protection order" means an injunction or other order issued by a tribunal of the issuing state or Indian tribe to prevent an individual from:**

(1) engaging in violent or threatening acts against;

(2) engaging in harassment of;

(3) engaging in contact or communication with; or

(4) being in physical proximity to;

another person. The term includes temporary and final orders issued by civil and criminal courts.

SECTION 8. IC 25-15-9-18, AS AMENDED BY P.L.143-2009, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 18. (a) Except as provided in subsection (b), the following persons, in the order of priority indicated, have the authority to designate the manner, type, and selection of the final disposition and interment of human remains:

(1) An individual granted the authority in a funeral planning declaration executed by the decedent under IC 29-2-19.

(2) An individual granted the authority in a health care power of attorney executed by the decedent under IC 30-5-5-16.

(3) The individual who was the spouse of the decedent at the time of the decedent's death.

(4) The decedent's surviving adult child. If more than one (1) adult child is surviving, any adult child who confirms in writing that the other adult children have been notified, unless the licensed funeral director or licensed funeral home receives a written objection from another adult child.

(5) The decedent's surviving parent. If the decedent is survived by both parents, either parent has the authority unless the licensed funeral director or licensed funeral home receives a written objection from the other parent.

(6) The individual in the next degree of kinship under IC 29-1-2-1 to inherit the estate of the decedent. If more than one (1) individual of the same degree survives, any person of that degree has the authority unless the licensed funeral director or licensed funeral home receives a written objection from one (1) or more persons of the same degree.

(7) In the case of an indigent or other individual whose final disposition is the responsibility of the state or township, the following:

(A) If none of the persons identified in subdivisions (1) through (6) is available:

(i) a public administrator, including a responsible township trustee or the trustee's designee; or

(ii) the coroner.

(B) A state appointed guardian.

(b) If:

(1) the death of the decedent appears to have been the result of:

(A) murder (IC 35-42-1-1);

(B) voluntary manslaughter (IC 35-42-1-3); or

(C) another criminal act, if the death does not result from the operation of a vehicle; and

(2) the coroner, in consultation with the law enforcement agency investigating the death of the decedent, determines that there is a reasonable suspicion that a person described in subsection (a) committed the offense;

the person referred to in subdivision (2) may not authorize or designate the manner, type, or selection of the final disposition and internment of human remains.

(c) The coroner, in consultation with the law enforcement agency investigating the death of the decedent, shall inform the cemetery owner or crematory authority of the determination under subsection (b)(2).

(d) If the decedent had filed a protection order against a person described in subsection (a) and the protection order is currently in effect, the person described in subsection (a) may not authorize or designate the manner, type, or selection of the final disposition and interment of human remains.

(e) A law enforcement agency shall determine if the protection order is in effect. If the law enforcement agency cannot determine the existence of a protection order that is in effect, the law enforcement agency shall consult the protective order registry established under IC 5-2-9-5.5.

SECTION 9. IC 35-33-8-3.2, AS AMENDED BY P.L.111-2009, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3.2. (a) A court may admit a defendant to bail and impose any of the following conditions to assure the defendant's appearance at any stage of the legal proceedings, or, upon a showing of clear and convincing evidence that the defendant poses a risk of physical danger to another person or the community, to assure the

public's physical safety:

(1) Require the defendant to:

(A) execute a bail bond with sufficient solvent sureties;

(B) deposit cash or securities in an amount equal to the bail;

(C) execute a bond secured by real estate in the county, where thirty-three hundredths (0.33) of the true tax value less encumbrances is at least equal to the amount of the bail;

(D) post a real estate bond; or

(E) perform any combination of the requirements described in clauses (A) through (D).

If the court requires the defendant to deposit cash or cash and another form of security as bail, the court may require the defendant and each person who makes the deposit on behalf of the defendant to execute an agreement that allows the court to retain all or a part of the cash to pay publicly paid costs of representation and fines, costs, fees, and restitution that the court may order the defendant to pay if the defendant is convicted. The defendant must also pay the fee required by subsection (d).

(2) Require the defendant to execute:

(A) a bail bond by depositing cash or securities with the clerk of the court in an amount not less than ten percent (10%) of the bail; and

(B) an agreement that allows the court to retain all or a part of the cash or securities to pay fines, costs, fees, and restitution that the court may order the defendant to pay if the defendant is convicted.

A portion of the deposit, not to exceed ten percent (10%) of the monetary value of the deposit or fifty dollars ($50), whichever is the lesser amount, may be retained as an administrative fee. The clerk shall also retain from the deposit under this subdivision fines, costs, fees, and restitution as ordered by the court, publicly paid costs of representation that shall be disposed of in accordance with subsection (b), and the fee required by subsection (d). In the event of the posting of a real estate bond, the bond shall be used only to insure the presence of the defendant at any stage of the legal proceedings, but shall not be foreclosed for the payment of fines, costs, fees, or restitution. The individual posting bail for the defendant or the defendant

admitted to bail under this subdivision must be notified by the sheriff, court, or clerk that the defendant's deposit may be forfeited under section 7 of this chapter or retained under subsection (b).

(3) Impose reasonable restrictions on the activities, movements, associations, and residence of the defendant during the period of release.

(4) **Except as provided in section 3.6 of this chapter,** require the defendant to refrain from any direct or indirect contact with an individual and, if the defendant has been charged with an offense under IC 35-46-3, any animal belonging to the individual, including if the defendant has not been released from lawful detention.

(5) Place the defendant under the reasonable supervision of a probation officer, pretrial services agency, or other appropriate public official. If the court places the defendant under the supervision of a probation officer or pretrial services agency, the court shall determine whether the defendant must pay the pretrial services fee under section 3.3 of this chapter.

(6) Release the defendant into the care of a qualified person or organization responsible for supervising the defendant and assisting the defendant in appearing in court. The supervisor shall maintain reasonable contact with the defendant in order to assist the defendant in making arrangements to appear in court and, where appropriate, shall accompany the defendant to court. The supervisor need not be financially responsible for the defendant.

(7) Release the defendant on personal recognizance unless:

(A) the state presents evidence relevant to a risk by the defendant:

(i) of nonappearance; or

(ii) to the physical safety of the public; and

(B) the court finds by a preponderance of the evidence that the risk exists.

(8) Require a defendant charged with an offense under IC 35-46-3 to refrain from owning, harboring, or training an animal.

(9) Impose any other reasonable restrictions designed to assure the defendant's presence in court or the physical safety of another person or the community.

(b) Within thirty (30) days after disposition of the charges against the defendant, the court that admitted the defendant to bail shall order the clerk to remit the amount of the deposit remaining under subsection (a)(2) to the defendant. The portion of the deposit that is not remitted to the defendant shall be deposited by the clerk in the supplemental public defender services fund established under IC 33-40-3.

(c) For purposes of subsection (b), "disposition" occurs when the indictment or information is dismissed or the defendant is acquitted or convicted of the charges.

(d) Except as provided in subsection (e), the clerk of the court shall:

(1) collect a fee of five dollars ($5) from each bond or deposit required under subsection (a)(1); and

(2) retain a fee of five dollars ($5) from each deposit under subsection (a)(2).

The clerk of the court shall semiannually remit the fees collected under this subsection to the board of trustees of the public employees' retirement fund for deposit in the special death benefit fund. The fee required by subdivision (2) is in addition to the administrative fee retained under subsection (a)(2).

(e) With the approval of the clerk of the court, the county sheriff may collect the bail posted under this section. The county sheriff shall remit the bail to the clerk of the court by the following business day and remit monthly the five dollar ($5) special death benefit fee to the county auditor.

(f) When a court imposes a condition of bail described in subsection (a)(4):

(1) the clerk of the court shall comply with IC 5-2-9; and

(2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

SECTION 10. IC 35-33-8-3.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 3.6. (a) This section applies only to a defendant who is charged with committing a violent crime (as defined in IC 5-2-6.1-8) that results in bodily injury to a person.**

(b) If a court releases a defendant described in subsection (a) to bail without holding a bail hearing in open court, the court shall include as a condition of bail the requirement that the defendant

refrain from any direct or indirect contact with the victim:

(1) for ten (10) days after release; or

(2) until the initial hearing;

whichever occurs first.

(c) At the initial hearing, the court may reinstate or modify the condition that the defendant refrain from direct or indirect contact with the victim.

SECTION 11. IC 35-33-8-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 11. (a) A court may require a person who has been charged with a crime of domestic violence (as described in IC 35-41-1-6.3) to wear a GPS tracking device as a condition of bail.**

(b) A court may order a person who is required to wear a GPS tracking device under subsection (a) to pay any costs associated with the GPS tracking device.

SECTION 12. IC 35-46-1-15.1, AS AMENDED BY P.L.104-2008, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 15.1. A person who knowingly or intentionally violates:

(1) a protective order to prevent domestic or family violence issued under IC 34-26-5 (or, if the order involved a family or household member, under IC 34-26-2 or IC 34-4-5.1-5 before their repeal);

(2) an ex parte protective order issued under IC 34-26-5 (or, if the order involved a family or household member, an emergency order issued under IC 34-26-2 or IC 34-4-5.1 before their repeal);

(3) a workplace violence restraining order issued under IC 34-26-6;

(4) a no contact order in a dispositional decree issued under IC 31-34-20-1, IC 31-37-19-1, or IC 31-37-5-6 (or IC 31-6-4-15.4 or IC 31-6-4-15.9 before their repeal) or an order issued under IC 31-32-13 (or IC 31-6-7-14 before its repeal) that orders the person to refrain from direct or indirect contact with a child in need of services or a delinquent child;

(5) a no contact order issued as a condition of pretrial release, including release on bail or personal recognizance, or pretrial diversion, **and including a no contact order issued under**

IC 35-33-8-3.6;

(6) a no contact order issued as a condition of probation;

(7) a protective order to prevent domestic or family violence issued under IC 31-15-5 (or IC 31-16-5 or IC 31-1-11.5-8.2 before their repeal);

(8) a protective order to prevent domestic or family violence issued under IC 31-14-16-1 in a paternity action;

(9) a no contact order issued under IC 31-34-25 in a child in need of services proceeding or under IC 31-37-25 in a juvenile delinquency proceeding;

(10) an order issued in another state that is substantially similar to an order described in subdivisions (1) through (9);

(11) an order that is substantially similar to an order described in subdivisions (1) through (9) and is issued by an Indian:

(A) tribe;

(B) band;

(C) pueblo;

(D) nation; or

(E) organized group or community, including an Alaska Native village or regional or village corporation as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);

that is recognized as eligible for the special programs and services provided by the United States to Indians because of their special status as Indians;

(12) an order issued under IC 35-33-8-3.2; or

(13) an order issued under IC 35-38-1-30;

commits invasion of privacy, a Class A misdemeanor. However, the offense is a Class D felony if the person has a prior unrelated conviction for an offense under this section.

SECTION 13. IC 35-48-7-8.1, AS AMENDED BY P.L.182-2009(ss), SECTION 399, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8.1. ~~(a) This section applies after June 30, 2007.~~

~~(b)~~ **(a)** The advisory committee shall provide for a controlled substance prescription monitoring program that includes the following components:

(1) Each time a controlled substance designated by the advisory

committee under IC 35-48-2-5 through IC 35-48-2-10 is dispensed, the dispenser shall transmit to the INSPECT program the following information:

(A) The controlled substance recipient's name.

(B) The controlled substance recipient's or the recipient representative's identification number or the identification number or phrase designated by the INSPECT program.

(C) The controlled substance recipient's date of birth.

(D) The national drug code number of the controlled substance dispensed.

(E) The date the controlled substance is dispensed.

(F) The quantity of the controlled substance dispensed.

(G) The number of days of supply dispensed.

(H) The dispenser's United States Drug Enforcement Agency registration number.

(I) The prescriber's United States Drug Enforcement Agency registration number.

(J) An indication as to whether the prescription was transmitted to the pharmacist orally or in writing.

(K) Other data required by the advisory committee.

(2) The information required to be transmitted under this section must be transmitted not more than seven (7) days after the date on which a controlled substance is dispensed.

(3) A dispenser shall transmit the information required under this section by:

(A) uploading to the INSPECT web site;

(B) a computer diskette; or

(C) a CD-ROM disk;

that meets specifications prescribed by the advisory committee.

(4) The advisory committee may require that prescriptions for controlled substances be written on a one (1) part form that cannot be duplicated. However, the advisory committee may not apply such a requirement to prescriptions filled at a pharmacy with a Type II permit (as described in IC 25-26-13-17) and operated by a hospital licensed under IC 16-21, or prescriptions ordered for and dispensed to bona fide enrolled patients in facilities licensed under IC 16-28. The committee may not require multiple copy prescription forms for any prescriptions written.

The advisory committee may not require different prescription forms for any individual drug or group of drugs. Prescription forms required under this subdivision must be jointly approved by the committee and by the Indiana board of pharmacy established by IC 25-26-13-3.

(5) The costs of the program.

(b) This subsection applies only to a retail pharmacy. A pharmacist, pharmacy technician, or person authorized by a pharmacist to dispense a controlled substance may not dispense a controlled substance to a person who is not personally known to the pharmacist, pharmacy technician, or person authorized by a pharmacist to dispense a controlled substance unless the person taking possession of the controlled substance provides documented proof of the person's identification to the pharmacist, pharmacy technician, or person authorized by a pharmacist to dispense a controlled substance.

SECTION 14. IC 35-50-9 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

Chapter 9. Additional Sentence Requirements for Domestic Battery Convictions

Sec. 1. (a) At the time of sentencing for a person convicted of domestic battery under IC 35-42-2-1.3 or a crime that involved domestic abuse, neglect, or violence, the court may require the person to complete a batterer's intervention program approved by the court.

(b) The person convicted of domestic battery or another crime described in subsection (a) shall pay all expenses of the batterer's intervention program.

(c) The batterer's intervention program must be a certified intervention program.

SECTION 15. [EFFECTIVE UPON PASSAGE] **(a) Before May 1, 2010, the criminal justice institute shall notify the United States Department of Justice concerning the passage of this act, including IC 16-41-8-6, as added by this act, and certify, under 42 U.S.C. 3796hh, the provisions of this act.**

(b) This SECTION expires December 1, 2010.

SECTION 16. **An emergency is declared for this act.**

P.L.95-2010
[H.1261. Approved March 18, 2010.]

AN ACT to amend the Indiana Code concerning renewable energy.

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

SECTION 1. IC 8-1-8.8-10, AS AMENDED BY P.L.151-2009, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011]: Sec. 10. (a) As used in this chapter "renewable energy resources" means alternative sources of renewable energy, including the following:

(1) Energy from wind.
(2) Solar energy.
(3) Photovoltaic cells and panels.
(4) Dedicated crops grown for energy production.
(5) Organic waste biomass, including any of the following organic matter that is available on a renewable basis:
  (A) Agricultural crops.
  (B) Agricultural wastes and residues.
  (C) Wood and wood wastes, including the following:
    (i) Wood residues.
    (ii) Forest thinnings.
    (iii) Mill residue wood.
    ~~(iv) Waste from clean construction and demolition.~~
  (D) Animal wastes.
  (E) Animal byproducts.
  ~~(E)~~ **(F)** Aquatic plants.
  (G) Algae.
(6) Hydropower from existing dams.
(7) Fuel cells.
(8) Energy from waste to energy facilities.
(9) Energy storage systems.

(b) Except for energy described in subsection (a)(8), the term does not include energy from the incinerations, burning, or heating of any of

the following:

(1) Tires.

(2) General household, institutional, commercial, industrial lunchroom, office, or landscape waste.

(c) The term excludes treated or painted lumber.

SECTION 2. IC 15-11-2-3, AS AMENDED BY P.L.71-2009, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: Sec. 3. The department shall do the following:

(1) Provide administrative and staff support for the following:

(A) The state fair board for purposes of carrying out the director's duties under IC 15-13-5.

(B) The Indiana corn marketing council for purposes of administering the duties of the director under IC 15-15-12.

(C) The Indiana organic peer review panel under IC 15-15-8.

(D) The Indiana dairy industry development board for purposes of administering the duties of the director under IC 15-18-5.

(E) The Indiana land resources council under IC 15-12-5.

(F) The Indiana grain buyers and warehouse licensing agency under IC 26-3-7.

(G) The Indiana grain indemnity corporation under IC 26-4-3.

(H) The division.

(I) The ~~E85 fueling station~~ **agricultural biomass infrastructure** grant program under IC 15-11-11.

(2) Administer the election of state fair board members under IC 15-13-5.

(3) Administer state programs and laws promoting agricultural trade.

(4) Administer state livestock or agriculture marketing grant programs.

(5) Administer economic development efforts for agriculture by doing the following:

(A) Promoting value added agricultural resources.

(B) Marketing Indiana agriculture to businesses internationally.

(C) Assisting Indiana agricultural businesses with developing partnerships with the Indiana economic development

corporation.

(D) Soliciting private funding for selective economic development and trade initiatives.

(E) Providing for the orderly economic development and growth of Indiana's agricultural economy.

(F) Facilitating the use of biomass **(as defined in IC 15-11-11-0.7)** and algae production systems to generate renewable energy.

SECTION 3. IC 15-11-11-0.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: **Sec. 0.3. As used in this chapter, "biofuels" means biomass converted into liquid or gaseous fuels.**

SECTION 4. IC 15-11-11-0.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: **Sec. 0.7. As used in this chapter, "biomass" means agriculturally based sources of renewable energy, including the following:**

(1) Agricultural crops.

(2) Agricultural wastes and residues.

(3) Wood and wood byproducts, including the following:

(A) Wood residue.

(B) Forest thinning.

(C) Mill residue wood.

(4) Animal wastes.

(5) Animal byproducts.

(6) Aquatic plants.

(7) Algae.

The term does not include waste from construction and demolition.

SECTION 5. IC 15-11-11-3, AS ADDED BY P.L.2-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: Sec. 3. As used in this chapter, "location" refers to one (1) or more parcels of land that:

(1) have a common access to a public highway; and

(2) are or would appear to the reasonable ~~person~~ **individual** making an observation from a public highway to be part of the same business.

SECTION 6. IC 15-11-11-4.3 IS ADDED TO THE INDIANA

CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: **Sec. 4.3. As used in this chapter, "person" means:**

(1) an individual;

(2) an agricultural producer;

(3) a partnership;

(4) a corporation;

(5) a limited liability company; or

(6) an unincorporated association.

SECTION 7. IC 15-11-11-4.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: **Sec. 4.7. As used in this chapter, "project" refers to the production or distribution of biofuels through the use of a renewable energy system infrastructure.**

SECTION 8. IC 15-11-11-5, AS ADDED BY P.L.2-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: Sec. 5. As used in this chapter, "qualified investment" refers to an ordinary and usual expense that is incurred:

(1) after June 30, 2007, to do either of the following:

~~(1)~~ **(A)** Purchase any part of a renewable fuel compatible fueling station for the purpose of:

~~(A)~~ **(i)** installing the new renewable fuel compatible fuel station at a location on which a fueling station is not located; or

~~(B)~~ **(ii)** converting an existing fueling station that is not a renewable fuel compatible fueling station into a fueling station that is a renewable fuel compatible fueling station.

~~(2)~~ **(B)** Refit any part of a fueling station that is not renewable fuel compatible as a renewable fuel compatible fueling station, including the costs of cleaning storage tanks and piping to remove petroleum sludge and other contaminants; **or**

(2) after December 31, 2009, for the installation of a renewable energy system infrastructure that uses commercial technologies to produce or distribute biofuels. It does not include a cost or expense for:

(A) research and development;

(B) land acquisition;

(C) agricultural tillage equipment;

(D) salaries; or

(E) other noninfrastructure purposes determined ineligible by the department.

SECTION 9. IC 15-11-11-7, AS ADDED BY P.L.91-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: Sec. 7. (a) Subject to subsection (c), the department may award a grant under this chapter to a person or unit that:

(1) makes a qualified investment and

~~(2)~~ places the qualified investment in service in Indiana for the dispensing of E85 base fuel into the fuel tanks of motor vehicles; **or**

(2) places a qualified investment in service in Indiana for the production or distribution of biofuels.

(b) A recipient of a grant awarded under this chapter must comply with any guidelines developed by the department and the office of energy and defense development.

(c) The department may not award more than one (1) grant under this chapter for a:

(1) renewable fuel compatible fueling station at a location; **or**

(2) project.

SECTION 10. IC 15-11-11-8, AS ADDED BY P.L.91-2008, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: Sec. 8. (a) Subject to ~~subsection~~ **subsections** (b) **and (c),** the department and the office of energy and defense development shall determine the amount of each grant awarded under this chapter.

(b) The amount of a grant awarded under this chapter for a **renewable fuel compatible fueling station at a** location may not exceed the lesser of the following:

(1) The amount of the grant recipient's qualified investment for the location.

(2) Twenty thousand dollars ($20,000).

(c) A grant awarded under this chapter for a project must be awarded on a competitive basis and may not exceed the lesser of:

(1) fifty percent (50%) of the grant recipient's qualified

investment for the project; or

(2) one hundred thousand dollars ($100,000).

~~(c)~~ **(d)** The amount of a grant awarded under this chapter for a location **or project** may be less than the amount of the grant recipient's qualified investment for the location **or project.**

SECTION 11. IC 15-11-11-11, AS ADDED BY P.L.2-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: Sec. 11. (a) The ~~E85 fueling station~~ **agricultural biomass infrastructure** grant fund is established to provide grants under this chapter.

(b) The fund consists of appropriations from the general assembly.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund but remains in the fund to be used exclusively for purposes of this chapter.

(e) Money in the fund is continuously appropriated for the purposes of this chapter.

SECTION 12. **An emergency is declared for this act.**

P.L.96-2010

[H.1276. Approved March 18, 2010.]

AN ACT to amend the Indiana Code concerning gaming and to make an appropriation.

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

SECTION 1. IC 4-33-2-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 17. "Riverboat" means either of the following on which lawful gambling is authorized under this article:

(1) A self-propelled excursion boat located in a county described

in IC 4-33-1-1(1) or IC 4-33-1-1(2) that complies with IC 4-33-6-6(a).

(2) A ~~vessel~~ **casino** located in a historic hotel district.

SECTION 2. IC 4-33-12-1, AS AMENDED BY P.L.233-2007, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) This subsection does not apply to a riverboat that has implemented flexible scheduling under IC 4-33-6-21. A tax is imposed on admissions to gambling excursions authorized under this article at a rate of three dollars ($3) for each person admitted to the gambling excursion. This admission tax is imposed upon the licensed owner conducting the gambling excursion.

(b) This subsection applies only to a riverboat that has implemented flexible scheduling under IC 4-33-6-21 or IC 4-33-6.5. A tax is imposed on the admissions to a riverboat that has implemented flexible scheduling under IC 4-33-6-21 or IC 4-33-6.5 at the ~~following rate:~~

~~(1) Four dollars ($4) for each person admitted to a riverboat that docks in a county described in IC 4-33-1-1(3). This admission tax is imposed upon the operating agent of the riverboat.~~

~~(2)~~ **rate of** three dollars ($3) for each person admitted to ~~a~~ **the** riverboat. ~~that docks in any other county.~~ This admission tax is imposed upon the licensed owner **or operating agent** operating the riverboat.

(c) The commission may by rule determine the point at which a person is considered to be:

(1) admitted to a gambling excursion, in the case of a riverboat subject to subsection (a); or

(2) admitted to a riverboat, in the case of a riverboat subject to subsection (b);

for purposes of collecting the admissions tax under this chapter.

SECTION 3. IC 4-33-12-6, AS AMENDED BY P.L.146-2008, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) The department shall place in the state general fund the tax revenue collected under this chapter.

(b) Except as provided by subsections (c) and (d) and IC 6-3.1-20-7, the treasurer of state shall quarterly pay the following amounts:

(1) Except as provided in subsection (k), one dollar ($1) of the admissions tax collected by the licensed owner for each person embarking on a gambling excursion during the quarter or

admitted to a riverboat that has implemented flexible scheduling under IC 4-33-6-21 during the quarter shall be paid to:

(A) the city in which the riverboat is docked, if the city:

(i) is located in a county having a population of more than one hundred ten thousand (110,000) but less than one hundred fifteen thousand (115,000); or

(ii) is contiguous to the Ohio River and is the largest city in the county; and

(B) the county in which the riverboat is docked, if the riverboat is not docked in a city described in clause (A).

(2) Except as provided in subsection (k), one dollar ($1) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the county in which the riverboat is docked. In the case of a county described in subdivision (1)(B), this one dollar ($1) is in addition to the one dollar ($1) received under subdivision (1)(B).

(3) Except as provided in subsection (k), ten cents ($0.10) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the county convention and visitors bureau or promotion fund for the county in which the riverboat is docked.

(4) Except as provided in subsection (k), fifteen cents ($0.15) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during a quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the state fair commission, for use in any activity that the commission is authorized to carry out under IC 15-13-3.

(5) Except as provided in subsection (k), ten cents ($0.10) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during the quarter that has

implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the division of mental health and addiction. The division shall allocate at least twenty-five percent (25%) of the funds derived from the admissions tax to the prevention and treatment of compulsive gambling.

(6) Except as provided in subsection (k) and section 7 of this chapter, sixty-five cents ($0.65) of the admissions tax collected by the licensed owner for each person embarking on a gambling excursion during the quarter or admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21 shall be paid to the Indiana horse racing commission to be distributed as follows, in amounts determined by the Indiana horse racing commission, for the promotion and operation of horse racing in Indiana:

(A) To one (1) or more breed development funds established by the Indiana horse racing commission under IC 4-31-11-10.

(B) To a racetrack that was approved by the Indiana horse racing commission under IC 4-31. The commission may make a grant under this clause only for purses, promotions, and routine operations of the racetrack. No grants shall be made for long term capital investment or construction, and no grants shall be made before the racetrack becomes operational and is offering a racing schedule.

(c) With respect to tax revenue collected from a riverboat located in a historic hotel district, the treasurer of state shall quarterly pay the following: ~~amounts.~~

(1) **With respect to admissions taxes collected for a person admitted to the riverboat before July 1, 2010, the following amounts:**

(A) Twenty-two percent (22%) of the admissions tax collected during the quarter shall be paid to the county treasurer of the county in which the riverboat is ~~docked.~~ **located.** The county treasurer shall distribute the money received under this ~~subdivision~~ **clause** as follows:

~~(A)~~ **(i)** Twenty-two and seventy-five hundredths percent (22.75%) shall be quarterly distributed to the county treasurer of a county having a population of more than thirty-nine thousand six hundred (39,600) but less than forty

thousand (40,000) for appropriation by the county fiscal body after receiving a recommendation from the county executive. The county fiscal body for the receiving county shall provide for the distribution of the money received under this ~~clause~~ **item** to one (1) or more taxing units (as defined in IC 6-1.1-1-21) in the county under a formula established by the county fiscal body after receiving a recommendation from the county executive.

~~(B)~~ **(ii)** Twenty-two and seventy-five hundredths percent (22.75%) shall be quarterly distributed to the county treasurer of a county having a population of more than ten thousand seven hundred (10,700) but less than twelve thousand (12,000) for appropriation by the county fiscal body. The county fiscal body for the receiving county shall provide for the distribution of the money received under this ~~clause~~ **item** to one (1) or more taxing units (as defined in IC 6-1.1-1-21) in the county under a formula established by the county fiscal body after receiving a recommendation from the county executive.

~~(C)~~ **(iii)** Fifty-four and five-tenths percent (54.5%) shall be retained by the county where the riverboat is ~~docked~~ **located** for appropriation by the county fiscal body after receiving a recommendation from the county executive.

~~(2)~~ **(B)** Five percent (5%) of the admissions tax collected during the quarter shall be paid to a town having a population of more than two thousand two hundred (2,200) but less than three thousand five hundred (3,500) located in a county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000). At least twenty percent (20%) of the taxes received by a town under this ~~subdivision~~ **clause** must be transferred to the school corporation in which the town is located.

~~(3)~~ **(C)** Five percent (5%) of the admissions tax collected during the quarter shall be paid to a town having a population of more than three thousand five hundred (3,500) located in a county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000). At least twenty percent (20%) of the taxes received by a town

under this ~~subdivision~~ **clause** must be transferred to the school corporation in which the town is located.

~~(4)~~ **(D)** Twenty percent (20%) of the admissions tax collected during the quarter shall be paid in equal amounts to each town that:

~~(A)~~ **(i)** is located in the county in which the riverboat ~~docks;~~ **is located;** and

~~(B)~~ **(ii)** contains a historic hotel.

At least twenty percent (20%) of the taxes received by a town under this ~~subdivision~~ **clause** must be transferred to the school corporation in which the town is located.

~~(5)~~ **(E)** Ten percent (10%) of the admissions tax collected during the quarter shall be paid to the Orange County development commission established under IC 36-7-11.5. At least one-third (1/3) of the taxes paid to the Orange County development commission under this ~~subdivision~~ **clause** must be transferred to the Orange County convention and visitors bureau.

~~(6)~~ **(F)** Thirteen percent (13%) of the admissions tax collected during the quarter shall be paid to the West Baden Springs historic hotel preservation and maintenance fund established by IC 36-7-11.5-11(b).

~~(7)~~ **(G)** Twenty-five percent (25%) of the admissions tax collected during the quarter shall be paid to the Indiana economic development corporation to be used by the corporation for the development and implementation of a regional economic development strategy to assist the residents of the county in which the riverboat is located and residents of contiguous counties in improving their quality of life and to help promote successful and sustainable communities. The regional economic development strategy must include goals concerning the following issues:

~~(A)~~ **(i)** Job creation and retention.

~~(B)~~ **(ii)** Infrastructure, including water, wastewater, and storm water infrastructure needs.

~~(C)~~ **(iii)** Housing.

~~(D)~~ **(iv)** Workforce training.

~~(E)~~ **(v)** Health care.

~~(F)~~ **(vi)** Local planning.

~~(G)~~ **(vii)** Land use.

~~(H)~~ **(viii)** Assistance to regional economic development groups.

~~(I)~~ **(ix)** Other regional development issues as determined by the Indiana economic development corporation.

(2) With respect to admissions taxes collected for a person admitted to the riverboat after June 30, 2010, the following amounts:

(A) Twenty-nine and thirty-three hundredths percent (29.33%) to the county treasurer of Orange County. The county treasurer shall distribute the money received under this clause as follows:

(i) Twenty-two and seventy-five hundredths percent (22.75%) to the county treasurer of Dubois County for distribution in the manner described in subdivision (1)(A)(i).

(ii) Twenty-two and seventy-five hundredths percent (22.75%) to the county treasurer of Crawford County for distribution in the manner described in subdivision (1)(A)(ii).

(iii) Fifty-four and five-tenths percent (54.5%) to be retained by the county treasurer of Orange County for appropriation by the county fiscal body after receiving a recommendation from the county executive.

(B) Six and sixty-seven hundredths percent (6.67%) to the fiscal officer of the town of Orleans. At least twenty percent (20%) of the taxes received by the town under this clause must be transferred to Orleans Community Schools.

(C) Six and sixty-seven hundredths percent (6.67%) to the fiscal officer of the town of Paoli. At least twenty percent (20%) of the taxes received by the town under this clause must be transferred to the Paoli Community School Corporation.

(D) Twenty-six and sixty-seven hundredths percent (26.67%) to be paid in equal amounts to the fiscal officers of the towns of French Lick and West Baden Springs. At least twenty percent (20%) of the taxes received by a town under this clause must be transferred to the Springs Valley

Community School Corporation.

(E) Thirty and sixty-six hundredths percent (30.66%) to the Indiana economic development corporation to be used in the manner described in subdivision (1)(G).

(d) With respect to tax revenue collected from a riverboat that operates from a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000), the treasurer of state shall quarterly pay the following amounts:

(1) Except as provided in subsection (k), one dollar ($1) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the city in which the riverboat is docked.

(2) Except as provided in subsection (k), one dollar ($1) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the county in which the riverboat is docked.

(3) Except as provided in subsection (k), nine cents ($0.09) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the county convention and visitors bureau or promotion fund for the county in which the riverboat is docked.

(4) Except as provided in subsection (k), one cent ($0.01) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the northwest Indiana law enforcement training center.

(5) Except as provided in subsection (k), fifteen cents ($0.15) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during a quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the state fair commission for use in any activity that the commission is authorized to carry out under IC 15-13-3.

(6) Except as provided in subsection (k), ten cents ($0.10) of the admissions tax collected by the licensed owner for each person:

(A) embarking on a gambling excursion during the quarter; or

(B) admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21;

shall be paid to the division of mental health and addiction. The division shall allocate at least twenty-five percent (25%) of the funds derived from the admissions tax to the prevention and treatment of compulsive gambling.

(7) Except as provided in subsection (k) and section 7 of this chapter, sixty-five cents ($0.65) of the admissions tax collected by the licensed owner for each person embarking on a gambling excursion during the quarter or admitted to a riverboat during the quarter that has implemented flexible scheduling under IC 4-33-6-21 shall be paid to the Indiana horse racing commission to be distributed as follows, in amounts determined by the Indiana horse racing commission, for the promotion and operation of horse racing in Indiana:

(A) To one (1) or more breed development funds established by the Indiana horse racing commission under IC 4-31-11-10.

(B) To a racetrack that was approved by the Indiana horse racing commission under IC 4-31. The commission may make a grant under this clause only for purses, promotions, and routine operations of the racetrack. No grants shall be made for long term capital investment or construction, and no grants shall be made before the racetrack becomes operational and is offering a racing schedule.

(e) Money paid to a unit of local government under ~~subsection (b)(1) through (b)(2), (c)(1) through (c)(4), or (d)(1) through (d)(2):~~ **subsection (b), (c), or (d):**

(1) must be paid to the fiscal officer of the unit and may be deposited in the unit's general fund or riverboat fund established under IC 36-1-8-9, or both;

(2) may not be used to reduce the unit's maximum levy under

IC 6-1.1-18.5 but may be used at the discretion of the unit to reduce the property tax levy of the unit for a particular year;

(3) may be used for any legal or corporate purpose of the unit, including the pledge of money to bonds, leases, or other obligations under IC 5-1-14-4; and

(4) is considered miscellaneous revenue.

(f) Money paid by the treasurer of state under subsection (b)(3) or (d)(3) shall be:

(1) deposited in:

(A) the county convention and visitor promotion fund; or

(B) the county's general fund if the county does not have a convention and visitor promotion fund; and

(2) used only for the tourism promotion, advertising, and economic development activities of the county and community.

(g) Money received by the division of mental health and addiction under subsections (b)(5) and (d)(6):

(1) is annually appropriated to the division of mental health and addiction;

(2) shall be distributed to the division of mental health and addiction at times during each state fiscal year determined by the budget agency; and

(3) shall be used by the division of mental health and addiction for programs and facilities for the prevention and treatment of addictions to drugs, alcohol, and compulsive gambling, including the creation and maintenance of a toll free telephone line to provide the public with information about these addictions. The division shall allocate at least twenty-five percent (25%) of the money received to the prevention and treatment of compulsive gambling.

(h) This subsection applies to the following:

(1) Each entity receiving money under subsection (b).

(2) Each entity receiving money under subsection (d)(1) through (d)(2).

(3) Each entity receiving money under subsection (d)(5) through (d)(7).

The treasurer of state shall determine the total amount of money paid by the treasurer of state to an entity subject to this subsection during the state fiscal year 2002. The amount determined under this subsection

is the base year revenue for each entity subject to this subsection. The treasurer of state shall certify the base year revenue determined under this subsection to each entity subject to this subsection.

(i) This subsection applies to an entity receiving money under subsection (d)(3) or (d)(4). The treasurer of state shall determine the total amount of money paid by the treasurer of state to the entity described in subsection (d)(3) during state fiscal year 2002. The amount determined under this subsection multiplied by nine-tenths (0.9) is the base year revenue for the entity described in subsection (d)(3). The amount determined under this subsection multiplied by one-tenth (0.1) is the base year revenue for the entity described in subsection (d)(4). The treasurer of state shall certify the base year revenue determined under this subsection to each entity subject to this subsection.

(j) This subsection does not apply to an entity receiving money under subsection (c). For state fiscal years beginning after June 30, 2002, the total amount of money distributed to an entity under this section during a state fiscal year may not exceed the entity's base year revenue as determined under subsection (h) or (i). If the treasurer of state determines that the total amount of money distributed to an entity under this section during a state fiscal year is less than the entity's base year revenue, the treasurer of state shall make a supplemental distribution to the entity under IC 4-33-13-5(g).

(k) This subsection does not apply to an entity receiving money under subsection (c). For state fiscal years beginning after June 30, 2002, the treasurer of state shall pay that part of the riverboat admissions taxes that:

(1) exceeds a particular entity's base year revenue; and

(2) would otherwise be due to the entity under this section;

to the state general fund instead of to the entity.

SECTION 4. IC 4-33-13-5, AS AMENDED BY P.L.146-2008, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) This subsection does not apply to tax revenue remitted by an operating agent operating a riverboat in a historic hotel district. After funds are appropriated under section 4 of this chapter, each month the treasurer of state shall distribute the tax revenue deposited in the state gaming fund under this chapter to the following:

(1) The first thirty-three million dollars ($33,000,000) of tax revenues collected under this chapter shall be set aside for revenue sharing under subsection (e).

(2) Subject to subsection (c), twenty-five percent (25%) of the remaining tax revenue remitted by each licensed owner shall be paid:

(A) to the city that is designated as the home dock of the riverboat from which the tax revenue was collected, in the case of:

(i) a city described in IC 4-33-12-6(b)(1)(A); or

(ii) a city located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000); or

(B) to the county that is designated as the home dock of the riverboat from which the tax revenue was collected, in the case of a riverboat whose home dock is not in a city described in clause (A).

(3) Subject to subsection (d), the remainder of the tax revenue remitted by each licensed owner shall be paid to the state general fund. In each state fiscal year, the treasurer of state shall make the transfer required by this subdivision not later than the last business day of the month in which the tax revenue is remitted to the state for deposit in the state gaming fund. However, if tax revenue is received by the state on the last business day in a month, the treasurer of state may transfer the tax revenue to the state general fund in the immediately following month.

(b) This subsection applies only to tax revenue remitted by an operating agent operating a riverboat in a historic hotel district. After funds are appropriated under section 4 of this chapter, each month the treasurer of state shall distribute the tax revenue remitted by the operating agent under this chapter as follows:

(1) Thirty-seven and one-half percent (37.5%) shall be paid to the state general fund.

(2) Nineteen percent (19%) shall be paid to the West Baden Springs historic hotel preservation and maintenance fund established by IC 36-7-11.5-11(b).

However, at any time the balance in that fund exceeds twenty million dollars ($20,000,000), the amount described in this

subdivision shall be paid to the state general fund.

(3) Eight percent (8%) shall be paid to the Orange County development commission established under IC 36-7-11.5.

(4) Sixteen percent (16%) shall be paid in equal amounts to each town that is located in the county in which the riverboat ~~docks~~ **is located** and contains a historic hotel. The following apply to taxes received by a town under this subdivision:

(A) At least twenty-five percent (25%) of the taxes must be transferred to the school corporation in which the town is located.

(B) At least twelve and five-tenths percent (12.5%) of the taxes **imposed on adjusted gross receipts received after June 30, 2010,** must be transferred to the Orange County ~~convention and visitors bureau.~~ **development commission established by IC 36-7-11.5-3.5.**

(5) Nine percent (9%) shall be paid to the county treasurer of the county in which the riverboat is ~~docked.~~ **located.** The county treasurer shall distribute the money received under this subdivision as follows:

(A) Twenty-two and twenty-five hundredths percent (22.25%) shall be quarterly distributed to the county treasurer of a county having a population of more than thirty-nine thousand six hundred (39,600) but less than forty thousand (40,000) for appropriation by the county fiscal body after receiving a recommendation from the county executive. The county fiscal body for the receiving county shall provide for the distribution of the money received under this clause to one (1) or more taxing units (as defined in IC 6-1.1-1-21) in the county under a formula established by the county fiscal body after receiving a recommendation from the county executive.

(B) Twenty-two and twenty-five hundredths percent (22.25%) shall be quarterly distributed to the county treasurer of a county having a population of more than ten thousand seven hundred (10,700) but less than twelve thousand (12,000) for appropriation by the county fiscal body after receiving a recommendation from the county executive. The county fiscal body for the receiving county shall provide for the distribution of the money received under this clause to one (1) or more

taxing units (as defined in IC 6-1.1-1-21) in the county under a formula established by the county fiscal body after receiving a recommendation from the county executive.

(C) Fifty-five and five-tenths percent (55.5%) shall be retained by the county ~~where~~ **in which** the riverboat is ~~docked~~ **located** for appropriation by the county fiscal body after receiving a recommendation from the county executive.

(6) Five percent (5%) shall be paid to a town having a population of more than two thousand two hundred (2,200) but less than three thousand five hundred (3,500) located in a county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000). At least forty percent (40%) of the taxes received by a town under this subdivision must be transferred to the school corporation in which the town is located.

(7) Five percent (5%) shall be paid to a town having a population of more than three thousand five hundred (3,500) located in a county having a population of more than nineteen thousand three hundred (19,300) but less than twenty thousand (20,000). At least forty percent (40%) of the taxes received by a town under this subdivision must be transferred to the school corporation in which the town is located.

(8) Five-tenths percent (0.5%) **of the taxes imposed on adjusted gross receipts received after June 30, 2010,** shall be paid to the ~~Orange County convention and visitors bureau.~~ **Indiana economic development corporation established by IC 5-28-3-1.**

(c) For each city and county receiving money under subsection (a)(2), the treasurer of state shall determine the total amount of money paid by the treasurer of state to the city or county during the state fiscal year 2002. The amount determined is the base year revenue for the city or county. The treasurer of state shall certify the base year revenue determined under this subsection to the city or county. The total amount of money distributed to a city or county under this section during a state fiscal year may not exceed the entity's base year revenue. For each state fiscal year, the treasurer of state shall pay that part of the riverboat wagering taxes that:

(1) exceeds a particular city's or county's base year revenue; and

(2) would otherwise be due to the city or county under this section;

to the state general fund instead of to the city or county.

(d) Each state fiscal year the treasurer of state shall transfer from the tax revenue remitted to the state general fund under subsection (a)(3) to the build Indiana fund an amount that when added to the following may not exceed two hundred fifty million dollars ($250,000,000):

(1) Surplus lottery revenues under IC 4-30-17-3.

(2) Surplus revenue from the charity gaming enforcement fund under IC 4-32.2-7-7.

(3) Tax revenue from pari-mutuel wagering under IC 4-31-9-3.

The treasurer of state shall make transfers on a monthly basis as needed to meet the obligations of the build Indiana fund. If in any state fiscal year insufficient money is transferred to the state general fund under subsection (a)(3) to comply with this subsection, the treasurer of state shall reduce the amount transferred to the build Indiana fund to the amount available in the state general fund from the transfers under subsection (a)(3) for the state fiscal year.

(e) Before August 15 of each year, the treasurer of state shall distribute the wagering taxes set aside for revenue sharing under subsection (a)(1) to the county treasurer of each county that does not have a riverboat according to the ratio that the county's population bears to the total population of the counties that do not have a riverboat. Except as provided in subsection (h), the county auditor shall distribute the money received by the county under this subsection as follows:

(1) To each city located in the county according to the ratio the city's population bears to the total population of the county.

(2) To each town located in the county according to the ratio the town's population bears to the total population of the county.

(3) After the distributions required in subdivisions (1) and (2) are made, the remainder shall be retained by the county.

(f) Money received by a city, town, or county under subsection (e) or (h) may be used for any of the following purposes:

(1) To reduce the property tax levy of the city, town, or county for a particular year (a property tax reduction under this subdivision does not reduce the maximum levy of the city, town, or county under IC 6-1.1-18.5).

(2) For deposit in a special fund or allocation fund created under IC 8-22-3.5, IC 36-7-14, IC 36-7-14.5, IC 36-7-15.1, and IC 36-7-30 to provide funding for debt repayment.

(3) To fund sewer and water projects, including storm water management projects.

(4) For police and fire pensions.

(5) To carry out any governmental purpose for which the money is appropriated by the fiscal body of the city, town, or county. Money used under this subdivision does not reduce the property tax levy of the city, town, or county for a particular year or reduce the maximum levy of the city, town, or county under IC 6-1.1-18.5.

(g) This subsection does not apply to an entity receiving money under IC 4-33-12-6(c). Before September 15 of each year, the treasurer of state shall determine the total amount of money distributed to an entity under IC 4-33-12-6 during the preceding state fiscal year. If the treasurer of state determines that the total amount of money distributed to an entity under IC 4-33-12-6 during the preceding state fiscal year was less than the entity's base year revenue (as determined under IC 4-33-12-6), the treasurer of state shall make a supplemental distribution to the entity from taxes collected under this chapter and deposited into the state general fund. Except as provided in subsection (i), the amount of an entity's supplemental distribution is equal to:

(1) the entity's base year revenue (as determined under IC 4-33-12-6); minus

(2) the sum of:

(A) the total amount of money distributed to the entity during the preceding state fiscal year under IC 4-33-12-6; plus

(B) any amounts deducted under IC 6-3.1-20-7.

(h) This subsection applies only to a county containing a consolidated city. The county auditor shall distribute the money received by the county under subsection (e) as follows:

(1) To each city, other than a consolidated city, located in the county according to the ratio that the city's population bears to the total population of the county.

(2) To each town located in the county according to the ratio that the town's population bears to the total population of the county.

(3) After the distributions required in subdivisions (1) and (2) are

made, the remainder shall be paid in equal amounts to the consolidated city and the county.

(i) This subsection applies only to the Indiana horse racing commission. For each state fiscal year the amount of the Indiana horse racing commission's supplemental distribution under subsection (g) must be reduced by the amount required to comply with IC 4-33-12-7(a).

SECTION 5. IC 36-7-11.5-11, AS AMENDED BY P.L.234-2007, SECTION 287, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) As used in this section, "fund" refers to the West Baden Springs historic hotel preservation and maintenance fund established by subsection (b).

(b) The West Baden Springs historic hotel preservation and maintenance fund is established. The fund consists of the following:

(1) Amounts deposited in the fund under IC 4-33-6.5-6, IC 4-33-12-6(c), and IC 4-33-13-5(b).

(2) Grants and gifts that the department of natural resources receives for the fund under terms, obligations, and liabilities that the department considers appropriate.

(3) The one million dollar ($1,000,000) initial fee paid to the gaming commission under IC 4-33-6.5.

(4) Any amount transferred to the fund upon the repeal of IC 36-7-11.5-8 (the community trust fund).

The fund shall be administered by the department of natural resources. The expenses of administering the fund shall be paid from money in the fund.

(c) The treasurer of state shall invest the money in the fund that is not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. The treasurer of state shall deposit in the fund the interest that accrues from the investment of the fund.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(e) ~~No money may be appropriated from the fund except as provided in this subsection.~~ The ~~general assembly may appropriate~~ interest accruing to the fund **is annually appropriated** to the department of natural resources only for the following purposes:

(1) To **reimburse claims made for expenditures to** maintain ~~the~~

~~parts of~~ a qualified historic hotel, ~~that were restored before July 1, 2003,~~ **as determined by the owner of the hotel riverboat resort.**

(2) To **reimburse claims made for expenditures to** maintain:

(A) the grounds surrounding a qualified historic hotel;

(B) supporting buildings and structures related to a qualified historic hotel; and

(C) other facilities used by the guests of the qualified historic hotel;

as determined by the owner of the hotel riverboat resort.

~~No money may be appropriated from the fund for restoration purposes if the restoration is to occur after July 1, 2003.~~

(f) The department of natural resources shall promptly pay each claim for a purpose described in subsection (e) to the extent of the balance of interest available in the fund. If insufficient money is available to fully pay all of the submitted claims, the department of natural resources shall pay the claims in the order in which they are received until each claim is fully paid.

(g) Notwithstanding IC 4-9.1-1-7, IC 4-12-1-12, IC 4-13-2-18, or any other law, interest accruing to the fund may not be withheld, transferred, assigned, or reassigned to a purpose other than the reimbursement of claims under subsection (f).

SECTION 6. [EFFECTIVE JULY 1, 2010] **(a) IC 4-33-12-1, as amended by this act, applies with respect to a person who is admitted to a riverboat in a state fiscal year beginning after June 30, 2010.**

(b) This SECTION expires January 1, 2012.

SECTION 7. **An emergency is declared for this act.**

P.L.97-2010
[H.1320. Approved March 18, 2010.]

AN ACT to amend the Indiana Code concerning health.

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

SECTION 1. IC 35-48-4-14.7, AS AMENDED BY P.L.186-2007, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 14.7. (a) This section does not apply to the following:

(1) Ephedrine or pseudoephedrine dispensed pursuant to a prescription.

(2) The sale of a drug containing ephedrine or pseudoephedrine to a licensed health care provider, pharmacist, retail distributor, wholesaler, manufacturer, or an agent of any of these persons if the sale occurs in the regular course of lawful business activities. However, a retail distributor, wholesaler, or manufacturer is required to report a suspicious order to the state police department in accordance with subsection (f).

(3) The sale of a drug containing ephedrine or pseudoephedrine by a person who does not sell exclusively to walk-in customers for the personal use of the walk-in customers. However, if the person described in this subdivision is a retail distributor, wholesaler, or manufacturer, the person is required to report a suspicious order to the state police department in accordance with subsection (f).

(b) The following definitions apply throughout this section:

(1) "Constant video monitoring" means the surveillance by an automated camera that:

(A) records at least one (1) photograph or digital image every ten (10) seconds;

(B) retains a photograph or digital image for at least seventy-two (72) hours;

(C) has sufficient resolution and magnification to permit the

identification of a person in the area under surveillance; and

(D) stores a recorded photograph or digital image at a location that is immediately accessible to a law enforcement officer.

(2) "Convenience package" means a package that contains a drug having as an active ingredient not more than one hundred twenty (120) milligrams of ephedrine or pseudoephedrine, or both.

(3) "Ephedrine" means pure or adulterated ephedrine.

(4) "Pseudoephedrine" means pure or adulterated pseudoephedrine.

(5) "Suspicious order" means a sale or transfer of a drug containing ephedrine or pseudoephedrine if the sale or transfer:

(A) is a sale or transfer that the retail distributor, wholesaler, or manufacturer is required to report to the United States Drug Enforcement Administration;

(B) appears suspicious to the retail distributor, wholesaler, or manufacturer in light of the recommendations contained in Appendix A of the report to the United States attorney general by the suspicious orders task force under the federal Comprehensive Methamphetamine Control Act of 1996; or

(C) is for cash or a money order in a total amount of at least two hundred dollars ($200).

(6) "Unusual theft" means the theft or unexplained disappearance from a particular retail store of drugs containing ten (10) grams or more of ephedrine, pseudoephedrine, or both in a twenty-four (24) hour period.

(c) This subsection does not apply to a convenience package. A person may sell a drug that contains the active ingredient of ephedrine, pseudoephedrine, or both only if the person complies with the following conditions:

(1) The person does not sell the drug to a person less than eighteen (18) years of age.

(2) The person does not sell drugs containing more than three ~~(3)~~ **and six-tenths (3.6)** grams of ephedrine or pseudoephedrine, or both, ~~in one (1) transaction.~~ **to one (1) individual on one (1) day, or nine (9) grams of ephedrine or pseudoephedrine, or both, to one (1) individual in a thirty (30) day period.**

(3) The person requires:

(A) the purchaser to produce a state or federal identification

card;

(B) the purchaser to complete a paper or an electronic log in a format approved by the state police department with the purchaser's name, address, and driver's license or other identification number; and

(C) the clerk who is conducting the transaction to initial or electronically record the clerk's identification on the log.

Records from the completion of a log must be retained for at least two (2) years. A law enforcement officer has the right to inspect and copy a log or the records from the completion of a log in accordance with state and federal law. A person may not sell or release a log or the records from the completion of a log for a commercial purpose. The Indiana criminal justice institute may obtain information concerning a log or the records from the completion of a log from a law enforcement officer if the information may not be used to identify a specific individual and is used only for statistical purposes. A retailer who in good faith releases information maintained under this subsection is immune from civil liability unless the release constitutes gross negligence or intentional, wanton, or willful misconduct. ~~This subdivision expires June 30, 2012.~~

(4) The person stores the drug:

(A) behind a counter in an area inaccessible to a customer or in a locked display case that makes the drug unavailable to a customer without the assistance of an employee; or

(B) directly in front of the pharmacy counter in the direct line of sight of an employee at the pharmacy counter, in an area under constant video monitoring, if the drug is sold in a retail establishment that:

(i) is a pharmacy; or

(ii) contains a pharmacy that is open for business.

(5) The person posts a sign warning that:

(A) it is a criminal offense for a person to purchase drugs containing more than nine (9) grams of ephedrine or pseudoephedrine, or both, in a thirty (30) day period;

(B) it is a criminal offense for a person to purchase drugs containing more than three and six-tenths (3.6) grams of ephedrine or pseudoephedrine, or both, on one (1) day;

and

(C) depending on the amount of ephedrine or pseudoephedrine contained in the drug, purchasing more than one (1) package of drugs containing ephedrine or pseudoephedrine on one (1) day may be a crime.

The warning sign must list maximum amounts of ephedrine or pseudoephedrine that may be purchased in both grams and milligrams.

(d) A person may not purchase drugs containing more than three ~~(3)~~ **and six-tenths (3.6)** grams of ephedrine **or** pseudoephedrine, or both, ~~in~~ **on** one (1) ~~week.~~ **day, or more than nine (9) grams of ephedrine or pseudoephedrine, or both, in a thirty (30) day period.**

(e) This subsection only applies to convenience packages. A person may not sell drugs containing more than one hundred twenty (120) milligrams of ephedrine or pseudoephedrine, or both in any one (1) transaction if the drugs are sold in convenience packages. A person who sells convenience packages must secure the convenience packages in at least one (1) of the following ways:

(1) The convenience package must be stored not more than thirty (30) feet away from a checkout station or counter and must be in the direct line of sight of an employee at the checkout station or counter.

(2) The convenience package must be protected by a reliable anti-theft device that uses package tags and detection alarms designed to prevent theft.

(3) The convenience package must be stored in restricted access shelving that permits a purchaser to remove not more than one (1) package every fifteen (15) seconds.

(4) The convenience package must be stored in an area that is under constant video monitoring, and a sign placed near the convenience package must warn that the area is under constant video monitoring.

(f) A retail distributor, wholesaler, or manufacturer shall report a suspicious order to the state police department in writing.

(g) Not later than three (3) days after the discovery of an unusual theft at a particular retail store, the retailer shall report the unusual theft to the state police department in writing. If three (3) unusual thefts occur in a thirty (30) day period at a particular retail store, the retailer

shall, for at least one hundred eighty (180) days after the date of the last unusual theft, locate all drugs containing ephedrine or pseudoephedrine at that particular retail store behind a counter in an area inaccessible to a customer or in a locked display case that makes the drug unavailable to customers without the assistance of an employee.

(h) A unit (as defined in IC 36-1-2-23) may not adopt an ordinance after February 1, 2005, that is more stringent than this section.

(i) A person who knowingly or intentionally violates this section commits a Class C misdemeanor. However, the offense is a Class A misdemeanor if the person has a prior unrelated conviction under this section.

(j) Before June 30, 2007, the state police department shall submit a report to the legislative council detailing the effectiveness of this section in reducing the illicit production of methamphetamine. The report must describe the number of arrests or convictions that are attributable to the identification and logging requirements contained in this section, and must include recommendations for future action. The report must be in an electronic format under IC 5-14-6.

SECTION 2. [EFFECTIVE JULY 1, 2010] **(a) As used in this section, "PSE tracking system" means a statewide electronic system to track the sale and attempted sale of ephedrine and pseudoephedrine.**

(b) During the 2010 legislative interim the legislative council shall assign a committee to study the following:

(1) The effects of methamphetamines on the state, local governments, and individuals.

(2) The costs of enforcement and clean up related to methamphetamines.

(3) The implementation and effectiveness of a PSE tracking system.

(4) Whether or not ephedrine and pseudoephedrine should be classified as controlled substances.

(c) During the 2010 legislative interim the legislative council shall assign a committee to study whether pharmacists should be required to inform a prescribing physician or physician's office of a change in the brand name manufacturer of a prescribed medicine to treat certain long term health conditions.

(d) This SECTION expires January 1, 2011.

P.L.98-2010
[H.1324. Approved March 18, 2010.]

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 6-1.1-10-38, AS AMENDED BY P.L.2-2008, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 38. This chapter does not contain all of the property tax exemption provisions. The property taxation exemption provisions include, but are not limited to, the following sections:

IC 4-20.5-14-3	~~IC 20-14-7-3~~
IC 4-20.5-19	~~IC 20-14-9-15~~
IC 5-1-4-26	~~IC 20-14-10-14~~
IC 6-1.1-10-5	IC 20-47-2-21
IC 6-1.1-24-6.8(k)	IC 20-47-3-15
IC 8-10-1-27	IC 23-7-7-3
IC 8-23-7-31	~~IC 23-14-70-23~~
IC 8-15-2-12	IC 36-1-10-18
IC 8-21-9-31	IC 36-7-14-37
IC 10-18-2-22	IC 36-7-15.1-25
IC 10-18-1-36	IC 36-7-18-25
IC 10-18-3-12	IC 36-9-4-52
IC 10-18-4-21	IC 36-9-11-10
IC 10-18-7-9	IC 36-9-11.1-11
IC 14-33-20-27	IC 36-9-13-36
IC 15-13-4-4	IC 36-9-13-37
IC 16-22-6-34	IC 36-9-30-31
IC 21-34-8-3	IC 36-10-8-18
IC 21-35-2-19	IC 36-10-9-18
IC 21-35-3-20	

SECTION 2. IC 6-1.1-24-6.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 6.8. (a) For purposes of this**

section, in a county containing a consolidated city "county executive" refers to the board of commissioners of the county as provided in IC 36-3-3-10.

(b) As used in this section, "vacant parcel" refers to a parcel that satisfies all the following:

(1) A lien has been acquired on the parcel under section 6(a) of this chapter.

(2) The parcel is unimproved on the date the parcel is offered for sale under this chapter.

(3) The construction of a structure intended for residential use on the parcel is permitted by law.

(4) On the date the parcel is offered for sale under this chapter, the parcel is contiguous to one (1) or more parcels that satisfy the following:

(A) One (1) or more of the following are located on the contiguous parcel:

(i) A structure occupied for residential use.

(ii) A structure used in conjunction with a structure occupied for residential use.

(B) The contiguous parcel is eligible for the standard deduction under IC 6-1.1-12-37.

(c) The county legislative body may, by ordinance, establish criteria for the identification of vacant parcels to be offered for sale under this section. The criteria may include the following:

(1) Limitations on the use of the parcel under local zoning and land use requirements.

(2) Minimum parcel area sufficient for construction of improvements.

(3) Any other factor considered appropriate by the county legislative body.

In a county containing a consolidated city, the county legislative body may adopt an ordinance under this subsection only upon recommendation by the board of commissioners provided in IC 36-3-3-10.

(d) If the county legislative body adopts an ordinance under subsection (c), the county executive shall for each tax sale:

(1) by resolution, identify each vacant parcel that the county executive desires to sell under this section; and

(2) subject to subsection (e), give written notice to the owner

of record of each parcel referred to in subsection (b)(4) that is contiguous to the vacant parcel.

(e) The notice under subsection (d)(2) with respect to each vacant parcel must include at least the following:

(1) A description of the vacant parcel by:

(A) legal description; and

(B) parcel number or street address, or both.

(2) Notice that the county executive will accept written applications from owners of parcels described in subsection (b)(4) as provided in subsection (f).

(3) Notice of the deadline for applications referred to in subdivision (2) and of the information to be included in the applications.

(4) Notice that the vacant parcel will be sold to the successful applicant for one dollar ($1).

(5) Notice of the exemption provisions of subsection (l).

(f) To be eligible to purchase a vacant parcel under this section, the owner of a contiguous parcel referred to in subsection (b)(4) must file a written application with the county executive. The application must:

(1) identify the vacant parcel that the applicant desires to purchase; and

(2) include any other information required by the county executive.

(g) If more than one (1) application to purchase a single vacant parcel is filed with the county executive, the county executive shall conduct a drawing between or among the applicants in which each applicant has an equal chance to be selected as the transferee of the vacant parcel.

(h) The county executive shall by resolution make a final determination concerning the vacant parcels that are to be sold under this section.

(i) After the final determination of vacant parcels to be sold under subsection (h), the county executive shall:

(1) on behalf of the county, cause all delinquent taxes, special assessments, penalties, interest, and costs of sale with respect to the vacant parcels to be removed from the tax duplicate;

(2) give notice of the final determination to:

(A) the successful applicant;

(B) the county auditor; and

(C) the township assessor, or the county assessor if there is no township assessor for the township.

(j) Upon receipt of notice under subsection (i)(2):

(1) the county auditor shall:

(A) collect the purchase price from each successful applicant; and

(B) subject to subsection (k), prepare a deed transferring each vacant parcel to the successful applicant; and

(2) the township assessor or county assessor shall consolidate each vacant parcel sold and the contiguous parcel owned by the successful applicant into a single parcel.

(k) The county auditor shall include in the deed prepared under subsection (j)(1)(B) reference to the exemption under subsection (l).

(l) Except as provided in subsection (m), each consolidated parcel referred to in subsection (j)(2) is entitled to an exemption from property taxation beginning on the assessment date that next succeeds the consolidation in the amount of the assessed value at the time of consolidation of the vacant parcel that was subject to the consolidation.

(m) The exemption under subsection (l) is terminated as of the assessment date that next succeeds the earlier of the following:

(1) Five (5) years after the transfer of title to the successful applicant.

(2) The first transfer of title to the consolidated parcel that occurs after the consolidation.

SECTION 3. IC 6-1.1-25-4, AS AMENDED BY P.L.169-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) The period for redemption of real property sold under IC 6-1.1-24 is:

(1) one (1) year after the date of sale;

(2) one hundred twenty (120) days after the date of sale to a purchasing agency qualified under IC 36-7-17; or

(3) one hundred twenty (120) days after the date of sale of real property on the list prepared under IC 6-1.1-24-1(a)(2) or IC 6-1.1-24-1.5.

(b) The period for redemption of real property:

(1) on which the county executive acquires a lien under

IC 6-1.1-24-6; and

(2) for which the certificate of sale is not sold under IC 6-1.1-24-6.1;

is one hundred twenty (120) days after the date the county executive acquires the lien under IC 6-1.1-24-6.

(c) The period for redemption of real property:

(1) on which the county executive acquires a lien under IC 6-1.1-24-6; and

(2) for which the certificate of sale is sold under IC 6-1.1-24;

is one hundred twenty (120) days after the date of sale of the certificate of sale under IC 6-1.1-24.

(d) When a deed for real property is executed under this chapter, the county auditor shall cancel the certificate of sale and file the canceled certificate in the office of the county auditor. If real property that appears on the list prepared under IC 6-1.1-24-1.5 is offered for sale and an amount that is at least equal to the minimum sale price required under IC 6-1.1-24-5(e) is not received, the county auditor shall issue a deed to the real property, subject to this chapter.

(e) When a deed is issued to a county executive under this chapter, the taxes and special assessments for which the real property was offered for sale, and all subsequent taxes, special assessments, interest, penalties, and cost of sale shall be removed from the tax duplicate in the same manner that taxes are removed by certificate of error.

(f) A tax deed executed under this chapter vests in the grantee an estate in fee simple absolute, free and clear of all liens and encumbrances created or suffered before or after the tax sale except those liens granted priority under federal law and the lien of the state or a political subdivision for taxes and special assessments which accrue subsequent to the sale and which are not removed under subsection (e). However, **subject to subsection (g),** the estate is subject to:

(1) all easements, covenants, declarations, and other deed restrictions shown by public records;

(2) laws, ordinances, and regulations concerning governmental police powers, including zoning, building, land use, improvements on the land, land division, and environmental protection; and

(3) liens and encumbrances created or suffered by the grantee.

(g) A tax deed executed under this chapter for real property sold in a tax sale:

(1) does not operate to extinguish an easement recorded before the date of the tax sale in the office of the recorder of the county in which the real property is located, regardless of whether the easement was taxed under this article separately from the real property; and

(2) conveys title subject to all easements recorded before the date of the tax sale in the office of the recorder of the county in which the real property is located.

~~(g)~~ **(h)** A tax deed executed under this chapter is prima facie evidence of:

(1) the regularity of the sale of the real property described in the deed;

(2) the regularity of all proper proceedings; and

(3) valid title in fee simple in the grantee of the deed.

~~(h)~~ **(i)** A county auditor is not required to execute a deed to the county executive under this chapter if the county executive determines that the property involved contains hazardous waste or another environmental hazard for which the cost of abatement or alleviation will exceed the fair market value of the property. The county executive may enter the property to conduct environmental investigations.

~~(i)~~ **(j)** If the county executive makes the determination under subsection ~~(h)~~ **(i)** as to any interest in an oil or gas lease or separate mineral rights, the county treasurer shall certify all delinquent taxes, interest, penalties, and costs assessed under IC 6-1.1-24 to the clerk, following the procedures in IC 6-1.1-23-9. After the date of the county treasurer's certification, the certified amount is subject to collection as delinquent personal property taxes under IC 6-1.1-23. Notwithstanding IC 6-1.1-4-12.4 and IC 6-1.1-4-12.6, the assessed value of such an interest shall be zero (0) until production commences.

~~(j)~~ **(k)** When a deed is issued to a purchaser of a certificate of sale sold under IC 6-1.1-24-6.1, the county auditor shall, in the same manner that taxes are removed by certificate of error, remove from the tax duplicate the taxes, special assessments, interest, penalties, and costs remaining due as the difference between the amount of the last minimum bid under IC 6-1.1-24-5(e) and the amount paid for the certificate of sale.

P.L.99-2010
[S.30. Approved March 24, 2010.]

AN ACT to amend the Indiana Code concerning retirement benefits.

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

SECTION 1. IC 2-3.5-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) The PERF board shall administer the system, which may be commingled with the PERF fund for investment purposes.

(b) The PERF board shall:

(1) determine eligibility for and make payments of benefits under this chapter, IC 2-3.5-4, and IC 2-3.5-5;

(2) in accordance with the powers and duties granted in IC 5-10.3-3-7, IC 5-10.3-3-7.1, IC 5-10.3-3-8, and IC 5-10.3-5-3 through IC 5-10.3-5-6, administer the system; ~~and~~

(3) provide by rule for the implementation of this chapter, IC 2-3.5-4, and IC 2-3.5-5; **and**

(4) authorize deposits.

(c) A determination by the PERF board may be appealed under IC 4-21.5.

(d) The powers and duties of:

(1) the director and the actuary of the PERF board;

~~(2) the treasurer of state;~~

~~(3)~~ **(2)** the attorney general; and

~~(4)~~ **(3)** the auditor of state;

with respect to the fund are those specified in IC 5-10.3-3 and IC 5-10.3-4.

(e) The PERF board may hire additional personnel, including hearing officers, to assist in the implementation of this chapter.

(f) Legislators' retirement system records of individual participants and participants' information are confidential, except for the name and years of service of a retirement system participant.

SECTION 2. IC 5-10.2-3-6.5, AS AMENDED BY P.L.115-2009,

SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.5. ~~(a) This section applies:~~

~~(1) after December 31, 2008, to a member of the public employees' retirement fund; and~~

~~(2) after June 30, 2009, to a member of the Indiana state teachers' retirement fund.~~

~~(b)~~ **(a)** A member who meets all of the following requirements may elect to withdraw the entire amount in the member's annuity savings account before the member is eligible to do so at retirement under IC 5-10.2-4-2:

(1) The member has attained vested status in the fund.

(2) The member ~~terminates~~ **has terminated** employment with the applicable fund ~~after the date specified in subsection (a).~~ **and is not currently employed in a covered position.**

(3) The member has not performed any service in a position covered by the fund for at least ~~ninety (90)~~ **thirty (30)** days after the date the member terminates employment.

(4) The member makes the election described in this subsection:

(A) after December 31, 2008, if the member is a member of the public employees' retirement fund; or

(B) after June 30, 2009, if the member is a member of the Indiana state teachers' retirement fund.

(5) Except as provided in subsection (b), the member is not eligible for a reduced or unreduced retirement on the date the fund receives notice of the election described in this subsection.

(b) The requirement described in subsection (a)(5) does not apply to a member of the public employees' retirement fund who:

(1) was eligible for a reduced or unreduced retirement; and

(2) received a distribution under this section;

after December 31, 2008, and before January 1, 2010.

(c) A member who elects to withdraw the entire amount in the member's annuity savings account under subsection ~~(b)~~ **(a)** shall provide notice of the election on a form provided by the board.

(d) The election to withdraw the entire amount in the member's annuity savings account is irrevocable.

(e) The board shall pay the amount in the member's annuity savings

account as a lump sum.

(f) Except as provided in subsection (g), a member who makes a withdrawal under this section is entitled to receive, when the member becomes eligible to receive a retirement benefit under IC 5-10.2-4, a retirement benefit equal to the pension provided by employer contributions computed under IC 5-10.2-4.

(g) A member who:

(1) transfers creditable service earned under the fund to another governmental retirement plan under section 1(i) of this chapter; and

(2) withdraws the member's annuity savings account under this section to purchase the service;

may not use the transferred service in the computation of a retirement benefit payable under subsection (f).

SECTION 3. IC 5-10.2-3-7.5, AS AMENDED BY P.L.113-2009, SECTION 1, AND AS AMENDED BY P.L.115-2009, SECTION 2, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7.5. (a) *This subsection applies to members who die after March 31, 1990, and before January 1, 2007.* A surviving dependent or surviving spouse of a member who dies in service is entitled to a survivor benefit if:

~~*(1) the member dies after March 31, 1990,*~~

~~*(2)*~~ *(1)* the member has:

(A) at least ten (10) years of creditable service, if the member died in service as a member of the general assembly;

(B) at least fifteen (15) years of creditable service, if the member died in service in any other position covered by the retirement fund; or

(C) at least ten (10) years but not more than fourteen (14) years of creditable service if the member:

(i) was at least sixty-five (65) years of age; and

(ii) died in service in a position covered by the teachers' retirement fund; and

~~*(3)*~~ *(2)* the surviving dependent or surviving spouse qualifies for a survivor benefit under subsection ~~*(b)*~~ *(c)* or ~~*(c).*~~ *(d).*

(b) This subsection applies to members who die after December 31, 2006. A surviving dependent or surviving spouse of a member who dies is entitled to a survivor benefit if:

(1) the member has:

(A) at least ten (10) years of creditable service, if the member died in service as a member of the general assembly;

(B) at least ten (10) years but not more than fourteen (14) years of creditable service if the member was at least sixty-five (65) years of age and died in service in a position covered by the fund (other than a position described in clause (A)); or

(C) at least fifteen (15) years of creditable service, if the member died in service in a position covered by the fund (other than a position described in clause (A)); and

(2) the surviving dependent or surviving spouse qualifies for a survivor benefit under subsection (c) or (d).

~~*(b)*~~ *(c)* If a member described in subsection (a) *or (b)* dies with a surviving spouse who was married to the member for at least two (2) years, the surviving spouse is entitled to a survivor benefit equal to the monthly *pension* benefit that would have been payable to the spouse under the joint and survivor option of IC 5-10.2-4-7 upon the member's death following retirement at:

(1) fifty (50) years of age; or

(2) the actual date of death;

whichever is later. However, benefits payable under this subsection are subject to subsections ~~*(c)*~~ *(f)* and ~~*(g)*.~~ *(h)*.

~~*(c)*~~ *(d)* If a member described in subsection (a) *or (b)* dies without a surviving spouse who was married to the member for at least two (2) years, but with a surviving dependent, the surviving dependent is entitled to a survivor benefit in a monthly amount equal to the actuarial equivalent of the monthly *pension* benefit that would have been payable to the spouse (assuming the spouse would have had the same birth date as the member) under the joint and survivor option of IC 5-10.2-4-7 upon the member's death following retirement at:

(1) fifty (50) years of age; or

(2) the actual date of death;

whichever is later. If there are two (2) or more surviving dependents, the actuarial equivalent of the benefit described in this subsection shall be calculated and, considering the dependents' attained ages, an equal dollar amount shall be determined as the monthly *pension* benefit to be paid to each dependent. Monthly *pension* benefits under this subsection are payable until the date the dependent becomes eighteen (18) years

of age or dies, whichever is earlier. However, if a dependent has a permanent and total disability (using disability guidelines established by the Social Security Administration) at the date the dependent reaches eighteen (18) years of age, the monthly *pension* benefit is payable until the date the dependent no longer has a disability (using disability guidelines established by the Social Security Administration) or dies, whichever is earlier. Benefits payable under this subsection are subject to subsections ~~(e)~~ *(f)* and ~~(g).~~ *(h)*.

~~(d)~~ *(e) This subsection applies if a member did not designate a beneficiary or the designated beneficiary does not survive the member.* Except as provided in subsections ~~(e)~~ *(f)* and ~~(h);~~ *(i),* the surviving spouse or surviving dependent of a member who is entitled to a survivor benefit under subsection ~~(b)~~ *(c)* or ~~(c)~~ *(d)* or section 7.6 of this chapter may elect to receive a lump sum payment of the total amount credited to the member in the member's annuity savings account or an amount equal to the member's federal income tax basis in the member's annuity savings account as of December 31, 1986. A surviving spouse or surviving dependent who makes such an election is not entitled to an annuity as part of the survivor benefit under subsection ~~(b)~~ *(c)* or ~~(c)~~ *(d)* or section 7.6 of this chapter to the extent of the lump sum payment.

~~(e)~~ *(f)* If a member ~~*described in subsection (a) or (b) or section 7.6(a) of this chapter*~~ is survived by a designated beneficiary, ~~*who is not a surviving spouse or surviving dependent entitled to a survivor benefit under subsection (c) or (d) or section 7.6 of this chapter,*~~ the following provisions apply:

(1) If the member is survived by one (1) designated beneficiary, the designated beneficiary is entitled to receive in a lump sum or over a period of up to five (5) years, as elected by the designated beneficiary, the amount credited to the member's annuity savings account, less any disability benefits paid to the member.

(2) If the member is survived by two (2) or more designated beneficiaries, the designated beneficiaries are entitled to receive in a lump sum or over a period of up to five (5) years, as elected by the designated beneficiary, equal shares of the amount credited to the member's annuity savings account **unless the member has allocated the shares among the designated beneficiaries in a manner authorized under IC 5-10.3-8-15 or IC 5-10.4-4-10,** less any disability benefits paid to the member.

(3) If the member is also survived by a spouse or dependent who is entitled to a survivor benefit under subsection ~~(b)~~ *(c)* or ~~(c)~~ *(d)* or section 7.6 of this chapter, the surviving spouse or dependent is not entitled to an annuity or a lump sum payment as part of the survivor benefit, unless the surviving spouse or dependent is also a designated beneficiary.

~~(f)~~ *(g)* If a member dies:

(1) without a surviving spouse or surviving dependent who qualifies for survivor benefits under subsection ~~(b)~~ *(c)* or ~~(c)~~ *(d)* or section 7.6 of this chapter; and

(2) without a surviving designated beneficiary who is entitled to receive the member's annuity savings account under subsection ~~(e);~~ *(f);*

the amount credited to the member's annuity savings account, less any disability benefits paid to the member, shall be paid to the member's estate.

~~(g)~~ *(h)* Survivor benefits payable under this section or section 7.6 of this chapter shall be reduced by any disability benefits paid to the member.

~~(h)~~ *(i)* Additional annuity contributions, if any, shall not be included in determining survivor benefits under subsection ~~(b)~~ *(c)* or ~~(c)~~ *(d)* or section 7.6 of this chapter, but are payable in a lump sum payment to:

(1) the member's surviving designated beneficiary; or

(2) the member's estate, if there is no surviving designated beneficiary.

~~(i)~~ *(j)* Survivor benefits provided under this section or section 7.6 of this chapter are subject to IC 5-10.2-2-1.5.

~~(j)~~ *(k)* A benefit specified in this section shall be forfeited and credited to the member's retirement fund if no person entitled to the benefit claims it within three (3) years after the member's death. However, the board may honor a claim that is made more than three (3) years after the member's death if the board finds, in the board's discretion, that:

(1) the delay in making the claim was reasonable or other extenuating circumstances justify the award of the benefit to the claimant; and

(2) paying the claim would not cause a violation of the applicable Internal Revenue Service rules.

SECTION 4. IC 5-10.3-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. ~~Claims of Error.~~ A member may petition the board to correct an error in the determination of ~~his~~ **the member's:**

(1) creditable service; or ~~of his~~

(2) benefit;

~~within one (1) year after the determination.~~ **at any time.** The petition must contain the necessary information to sustain ~~his~~ **the member's** claim of error. The board shall investigate the claim and, if error is found, shall order the member's records corrected. **If no error is found and the member petitioned the board to correct the error within six (6) years after the determination of the member's creditable service or benefit, the member may appeal the board's decision under IC 4-21.5.**

SECTION 5. IC 5-10.3-8-15 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 15. The board may adopt rules to allow a member who designates more than one (1) beneficiary to allocate benefit shares in percentage increments.**

SECTION 6. IC 5-10.4-2-6, AS ADDED BY P.L.2-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. ~~(a)~~ The board shall do the following:

(1) Credit interest to the members' annuity savings accounts in the guaranteed fund and actual earnings to the alternative investment programs.

(2) After complying with subdivision (1), ~~distribute an amount up to the interest credit rate, not to exceed any remaining earnings, to the reserve accounts.~~

~~(3) After complying with subdivisions (1) and (2),~~ distribute any remaining undistributed income reserve as of the end of each ~~fiscal year on a pro rata basis, based on fiscal year beginning balances, to all reserve accounts in the pre-1996 account, including the pension stabilization fund, and in the 1996 account.~~

~~(b) Income may not be distributed under subsection (a)(2) or (a)(3) to the following:~~

~~(1) Members' annuity savings accounts in the guaranteed fund or the alternative investment program.~~

~~(2) The annuity reserve for benefits-in-force.~~

accounting period as determined by the rules of the board.

SECTION 7. IC 5-10.4-4-10, AS AMENDED BY P.L.115-2009, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10. (a) The director shall obtain a designation of beneficiary as soon as possible from each member.

(b) The board may adopt rules to allow a member who designates more than one (1) beneficiary to allocate benefit shares in percentage increments.

~~(b)~~ **(c)** Notwithstanding a contrary collateral agreement, court order, process, attachment, or levy, the right to receive a death benefit under IC 5-10.2 or this article vests with the designated beneficiary on file with the fund at the time of the member's death. The fund shall distribute the death benefit to the designated beneficiary or the designated beneficiary's estate in accordance with IC 5-10.2 and this article.

SECTION 8. IC 5-10.4-5-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 17. A member may petition the board to correct an error in the determination of the member's:**

(1) creditable service; or

(2) benefit;

at any time. The petition must contain the necessary information to sustain the member's claim of error. The board shall investigate the claim and, if an error is found, shall order the member's records corrected. If no error is found and the member petitioned the board to correct the error within six (6) years after the determination of the member's creditable service or benefit, the member may appeal the board's decision under IC 4-21.5.

SECTION 9. IC 33-38-6-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 23. (a) The board of trustees of the public employees' retirement fund shall administer the fund, which may be commingled with the public employees' retirement fund for investment purposes.

(b) The board shall do the following:

(1) Determine eligibility for and make payments of benefits under IC 33-38-7 and IC 33-38-8.

(2) In accordance with the powers and duties granted it in IC 5-10.3-3-7, IC 5-10.3-3-7.1, IC 5-10.3-3-8, and IC 5-10.3-5-3

through IC 5-10.3-5-6, administer the fund.

(3) Provide by rule for the implementation of this chapter and IC 33-38-7 and IC 33-38-8.

(4) Authorize deposits.

(c) A determination by the board may be appealed under the procedures in IC 4-21.5.

(d) The powers and duties of:

(1) the director and the actuary of the board;

~~(2) the treasurer of state;~~

~~(3)~~ **(2)** the attorney general; and

~~(4)~~ **(3)** the auditor of state;

with respect to the fund are those specified in IC 5-10.3-3 and IC 5-10.3-4.

(e) The board may hire additional personnel, including hearing officers, to assist it in the implementation of this chapter.

(f) Fund records of individual participants and participants' information are confidential, except for the name and years of service of a fund participant.

SECTION 10. IC 33-39-7-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 11. (a) The board shall administer the fund, which may be commingled with the public employees' retirement fund for investment purposes.

(b) The board shall do the following:

(1) Determine eligibility for and make payments of benefits under this chapter.

(2) In accordance with the powers and duties granted the board in IC 5-10.3-3-7, IC 5-10.3-3-7.1, IC 5-10.3-3-8, and IC 5-10.3-5-3 through IC 5-10.3-5-6, administer the fund.

(3) Provide by rule for the implementation of this chapter.

(4) Authorize deposits.

(c) A determination by the board may be appealed under IC 4-21.5.

(d) The powers and duties of:

(1) the director and the actuary of the board;

~~(2) the treasurer of state;~~

~~(3)~~ **(2)** the attorney general; and

~~(4)~~ **(3)** the auditor of state;

with respect to the fund are those specified in IC 5-10.3-3 and IC 5-10.3-4.

(e) The board may hire additional personnel, including hearing officers, to assist in the implementation of this chapter.

(f) Fund records of individual participants and participants' information are confidential, except for the name and years of service of a fund participant.

SECTION 11. IC 36-8-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) The PERF board shall:

(1) determine eligibility for and make payments of benefits, except as provided in section 12 of this chapter;

(2) in accordance with the powers and duties granted it in IC 5-10.3-3-7, IC 5-10.3-3-8, and IC 5-10.3-5-3 through IC 5-10.3-5-6, administer the 1977 fund; ~~and~~

(3) provide by rule for the implementation of this chapter; **and**

(4) authorize deposits.

(b) A determination by the PERF board may be appealed under the procedures in IC 4-21.5.

(c) The powers and duties of the director and the actuary of the PERF board, ~~the treasurer of state,~~ the attorney general, and the auditor of state, with respect to the 1977 fund, are those specified in IC 5-10.3-3 and IC 5-10.3-4.

(d) The PERF board may hire additional personnel, including hearing officers, to assist it in the implementation of this chapter.

(e) The 1977 fund records of individual members and membership information are confidential, except for the name and years of service of a 1977 fund member.

SECTION 12. IC 36-8-8-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 11. (a) Benefits paid under this section are subject to section 2.5 of this chapter.

(b) **Except as provided in section 24 of this chapter,** each fund member who qualifies for a retirement benefit payment under section 10(b) of this chapter is entitled to receive a monthly benefit equal to fifty percent (50%) of the monthly salary of a first class patrolman or firefighter in the year the member ended his active service plus:

(1) for a member who retires before January 1, 1986, two percent (2%) of that salary for each full year of active service; or

(2) for a member who retires after December 31, 1985, one percent (1%) of that salary for each six (6) months of active

service;

over twenty (20) years, to a maximum of twelve (12) years.

(c) Each fund member who qualifies for a retirement benefit payment under section 10(c) of this chapter is entitled to receive a monthly benefit equal to fifty percent (50%) of the monthly salary of a first class patrolman or firefighter in the year the member ended ~~his~~ **the member's** active service plus one percent (1%) of that salary for each six (6) months of active service over twenty (20) years, to a maximum of twelve (12) years, all actuarially reduced for each month (if any) of benefit payments prior to fifty-two (52) years of age, by a factor established by the fund's actuary from time to time.

SECTION 13. IC 36-8-8-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 15. Each year the PERF board shall determine if there has been an increase or decrease in the consumer price index (United States city average) prepared by the United States Department of Labor by comparing the arithmetic mean of the consumer price index for January, February, and March of that year with the arithmetic mean for the same three (3) months of the preceding year. If there has been an increase, or a decrease, it shall be stated as a percentage of the arithmetic mean for the preceding three (3) month period. The percentage shall be rounded to the nearest one-tenth of one percent (0.1%) and may not exceed three percent (3%). **If there is a percentage increase of the arithmetic mean for the preceding three (3) month period,** a fund member's or survivor's monthly benefit, beginning with the July payment, shall be increased ~~or decreased~~ by an amount equal to the June payment times the percentage increase. ~~or decrease.~~ However, a fund member's or survivor's monthly benefit may not be increased ~~or decreased~~ under this section until July of the year following the year of the first monthly benefit payment to the fund member or survivor. In computing a fund member's benefit, the increase ~~or decrease~~ is based only on those years for which the fund member was eligible for benefit payments under this chapter. A monthly benefit may not be reduced ~~below the amount of the first monthly benefit received by the fund member or survivor.~~ **if there is a percentage decrease of the arithmetic mean for the preceding three (3) month period.**

SECTION 14. IC 36-8-8-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 19. (a) The baseline

statewide physical examination required by section 7(a) of this chapter shall be prescribed by the PERF board and shall be administered by the appointing authority, as determined by the local board, after the appointing authority extends a conditional offer for employment. The baseline statewide physical examination shall be administered by a licensed physician and must include all of the following:

(1) A general medical history.

(2) The tests identified in rules that shall be adopted by the PERF board under IC 4-22-2.

(b) The PERF board shall adopt minimum standards by rule under IC 4-22-2 that a police officer or firefighter must meet for the baseline statewide physical examination described in subsection (a). The baseline statewide physical examination and related standards must:

(1) reflect the essential functions of the job;

(2) be consistent with business necessity; ~~and~~

(3) be reviewed by the 1977 fund advisory board; **and**

(4) be evaluated by the PERF board one (1) time before January 1, 2015, and every five (5) years thereafter.

(c) The PERF board shall, in consultation with the commissioner of mental health, select the baseline statewide mental examination described in section 7(a) of this chapter. The standards for passing the baseline statewide mental examination shall be determined by the local board. The baseline statewide mental examination and related standards must:

(1) reflect the essential functions of the job;

(2) be consistent with business necessity; ~~and~~

(3) be reviewed by the 1977 fund advisory board; **and**

(4) be evaluated by the PERF board one (1) time before January 1, 2015, and every five (5) years thereafter.

The purpose of the baseline statewide mental examination is to determine if the police officer or firefighter is mentally suitable to be a member of the department. The local board may designate a community mental health center or a managed care provider (as defined in IC 12-7-2-127(b)), a hospital, a licensed physician, or a licensed psychologist to administer the examination. However, the results of a baseline statewide mental examination shall be interpreted by a licensed physician or a licensed psychologist.

(d) The employer shall pay for no less than one-half (1/2) the cost

of the examinations.

(e) Each local board shall name the physicians who will conduct the examinations under this section.

(f) If a local board determines that a candidate passes the local physical and mental standards, if any, established under IC 36-8-3.2-6, the baseline statewide physical examination described in subsection (a), and the baseline statewide mental examination described in subsection (c), the local board shall send the following to PERF:

(1) Copies and certification of the results of the baseline statewide physical examination described in subsection (a).

(2) Certification of the results of the physical agility examination required under IC 36-8-3.2-3 or IC 36-8-3.2-3.5.

(3) Certification of the results of the baseline statewide mental examination described in subsection (c).

(g) The PERF board or the PERF board's designee shall then determine whether the candidate passes the baseline statewide physical standards adopted under subsection (b). If the candidate passes the baseline statewide standards, the PERF board or the PERF board's designee shall also determine whether the candidate has a Class 3 excludable condition under section 13.6 of this chapter. The PERF board or the PERF board's designee shall retain the results of the examinations and all documents related to the examination until the police officer or firefighter retires or separates from the department.

(h) To the extent required by the federal Americans with Disabilities Act, the PERF board shall do the following:

(1) Treat the medical transcripts, reports, records, and other material compiled under this section as confidential medical records.

(2) Keep the transcripts, reports, records, and material described in subdivision (1) in separate medical files for each member.

(i) A local board may, at the request of an appointing authority or on the local board's own motion, issue subpoenas, discovery orders, and protective orders in accordance with the Indiana Rules of Trial Procedure to facilitate the receipt of accurate and original documents necessary for the proper administration of this chapter. A subpoena or order issued under this subsection:

(1) must be served in accordance with the Indiana Rules of Trial Procedure; and

(2) may be enforced in the circuit or superior court with jurisdiction for the county in which the subpoena or order is served.

SECTION 15. IC 36-8-8-24.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 24.8. (a) This section does not apply to a fund member who elects to enter the DROP (as defined in IC 36-8-8.5-4) under IC 36-8-8.5.**

(b) Benefits paid under this section are subject to section 2.5 of this chapter.

(c) As used in this section, "partial lump sum distribution" means the amount calculated under subsection (f).

(d) After June 30, 2010, a fund member may elect to receive at retirement a partial lump sum distribution if the fund member meets all of the following requirements on the date of the election:

(1) The fund member is in active service.

(2) The fund member qualifies for a retirement fund benefit payment under section 10(b) of this chapter.

(e) A fund member's election under subsection (d):

(1) must be in writing;

(2) must be filed with the PERF board, on a form prescribed by the PERF board; and

(3) is irrevocable.

(f) The partial lump sum distribution for a fund member who makes an election described in subsection (d) is determined in STEP TWO of the following formula:

STEP ONE: Determine the lesser of the following:

(A) The fund member's years of service for which the fund member has received service credit in the fund.

(B) Thirty-two (32).

STEP TWO: Multiply the STEP ONE amount by the fund member's monthly benefit calculated under section 11(b) of this chapter.

(g) The monthly benefit of a fund member who receives a partial lump sum distribution under this section is actuarially reduced by subtracting an amount determined by dividing the partial lump sum distribution amount determined in subsection (f) by a rate, determined by the actuary for the fund, that is:

(1) based on the age of the fund member and, if applicable, the

age of the fund member's spouse at the time the fund member elects to take the partial lump sum distribution; and

(2) computed to result in a monthly benefit amount that has an actuarial present value that approximates the partial lump sum distribution amount.

(h) A fund member who makes an election described in subsection (d) must elect to receive the partial lump sum distribution determined in subsection (f) as:

(1) a lump sum paid not later than thirty (30) days after the fund member's retirement date; or

(2) three (3) equal annual payments commencing not later than thirty (30) days after the fund member's retirement date and thereafter paid on the anniversary of the fund member's retirement date.

(i) This section expires July 1, 2012.

SECTION 16. **An emergency is declared for this act.**

P.L.100-2010

[S.81. Approved March 24, 2010.]

AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

SECTION 1. IC 2-5.5-5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

Chapter 5. Criminal Law and Sentencing Policy Study Committee

Sec. 1. The criminal law and sentencing policy study committee is established.

Sec. 2. The committee consists of fourteen (14) members

appointed as follows:

(1) Four (4) members of the senate, not more than two (2) of whom may be affiliated with the same political party, appointed by the president pro tempore of the senate.

(2) Four (4) members of the house of representatives, not more than two (2) of whom may be affiliated with the same political party, appointed by the speaker of the house of representatives.

(3) The executive director of the prosecuting attorneys council of Indiana or the executive director's designee.

(4) The executive director of the public defender council of Indiana or the executive director's designee.

(5) One (1) person who:

(A) has experience in administering probation programs; and

(B) is a member of the Probation Officers' Professional Association of Indiana;

appointed by the members of the Association.

(6) One (1) circuit or superior court judge who exercises criminal or juvenile jurisdiction, appointed by the chief justice of the supreme court.

(7) The commissioner of the department of correction.

(8) The chairman of the parole board.

Sec. 3. The chairman of the legislative council shall appoint a legislative member of the committee to serve as chair of the committee. Whenever there is a new chairman of the legislative council, the new chairman may remove the chair of the committee and appoint another chair.

Sec. 4. If a legislative member of the committee ceases to be a member of the chamber from which the member was appointed, the member also ceases to be a member of the committee.

Sec. 5. A legislative member of the committee may be removed at any time by the appointing authority who appointed the legislative member.

Sec. 6. If a vacancy exists on the committee, the appointing authority who appointed the former member whose position is vacant shall appoint an individual to fill the vacancy.

Sec. 7. The committee shall submit a final report of the results of its study to the legislative council before November 1 of

even-numbered years. The report must be in an electronic format under IC 5-14-6.

Sec. 8. The Indiana criminal justice institute shall provide staff support to the committee to prepare:

(1) minutes of each meeting; and

(2) the final report.

Sec. 9. The legislative services agency shall provide staff support to the committee to:

(1) advise the committee on legal matters, criminal procedures, and legal research; and

(2) draft potential legislation.

Sec. 10. Each member of the committee is entitled to receive the same per diem, mileage, and travel allowances paid to individuals who serve as legislative and lay members, respectively, of interim study committees established by the legislative council.

Sec. 11. The affirmative votes of a majority of the voting members appointed to the committee are required for the committee to take action on any measure, including the final report.

Sec. 12. Except as otherwise specifically provided by this chapter, the committee shall operate under the rules of the legislative council. All funds necessary to carry out this chapter shall be paid from appropriations to the legislative council and the legislative services agency.

Sec. 13. (a) The committee is established to evaluate criminal laws, sentencing laws, and policies as they relate to:

(1) the purposes of the criminal justice and corrections systems;

(2) the availability of sentencing options; and

(3) the inmate population in department of correction facilities.

If, based on the committee's evaluation under this subsection, the committee determines that changes are necessary or appropriate, the committee shall make recommendations to the general assembly for the modification of sentencing laws and policies and for the addition, deletion, or expansion of sentencing options.

(b) The committee shall do the following:

(1) Conduct a continuing study of the laws relating to:

(A) the investigation of crimes;

(B) the prosecution of crimes;
(C) criminal procedures;
(D) alternative sentencing programs;
(E) the department of correction;
(F) parole;
(G) probation;
(H) community corrections;
(I) home detention programs;
(J) criminal registries;
(K) victim rights;
(L) the classification of criminal offenses into felony and misdemeanor categories;
(M) sex offenders; and
(N) juvenile offenders.

(2) Study federal requirements or incentives for states to pass certain laws or establish specific programs.

(3) Determine the long range needs of the criminal justice and corrections systems and recommend policy priorities for those systems.

(4) Identify critical problems in the criminal justice and corrections systems and recommend strategies to solve the problems.

(5) Assess the cost effectiveness of the use of state and local funds in the criminal justice and corrections systems.

(6) Propose plans, programs, and legislation for improving the effectiveness of the criminal justice and corrections systems.

(c) The committee may study other topics assigned by the legislative council or as directed by the committee chair. The committee may meet as often as necessary.

SECTION 2. IC 9-24-15-4, AS AMENDED BY P.L.127-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) A verified petition filed under section 2 of this chapter must be filed in the circuit court or superior court of the county in which the petitioner resides. However, if at the time the petition is filed:

(1) the petitioner is a defendant in a pending case concerning the commission of an offense described in IC 9-30-5;

(2) the petitioner is on probation after being convicted of committing an offense described in IC 9-30-5; ~~or~~

(3) the petitioner's driving privileges have been suspended under IC 35-48-4-15 after the petitioner was convicted of committing an offense described in IC 35-48-4-15(a); **or**

(4) the petitioner's driving privileges have been suspended in accordance with IC 9-30-4-6(b)(3) following the petitioner's conviction in Indiana for a felony;

the petition may be filed only in the circuit court or superior court in which the case is pending or the petitioner was convicted.

(b) The clerk of the court shall docket the verified petition in the name of the petitioner against the prosecuting attorney of the county.

(c) The prosecuting attorney shall appear in person or by deputy and be heard by the court on the petition.

(d) The bureau:

(1) serves as a recordkeeper; and

(2) is not a party;

in a proceeding under this chapter.

SECTION 3. IC 9-24-18-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) A person, except a person exempted under IC 9-24-1-7, who

~~(1)~~ **knowingly or intentionally** operates a motor vehicle upon a highway and

~~(2)~~ has never received a valid driving license

commits a Class C misdemeanor. **However, the offense is a Class A misdemeanor if the person has a prior unrelated conviction under this section.**

(b) In addition to any other penalty imposed for a conviction under this section, the court shall recommend that the person be prohibited from receiving a valid driving license for a fixed period of at least ninety (90) days and not more than two (2) years.

(c) The court shall specify:

(1) the length of the fixed period of the prohibition; and

(2) the date the fixed period of the prohibition begins;

whenever the court makes a recommendation under subsection (b).

(d) The bureau shall, upon receiving a record of conviction of a person upon a charge of operating a motor vehicle while never having received a valid driving license, prohibit the person from receiving a driving license for a fixed period of at least ninety (90) days and not more than two (2) years. The bureau shall fix this

period in accordance with the recommendation of the court that entered the conviction, as provided in subsection (c).

~~(b)~~ **(e)** In a prosecution under this section, the burden is on the defendant to prove by a preponderance of the evidence that the defendant had been issued a driving license or permit that was valid at the time of the alleged offense.

SECTION 4. IC 9-30-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) Whenever the bureau suspends or revokes the current driver's license upon receiving a record of the conviction of a person for any offense under the motor vehicle laws not enumerated under subsection (b), the bureau may also suspend any of the certificates of registration and license plates issued for any motor vehicle registered in the name of the person so convicted. However, the bureau may not suspend the evidence of registration, unless otherwise required by law, if the person has given or gives and maintains during the three (3) years following the date of suspension or revocation proof of financial responsibility in the future in the manner specified in this section.

(b) The bureau shall suspend or revoke without notice or hearing the current driver's license and all certificates of registration and license plates issued or registered in the name of a person who is convicted of any of the following:

(1) Manslaughter or reckless homicide resulting from the operation of a motor vehicle.

(2) Perjury or knowingly making a false affidavit to the department under this chapter or any other law requiring the registration of motor vehicles or regulating motor vehicle operation upon the highways.

(3) A felony under Indiana motor vehicle laws or felony in the commission of which a motor vehicle is used.

(4) Three (3) charges of criminal recklessness involving the use of a motor vehicle within the preceding twelve (12) months.

(5) Failure to stop and give information or assistance or failure to stop and disclose the person's identity at the scene of an accident that has resulted in death, personal injury, or property damage in excess of two hundred dollars ($200).

(6) Possession, distribution, manufacture, cultivation, transfer, use, or sale of a controlled substance or counterfeit substance, or

attempting or conspiring to possess, distribute, manufacture, cultivate, transfer, use, or sell a controlled substance or counterfeit substance.

(c) The license of a person shall also be suspended upon conviction in another jurisdiction for any offense described in subsections (b)(1), (b)(2), (b)(3), (b)(4), and (b)(5), except if property damage is less than two hundred dollars ($200), the bureau may determine whether the driver's license and certificates of registration and license plates shall be suspended or revoked. The license of a person shall also be suspended upon conviction in another jurisdiction for any offense described in subsection (b)(6).

(d) A suspension or revocation remains in effect and a new or renewal license may not be issued to the person and a motor vehicle may not be registered in the name of the person as follows:

(1) Except as provided in subdivisions (2), ~~and~~ (3), **(4), and (5), and subject to section 6.5 of this chapter,** for six (6) months from the date of conviction or on the date on which the person is otherwise eligible for a license, whichever is later. Except as provided in IC 35-48-4-15, this includes a person convicted of a crime for which the person's license is suspended or revoked under subsection (b)(6).

(2) **Subject to section 6.5 of this chapter,** upon conviction of an offense described in subsection (b)(1), for a fixed period of not less than two (2) years and not more than five (5) years, to be fixed by the bureau based upon recommendation of the court entering a conviction. A new or reinstated license may not be issued to the person unless that person, within the three (3) years following the expiration of the suspension or revocation, gives and maintains in force at all times during the effective period of a new or reinstated license proof of financial responsibility in the future in the manner specified in this chapter. However, the liability of the insurance carrier under a motor vehicle liability policy that is furnished for proof of financial responsibility in the future as set out in this chapter becomes absolute whenever loss or damage covered by the policy occurs, and the satisfaction by the insured of a final judgment for loss or damage is not a condition precedent to the right or obligation of the carrier to make payment on account of loss or damage, but the insurance

carrier has the right to settle a claim covered by the policy. If the settlement is made in good faith, the amount shall be deductive from the limits of liability specified in the policy. A policy may not be canceled or annulled with respect to a loss or damage by an agreement between the carrier and the insured after the insured has become responsible for the loss or damage, and a cancellation or annulment is void. The policy may provide that the insured or any other person covered by the policy shall reimburse the insurance carrier for payment made on account of any loss or damage claim or suit involving a breach of the terms, provisions, or conditions of the policy. If the policy provides for limits in excess of the limits specified in this chapter, the insurance carrier may plead against any plaintiff, with respect to the amount of the excess limits of liability, any defenses that the carrier may be entitled to plead against the insured. The policy may further provide for prorating of the insurance with other applicable valid and collectible insurance. An action does not lie against the insurance carrier by or on behalf of any claimant under the policy until a final judgment has been obtained after actual trial by or on behalf of any claimant under the policy.

(3) **Subject to section 6.5 of this chapter,** for the period ordered by a court under IC 35-48-4-15.

(4) Subject to section 6.5 of this chapter, if the person is convicted of a felony involving the use of a motor vehicle under IC 35-44-3-3(b) and the person:

(A) exceeded the speed limit by at least twenty (20) miles per hour;

(B) committed criminal recklessness with a vehicle (IC 35-42-2-2); or

(C) engaged in aggressive driving (as defined in IC 9-21-8-55(b);

while committing the felony, for one (1) year after the date the person was convicted. The convicted person has the burden of applying for a new or renewal license and establishing that the one (1) year period described in this subdivision and subject to section 6.5 of this chapter has elapsed.

(5) Subject to section 6.5 of this chapter, if the person is convicted of a felony involving the use of a motor vehicle

under IC 35-44-3-3(b), the person:

(A) exceeded the speed limit by at least twenty (20) miles per hour;

(B) committed criminal recklessness with a vehicle (IC 35-42-2-2); or

(C) engaged in aggressive driving (as defined in IC 9-21-8-55(b);

while committing the felony, and the person has a prior unrelated conviction for a felony under IC 35-44-3-3(b), for two (2) years after the date the person was convicted. The convicted person has the burden of applying for a new or renewal license and establishing that the two (2) year period described in this subdivision and subject to section 6.5 of this chapter has elapsed.

(e) The bureau may take action as required in this section upon receiving satisfactory evidence of a conviction of a person in another state.

(f) For the purpose of this chapter, "conviction" includes any of the following:

(1) A conviction upon a plea of guilty.

(2) A determination of guilt by a jury or court, even if:

(A) no sentence is imposed; or

(B) a sentence is suspended.

(3) A forfeiture of bail, bond, or collateral deposited to secure the defendant's appearance for trial, unless the forfeiture is vacated.

(4) A payment of money as a penalty or as costs in accordance with an agreement between a moving traffic violator and a traffic violations bureau.

(g) A suspension or revocation under this section or under IC 9-25-6-8 stands pending appeal of the conviction to a higher court and may be set aside or modified only upon the receipt by the bureau of the certificate of the court reversing or modifying the judgment that the cause has been reversed or modified. However, if the suspension or revocation follows a conviction in a court of no record in Indiana, the suspension or revocation is stayed pending appeal of the conviction to a court of record.

(h) A person aggrieved by an order or act of the bureau under this section or IC 9-25-6-8 may file a petition for a court review.

SECTION 5. IC 9-30-4-6.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 6.5. If a person receives a sentence that includes:**

(1) a term of incarceration; and

(2) a license suspension under this chapter;

the license suspension begins on the date the person is released from incarceration and not on the date the person is convicted.

SECTION 6. IC 35-44-3-3, AS AMENDED BY P.L.143-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) A person who knowingly or intentionally:

(1) forcibly resists, obstructs, or interferes with a law enforcement officer or a person assisting the officer while the officer is lawfully engaged in the execution of the officer's duties;

(2) forcibly resists, obstructs, or interferes with the authorized service or execution of a civil or criminal process or order of a court; or

(3) flees from a law enforcement officer after the officer has, by visible or audible means, including operation of the law enforcement officer's siren or emergency lights, identified himself or herself and ordered the person to stop;

commits resisting law enforcement, a Class A misdemeanor, except as provided in subsection (b).

(b) The offense under subsection (a) is a:

(1) Class D felony if:

(A) the offense is described in subsection (a)(3) and the person uses a vehicle to commit the offense; or

(B) while committing any offense described in subsection (a), the person draws or uses a deadly weapon, inflicts bodily injury on or otherwise causes bodily injury to another person, or operates a vehicle in a manner that creates a substantial risk of bodily injury to another person;

(2) Class C felony if, while committing any offense described in subsection (a), the person operates a vehicle in a manner that causes serious bodily injury to another person; and

(3) Class B felony if, while committing any offense described in subsection (a), the person operates a vehicle in a manner that causes the death of another person.

(c) For purposes of this section, a law enforcement officer includes

an enforcement officer of the alcohol and tobacco commission and a conservation officer of the department of natural resources.

(d) If a person uses a vehicle to commit a felony offense under subsection (b)(1)(B), (b)(2), or (b)(3), as part of the criminal penalty imposed for the offense, the court shall impose a minimum executed sentence of at least:

(1) thirty (30) days, if the person does not have a prior unrelated conviction under this section;

(2) one hundred eighty (180) days, if the person has one (1) prior unrelated conviction under this section; or

(3) one (1) year, if the person has two (2) or more prior unrelated convictions under this section.

(e) Notwithstanding IC 35-50-2-2 and IC 35-50-3-1, the mandatory minimum sentence imposed under subsection (d) may not be suspended.

(f) If a person is convicted of an offense involving the use of a motor vehicle under:

(1) subsection (b)(1)(A), if the person exceeded the speed limit by at least twenty (20) miles per hour while committing the offense;

(2) subsection (b)(2); or

(3) subsection (b)(3);

the court may notify the bureau of motor vehicles to suspend or revoke the person's driver's license and all certificates of registration and license plates issued or registered in the person's name in accordance with IC 9-30-4-6(b)(3) for the period described in IC 9-30-4-6(d)(4) or IC 9-30-4-6(d)(5). The court shall inform the bureau whether the person has been sentenced to a term of incarceration. At the time of conviction, the court may obtain the person's current driver's license and return the license to the bureau of motor vehicles.

SECTION 7. THE FOLLOWING ARE REPEALED [EFFECTIVE UPON PASSAGE]: IC 2-5.5-2; P.L.128-2009, SECTION 3.

SECTION 8. [EFFECTIVE JULY 1, 2010] **(a) In the 2010 interim, the criminal law and sentencing policy study committee, as established by IC 2-5.5-5, as added by this act, shall study and make recommendations regarding:**

(1) whether individuals on parole should be eligible to receive

credit time to potentially shorten their period of parole; and (2) the sending of sexually suggestive or sexually explicit material over the Internet or by use of a cellular telephone or similar device by minors, including whether school corporations should adopt policies regarding this topic.

(b) This SECTION expires January 1, 2011.

SECTION 9. **An emergency is declared for this act.**

P.L.101-2010

[S.102. Approved March 24, 2010.]

AN ACT to amend the Indiana Code concerning trade regulation.

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

SECTION 1. IC 23-14-31-26, AS AMENDED BY P.L.143-2009, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. (a) Except as provided in subsection (c), the following persons, in the priority listed, have the right to serve as an authorizing agent:

(1) An individual granted the authority to serve in a funeral planning declaration executed by the decedent under IC 29-2-19, or the person named in a United States Department of Defense form "Record of Emergency Data" (DD Form 93) or a successor form adopted by the United States Department of Defense, if the decedent died while serving in any branch of the United States Armed Forces (as defined in 10 U.S.C. 1481) and completed the form.

~~(1) An individual granted the authority to serve in a funeral planning declaration executed by the decedent under IC 29-2-19.~~

(2) An individual granted the authority to serve in a health care power of attorney executed by the decedent under IC 30-5-5-16.

(3) The individual who was the spouse of the decedent at the time

of the decedent's death.

(4) The decedent's surviving adult children. If more than one (1) adult child is surviving, any adult child who confirms in writing that the other adult children have been notified, unless the crematory authority receives a written objection to the cremation from another adult child.

(5) The decedent's surviving parent. If the decedent is survived by both parents, either parent may serve as the authorizing agent unless the crematory authority receives a written objection to the cremation from the other parent.

(6) The individual in the next degree of kinship under IC 29-1-2-1 to inherit the estate of the decedent. If more than one (1) individual of the same degree is surviving, any person of that degree may serve as the authorizing agent unless the crematory authority receives a written objection to the cremation from one (1) or more persons of the same degree.

(7) In the case of an indigent or other individual whose final disposition is the responsibility of the state or township, the following may serve as the authorizing agent:

(A) If none of the persons identified in subdivisions (1) through (6) are available:

(i) a public administrator, including a responsible township trustee or the trustee's designee; or

(ii) the coroner.

(B) A state appointed guardian.

However, an indigent decedent may not be cremated if a surviving family member objects to the cremation or if cremation would be contrary to the religious practices of the deceased individual as expressed by the individual or the individual's family.

(8) In the absence of any person under subdivisions (1) through (7), any person willing to assume the responsibility as the authorizing agent, as specified in this article.

(b) When a body part of a nondeceased individual is to be cremated, a representative of the institution that has arranged with the crematory authority to cremate the body part may serve as the authorizing agent.

(c) If:

(1) the death of the decedent appears to have been the result of:

(A) murder (IC 35-42-1-1);

(B) voluntary manslaughter (IC 35-42-1-3); or

(C) another criminal act, if the death does not result from the operation of a vehicle; and

(2) the coroner, in consultation with the law enforcement agency investigating the death of the decedent, determines that there is a reasonable suspicion that a person described in subsection (a) committed the offense;

the person referred to in subdivision (2) may not serve as the authorizing agent.

(d) The coroner, in consultation with the law enforcement agency investigating the death of the decedent, shall inform the crematory authority of the determination referred to in subsection (c)(2).

SECTION 2. IC 23-14-55-2, AS AMENDED BY P.L.143-2009, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Except as provided in subsection (d), the owner of a cemetery is authorized to inter, entomb, or inurn the body or cremated remains of a deceased human upon the receipt of a written authorization of an individual who professes either of the following:

(1) To be (in the priority listed) one (1) of the following:

(A) An individual granted the authority to serve in a funeral planning declaration executed by the decedent under IC 29-2-19, or the person named in a United States Department of Defense form "Record of Emergency Data" (DD Form 93) or a successor form adopted by the United States Department of Defense, if the decedent died while serving in any branch of the United States Armed Forces (as defined in 10 U.S.C. 1481) and completed the form.

~~(A) An individual granted the authority in a funeral planning declaration executed by the decedent under IC 29-2-19.~~

(B) An individual granted the authority in a health care power of attorney executed by the decedent under IC 30-5-5-16.

(C) The individual who was the spouse of the decedent at the time of the decedent's death.

(D) The decedent's surviving adult child. If more than one (1) adult child is surviving, any adult child who confirms in writing that the other adult children have been notified, unless

the owner of the cemetery receives a written objection to the disposition from another adult child.

(E) The decedent's surviving parent. If the decedent is survived by both parents, either parent unless the cemetery owner receives a written objection to the disposition from the other parent.

(F) The individual in the next degree of kinship under IC 29-1-2-1 to inherit the estate of the decedent. If more than one (1) individual of the same degree of kinship is surviving, any person of that degree unless the cemetery owner receives a written objection to the disposition from one (1) or more persons of the same degree of kinship.

(2) To have acquired by court order the right to control the disposition of the deceased human body or cremated remains.

The owner of a cemetery may accept the authorization of an individual only if all other individuals of the same priority or a higher priority (according to the priority listing in this subsection) are deceased, are barred from authorizing the disposition of the deceased human body or cremated remains under subsection (d), or are physically or mentally incapacitated from exercising the authorization, and the incapacity is certified to by a qualified medical doctor.

(b) A cemetery owner is not liable in any action for making an interment, entombment, or inurnment under a written authorization described in subsection (a) unless the cemetery owner had actual notice that the representation made under subsection (a) by the individual who issued the written authorization was untrue.

(c) An action may not be brought against the owner of a cemetery relating to the remains of a human that have been left in the possession of the cemetery owner without permanent interment, entombment, or inurnment for a period of three (3) years, unless the cemetery owner has entered into a written contract for the care of the remains.

(d) If:

(1) the death of the decedent appears to have been the result of:

(A) murder (IC 35-42-1-1);

(B) voluntary manslaughter (IC 35-42-1-3); or

(C) another criminal act, if the death does not result from the operation of a vehicle; and

(2) the coroner, in consultation with the law enforcement agency

investigating the death of the decedent, determines that there is a reasonable suspicion that a person described in subsection (a) committed the offense;

the person referred to in subdivision (2) may not authorize the disposition of the decedent's body or cremated remains.

(e) The coroner, in consultation with the law enforcement agency investigating the death of the decedent, shall inform the cemetery owner of the determination referred to in subsection (d)(2).

SECTION 3. IC 25-15-9-18, AS AMENDED BY P.L.143-2009, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) Except as provided in subsection (b), the following persons, in the order of priority indicated, have the authority to designate the manner, type, and selection of the final disposition and interment of human remains:

(1) An individual granted the authority to serve in a funeral planning declaration executed by the decedent under IC 29-2-19, or the person named in a United States Department of Defense form "Record of Emergency Data" (DD Form 93) or a successor form adopted by the United States Department of Defense, if the decedent died while serving in any branch of the United States Armed Forces (as defined in 10 U.S.C. 1481) and completed the form.

~~(1) An individual granted the authority in a funeral planning declaration executed by the decedent under IC 29-2-19.~~

(2) An individual granted the authority in a health care power of attorney executed by the decedent under IC 30-5-5-16.

(3) The individual who was the spouse of the decedent at the time of the decedent's death.

(4) The decedent's surviving adult child. If more than one (1) adult child is surviving, any adult child who confirms in writing that the other adult children have been notified, unless the licensed funeral director or licensed funeral home receives a written objection from another adult child.

(5) The decedent's surviving parent. If the decedent is survived by both parents, either parent has the authority unless the licensed funeral director or licensed funeral home receives a written objection from the other parent.

(6) The individual in the next degree of kinship under IC 29-1-2-1

to inherit the estate of the decedent. If more than one (1) individual of the same degree survives, any person of that degree has the authority unless the licensed funeral director or licensed funeral home receives a written objection from one (1) or more persons of the same degree.

(7) In the case of an indigent or other individual whose final disposition is the responsibility of the state or township, the following:

(A) If none of the persons identified in subdivisions (1) through (6) is available:

(i) a public administrator, including a responsible township trustee or the trustee's designee; or

(ii) the coroner.

(B) A state appointed guardian.

(b) If:

(1) the death of the decedent appears to have been the result of:

(A) murder (IC 35-42-1-1);

(B) voluntary manslaughter (IC 35-42-1-3); or

(C) another criminal act, if the death does not result from the operation of a vehicle; and

(2) the coroner, in consultation with the law enforcement agency investigating the death of the decedent, determines that there is a reasonable suspicion that a person described in subsection (a) committed the offense;

the person referred to in subdivision (2) may not authorize or designate the manner, type, or selection of the final disposition and internment of human remains.

(c) The coroner, in consultation with the law enforcement agency investigating the death of the decedent, shall inform the cemetery owner or crematory authority of the determination under subsection (b)(2).

SECTION 4. IC 29-2-19-17, AS ADDED BY P.L.143-2009, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. The right to control the disposition of a decedent's body, to make arrangements for funeral services, and to make other ceremonial arrangements after an individual's death devolves on the following, in the priority listed:

(1) An individual granted the authority to serve in a funeral

planning declaration executed by the decedent under this chapter, or the person named in a United States Department of Defense form "Record of Emergency Data" (DD Form 93) or a successor form adopted by the United States Department of Defense, if the decedent died while serving in any branch of the United States Armed Forces (as defined in 10 U.S.C. 1481) and completed the form.

~~(1) An individual granted the authority in a funeral planning declaration executed by the decedent under this chapter.~~

(2) An individual granted the authority in a health care power of attorney executed by the decedent under IC 30-5-5-16.

(3) The decedent's surviving spouse.

(4) A surviving adult child of the decedent.

(5) A surviving parent of the decedent.

(6) An individual in the next degree of kinship under IC 29-1-2-1 to inherit the estate of the decedent.

SECTION 5. IC 30-2-13-9, AS AMENDED BY P.L.143-2009, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) Except as provided in subsection (b), as used in this chapter, "purchaser" means a person or firm contracting with a seller for services or merchandise to be provided or delivered for a named individual.

(b) As used in section 13(b) of this chapter, "purchaser" means:

(1) the person named in a United States Department of Defense form "Record of Emergency Data" (DD Form 93) or a successor form adopted by the United States Department of Defense, if the decedent died while serving in any branch of the United States Armed Forces (as defined in 10 U.S.C. 1481) and completed the form.

~~(1)~~ **(2)** an individual granted the authority in a funeral planning declaration executed by the decedent under IC 29-2-19;

~~(2)~~ **(3)** an individual described in subsection (a);

~~(3)~~ **(4)** the attorney in fact, appointed under IC 30-5, of an individual described in subsection (a);

~~(4)~~ **(5)** the guardian, appointed under IC 29-3, of an individual described in subsection (a); or

~~(5)~~ **(6)** if an individual described in subsection (a) is deceased:

(A) the surviving spouse of the individual;

(B) if there is no surviving spouse, the adult children of the

individual;

(C) if there is no surviving spouse or surviving adult child, the surviving parent or parents of the individual; or

(D) if there is neither a surviving spouse nor adult children, nor a surviving parent, the personal representative (as defined in IC 29-1-1-3) of the individual.

SECTION 6. **An emergency is declared for this act.**

P.L.102-2010

[S.170. Approved March 24, 2010.]

AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

SECTION 1. IC 9-30-5-5, AS AMENDED BY P.L.2-2005, SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) A person who causes the death of another person when operating a motor vehicle:

(1) with an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol per:

(A) one hundred (100) milliliters of the person's blood; or

(B) two hundred ten (210) liters of the person's breath;

(2) with a controlled substance listed in schedule I or II of IC 35-48-2 or its metabolite in the person's blood; or

(3) while intoxicated;

commits a Class C felony. However, the offense is a Class B felony if the person has a previous conviction of operating while intoxicated within the five (5) years preceding the commission of the offense, or if the person operated the motor vehicle when the person knew that the person's driver's license, driving privilege, or permit is suspended or revoked for a previous conviction for operating a vehicle while intoxicated.

(b) A person at least twenty-one (21) years of age who causes the

death of another person when operating a motor vehicle:

(1) with an alcohol concentration equivalent to at least fifteen-hundredths (0.15) gram of alcohol per:

(A) one hundred (100) milliliters of the person's blood; or

(B) two hundred ten (210) liters of the person's breath; or

(2) with a controlled substance listed in schedule I or II of IC 35-48-2 or its metabolite in the person's blood;

commits a Class B felony.

(c) A person who causes the death of a law enforcement animal (as defined in IC 35-46-3-4.5) when operating a motor vehicle:

(1) with an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol per:

(A) one hundred (100) milliliters of the person's blood; or

(B) two hundred ten (210) liters of the person's breath; or

(2) with a controlled substance listed in schedule I or II of IC 35-48-2 or its metabolite in the person's blood;

commits a Class D felony.

~~(c)~~ **(d)** A person who violates subsection (a), ~~or~~ (b), **or (c)** commits a separate offense for each person **or law enforcement animal** whose death is caused by the violation of subsection (a), ~~or~~ (b), **or (c).**

~~(d)~~ **(e)** It is a defense under subsection (a)(2), ~~or subsection~~ (b)(2), **or (c)(2)** that the accused person consumed the controlled substance under a valid prescription or order of a practitioner (as defined in IC 35-48-1) who acted in the course of the practitioner's professional practice.

SECTION 2. IC 35-44-3-3, AS AMENDED BY P.L.143-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) A person who knowingly or intentionally:

(1) forcibly resists, obstructs, or interferes with a law enforcement officer or a person assisting the officer while the officer is lawfully engaged in the execution of the officer's duties;

(2) forcibly resists, obstructs, or interferes with the authorized service or execution of a civil or criminal process or order of a court; or

(3) flees from a law enforcement officer after the officer has, by visible or audible means, including operation of the law enforcement officer's siren or emergency lights, identified himself or herself and ordered the person to stop;

commits resisting law enforcement, a Class A misdemeanor, except as

provided in subsection (b).

(b) The offense under subsection (a) is a:

(1) Class D felony if:

(A) the offense is described in subsection (a)(3) and the person uses a vehicle to commit the offense; or

(B) while committing any offense described in subsection (a), the person draws or uses a deadly weapon, inflicts bodily injury on or otherwise causes bodily injury to another person, or operates a vehicle in a manner that creates a substantial risk of bodily injury to another person;

(2) Class C felony if, while committing any offense described in subsection (a), the person operates a vehicle in a manner that causes serious bodily injury to another person; ~~and~~

(3) Class B felony if, while committing any offense described in subsection (a), the person operates a vehicle in a manner that causes the death of another person; **and**

(4) Class A felony if, while committing any offense described in subsection (a), the person operates a vehicle in a manner that causes the death of a law enforcement officer while the law enforcement officer is engaged in the officer's official duties.

(c) For purposes of this section, a law enforcement officer includes an enforcement officer of the alcohol and tobacco commission and a conservation officer of the department of natural resources.

(d) If a person uses a vehicle to commit a felony offense under subsection (b)(1)(B), (b)(2), ~~or~~ (b)(3), **or (b)(4),** as part of the criminal penalty imposed for the offense, the court shall impose a minimum executed sentence of at least:

(1) thirty (30) days, if the person does not have a prior unrelated conviction under this section;

(2) one hundred eighty (180) days, if the person has one (1) prior unrelated conviction under this section; or

(3) one (1) year, if the person has two (2) or more prior unrelated convictions under this section.

(e) Notwithstanding IC 35-50-2-2 and IC 35-50-3-1, the mandatory minimum sentence imposed under subsection (d) may not be suspended.

P.L.103-2010
[S.224. Approved March 24, 2010.]

AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

SECTION 1. IC 2-5.5-2-5, AS ADDED BY P.L.16-2009, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. The committee shall do the following:

(1) Evaluate the existing classification of criminal offenses into felony and misdemeanor categories. In determining the proper category for each felony and misdemeanor, the committee shall consider, to the extent they have relevance, the following:

(A) The nature and degree of harm likely to be caused by the offense, including whether the offense involves property, irreplaceable property, a person, a number of persons, or a breach of the public trust.

(B) The deterrent effect a particular classification may have on the commission of the offense.

(C) The current incidence of the offense in Indiana.

(D) The rights of the victim.

(2) Recommend structures to be used by a sentencing court in determining the most appropriate sentence to be imposed in a criminal case, including any combination of imprisonment, probation, restitution, community service, or house arrest. The committee shall also consider the following:

(A) The nature and characteristics of the offense.

(B) The severity of the offense in relation to other offenses.

(C) The characteristics of the defendant that mitigate or aggravate the seriousness of the criminal conduct and the punishment deserved for that conduct.

(D) The number of the defendant's prior convictions.

(E) The available resources and capacity of the department of correction, local confinement facilities, and community based sanctions.

(F) The rights of the victim.

The committee shall include with each set of sentencing structures an estimate of the effect of the sentencing structures on the department of correction and local facilities with respect to both fiscal impact and inmate population.

(3) Review community corrections and home detention programs for the purpose of:

(A) standardizing procedures and establishing rules for the supervision of home detainees; and

(B) establishing procedures for the supervision of home detainees by community corrections programs of adjoining counties.

(4) Determine the long range needs of the criminal justice and corrections systems and recommend policy priorities for those systems.

(5) Identify critical problems in the criminal justice and corrections systems and recommend strategies to solve the problems.

(6) Assess the cost effectiveness of the use of state and local funds in the criminal justice and corrections systems.

(7) Recommend a comprehensive community corrections strategy based on the following:

(A) A review of existing community corrections programs.

(B) The identification of additional types of community corrections programs necessary to create an effective continuum of corrections sanctions.

(C) The identification of categories of offenders who should be eligible for sentencing to community corrections programs and the impact that changes to the existing system of community corrections programs would have on sentencing practices.

(D) The identification of necessary changes in state oversight and coordination of community corrections programs.

(E) An evaluation of mechanisms for state funding and local community participation in the operation and implementation

of community corrections programs.

(F) An analysis of the rate of recidivism of clients under the supervision of existing community corrections programs.

(8) Propose plans, programs, and legislation for improving the effectiveness of the criminal justice and corrections systems.

(9) Evaluate the use of faith based organizations as an alternative to incarceration.

(10) Study issues related to sex offenders, including:

(A) lifetime parole;

(B) GPS or other electronic monitoring;

(C) a classification system for sex offenders;

(D) recidivism; and

(E) treatment.

(11) Study and make recommendations regarding the sending of sexually suggestive or sexually explicit material over the Internet or by use of a cellular telephone or similar device, including whether school corporations should adopt policies regarding this topic.

SECTION 2. IC 11-8-8-22, AS ADDED BY P.L.216-2007, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. (a) As used in this section, "offender" means a sex offender (as defined in section 4.5 of this chapter) and a sex or violent offender (as defined in section 5 of this chapter).

(b) **Subsection (g)** ~~this section~~ applies to an offender required to register under this chapter if, due to a change in federal or state law after June 30, 2007, an individual who engaged in the same conduct as the offender:

(1) would not be required to register under this chapter; or

(2) would be required to register under this chapter but under less restrictive conditions than the offender is required to meet.

(c) A person to whom this section applies may petition a court to:

(1) remove the person's designation as an offender; or

(2) require the person to register under less restrictive conditions.

(d) A petition under this section shall be filed in the circuit or superior court of the county in which the offender resides. If the offender resides in more than one (1) county, the petition shall be filed in the circuit or superior court of the county in which the offender resides the greatest time. If the offender does not reside

in Indiana, the petition shall be filed in the circuit or superior court of the county where the offender is employed the greatest time. If the offender does not reside or work in Indiana, but is a student in Indiana, the petition shall be filed in the circuit or superior court of the county where the offender is a student. If the offender is not a student in Indiana and does not reside or work in Indiana, the petition shall be filed in the county where the offender was most recently convicted of a crime listed in section 5 of this chapter.

~~(d)~~ **(e)** After receiving a petition under this section, the court may:

(1) summarily dismiss the petition; or

(2) give notice to:

(A) the **department;**

(B) the attorney general;

(C) the prosecuting attorney **of:**

(i) the county where the petition was filed;

(ii) the county where offender was most recently convicted of an offense listed in section 5 of this chapter; and

(iii) the county where the offender resides; and

(D) the sheriff of the county where the offender resides;

and set the matter for hearing. **The date set for a hearing must not be less than sixty (60) days after the court gives notice under this subsection.**

(f) If a court sets a matter for a hearing under this section, the prosecuting attorney of the county in which the action is pending shall appear and respond, unless the prosecuting attorney requests the attorney general to appear and respond and the attorney general agrees to represent the interests of the state in the matter. If the attorney general agrees to appear, the attorney general shall give notice to:

(A) the prosecuting attorney; and

(B) the court.

~~(e)~~ **(g)** A court may grant a petition under this section if, following a hearing, the court makes the following findings:

(1) The law requiring the petitioner to register as an offender has changed since the date on which the petitioner was initially required to register.

(2) If the petitioner who was required to register as an offender

before the change in law engaged in the same conduct after the change in law occurred, the petitioner would:

(A) not be required to register as an offender; or

(B) be required to register as an offender, but under less restrictive conditions.

(3) If the petitioner seeks relief under this section because a change in law makes a previously unavailable defense available to the petitioner, that the petitioner has proved the defense.

The court has the discretion to deny a petition under this section, even if the court makes the findings under this subsection.

~~(f)~~ **(h)** The petitioner has the burden of proof in a hearing under this section.

~~(g)~~ **(i)** If the court grants a petition under this section, the court shall notify:

(1) the victim of the offense, if applicable;

(2) the department of correction; and

(3) the local law enforcement authority of ~~the~~ **every** county in which the petitioner ~~resides~~ **is currently required to register.**

(j) An offender may base a petition filed under this section on a claim that the application or registration requirements constitute ex post facto punishment.

(k) A petition filed under this section must:

(1) be submitted under the penalties of perjury;

(2) list each of the offender's criminal convictions and state for each conviction:

(A) the date of the judgment of conviction;

(B) the court that entered the judgment of conviction;

(C) the crime that the offender pled guilty to or was convicted of; and

(D) whether the offender was convicted of the crime in a trial or pled guilty to the criminal charges; and

(3) list each jurisdiction in which the offender is required to register as a sex offender or a violent offender.

(l) The attorney general may initiate an appeal from any order granting an offender relief under this section.

SECTION 3. IC 20-30-6-16 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 16. A school corporation may offer classes,**

instruction, or programs regarding the potential risks and consequences of creating and sharing sexually suggestive or sexually explicit materials through cellular telephones, social networking web sites, computer networks, and other digital media.

SECTION 4. **An emergency is declared for this act.**

P.L.104-2010
[S.249. Approved March 24, 2010.]

AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 36-7-14.5-12.5, AS AMENDED BY P.L.182-2009(ss), SECTION 405, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12.5. (a) This section applies only to an authority in a county having a United States government military base that is scheduled for closing or is completely or partially inactive or closed.

(b) In order to accomplish the purposes set forth in section 11 of this chapter, an authority may create an economic development area:

(1) by following the procedures set forth in IC 36-7-14-41 for the establishment of an economic development area by a redevelopment commission; and

(2) with the same effect as if the economic development area was created by a redevelopment commission.

The area established under this section shall be established only in the area where a United States government military base that is scheduled for closing or is completely or partially inactive or closed is or was located.

(c) In order to accomplish the purposes set forth in section 11 of this chapter, an authority may do the following in a manner that serves an economic development area created under this section:

(1) Acquire by purchase, exchange, gift, grant, condemnation, or lease, or any combination of methods, any personal property or interest in real property needed for the redevelopment of economic development areas located within the corporate boundaries of the unit.

(2) Hold, use, sell (by conveyance by deed, land sale contract, or other instrument), exchange, lease, rent, or otherwise dispose of property acquired for use in the redevelopment of economic development areas on the terms and conditions that the authority considers best for the unit and the unit's inhabitants.

(3) Sell, lease, or grant interests in all or part of the real property acquired for redevelopment purposes to any other department of the unit or to any other governmental agency for public ways, levees, sewerage, parks, playgrounds, schools, and other public purposes on any terms that may be agreed on.

(4) Clear real property acquired for redevelopment purposes.

(5) Repair and maintain structures acquired for redevelopment purposes.

(6) Remodel, rebuild, enlarge, or make major structural improvements on structures acquired for redevelopment purposes.

(7) Survey or examine any land to determine whether the land should be included within an economic development area to be acquired for redevelopment purposes and to determine the value of that land.

(8) Appear before any other department or agency of the unit, or before any other governmental agency in respect to any matter affecting:

(A) real property acquired or being acquired for redevelopment purposes; or

(B) any economic development area within the jurisdiction of the authority.

(9) Institute or defend in the name of the unit any civil action, but all actions against the authority must be brought in the circuit or superior court of the county where the authority is located.

(10) Use any legal or equitable remedy that is necessary or considered proper to protect and enforce the rights of and perform the duties of the authority.

(11) Exercise the power of eminent domain in the name of and

within the corporate boundaries of the unit subject to the same conditions and procedures that apply to the exercise of the power of eminent domain by a redevelopment commission under IC 36-7-14.

(12) Appoint an executive director, appraisers, real estate experts, engineers, architects, surveyors, and attorneys.

(13) Appoint clerks, guards, laborers, and other employees the authority considers advisable, except that those appointments must be made in accordance with the merit system of the unit if such a system exists.

(14) Prescribe the duties and regulate the compensation of employees of the authority.

(15) Provide a pension and retirement system for employees of the authority by using the public employees' retirement fund or a retirement plan approved by the United States Department of Housing and Urban Development.

(16) Discharge and appoint successors to employees of the authority subject to subdivision (13).

(17) Rent offices for use of the department or authority, or accept the use of offices furnished by the unit.

(18) Equip the offices of the authority with the necessary furniture, furnishings, equipment, records, and supplies.

(19) Design, order, contract for, and construct, reconstruct, improve, or renovate the following:

(A) Any local public improvement or structure that is necessary for redevelopment purposes or economic development within the corporate boundaries of the unit.

(B) Any structure that enhances development or economic development.

(20) Contract for the construction, extension, or improvement of pedestrian skyways (as defined in IC 36-7-14-12.2(c)).

(21) Accept loans, grants, and other forms of financial assistance from, or contract with, the federal government, the state government, a municipal corporation, a special taxing district, a foundation, or any other source.

(22) Make and enter into all contracts and agreements necessary or incidental to the performance of the duties of the authority and the execution of the powers of the authority under this chapter.

(23) Take any action necessary to implement the purpose of the authority.

(24) Provide financial assistance, in the manner that best serves the purposes set forth in section 11 of this chapter, including grants and loans, to enable private enterprise to develop, redevelop, and reuse military base property or otherwise enable private enterprise to provide social and economic benefits to the citizens of the unit.

(d) An authority may designate all or a portion of an economic development area created under this section as an allocation area by following the procedures set forth in IC 36-7-14-39 for the establishment of an allocation area by a redevelopment commission. The allocation provision may modify the definition of "property taxes" under IC 36-7-14-39(a) to include taxes imposed under IC 6-1.1 on the depreciable personal property located and taxable on the site of operations of designated taxpayers in accordance with the procedures applicable to a commission under IC 36-7-14-39.3. IC 36-7-14-39.3 applies to such a modification. An allocation area established by an authority under this section is a special taxing district authorized by the general assembly to enable the unit to provide special benefits to taxpayers in the allocation area by promoting economic development that is of public use and benefit. For allocation areas established for an economic development area created under this section after June 30, 1997, and to the expanded portion of an allocation area for an economic development area that was established before June 30, 1997, and that is expanded under this section after June 30, 1997, the net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date, must be allocated. All of the provisions of IC 36-7-14-39 apply to an allocation area created under this section, except that the authority shall be vested with the rights and duties of a commission as referenced in those sections, and except that, notwithstanding IC 36-7-14-39(b)(2), property tax proceeds paid into the allocation fund may be used by the authority only to do one (1) or more of the following:

(1) Pay the principal of and interest and redemption premium on any obligations incurred by the special taxing district or any other entity for the purpose of financing or refinancing military base

reuse activities in or serving or benefiting that allocation area.

(2) Establish, augment, or restore the debt service reserve for obligations payable solely or in part from allocated tax proceeds in that allocation area or from other revenues of the authority (including lease rental revenues).

(3) Make payments on leases payable solely or in part from allocated tax proceeds in that allocation area.

(4) Reimburse any other governmental body for expenditures made by it **that benefits or provides** for local public improvements or structures in or serving or benefiting that allocation area.

~~(5) For property taxes first due and payable before 2009, pay all or a portion of a property tax replacement credit to taxpayers in an allocation area as determined by the authority. This credit equals the amount determined under the following STEPS for each taxpayer in a taxing district (as defined in IC 6-1.1-1-20) that contains all or part of the allocation area:~~

~~STEP ONE: Determine that part of the sum of the amounts under IC 6-1.1-21-2(g)(1)(A), IC 6-1.1-21-2(g)(2), IC 6-1.1-21-2(g)(3), IC 6-1.1-21-2(g)(4), and IC 6-1.1-21-2(g)(5) that is attributable to the taxing district.~~

~~STEP TWO: Divide:~~

~~(A) that part of each county's eligible property tax replacement amount (as defined in IC 6-1.1-21-2) for that year as determined under IC 6-1.1-21-4 that is attributable to the taxing district; by~~

~~(B) the STEP ONE sum.~~

~~STEP THREE: Multiply:~~

~~(A) the STEP TWO quotient; by~~

~~(B) the total amount of the taxpayer's taxes (as defined in IC 6-1.1-21-2) levied in the taxing district that have been allocated during that year to an allocation fund under this section.~~

~~If not all the taxpayers in an allocation area receive the credit in full, each taxpayer in the allocation area is entitled to receive the same proportion of the credit. A taxpayer may not receive a credit under this section and a credit under IC 36-7-14-39.5 (before its repeal) in the same year.~~

~~(6)~~ **(5)** Pay expenses incurred by the authority **that benefit or provide** for local public improvements or structures that are in the allocation area or serving or benefiting the allocation area.

~~(7)~~ **(6)** Reimburse public and private entities for expenses incurred in training employees of industrial facilities that are located:

(A) in the allocation area; and

(B) on a parcel of real property that has been classified as industrial property under the rules of the department of local government finance.

However, the total amount of money spent for this purpose in any year may not exceed the total amount of money in the allocation fund that is attributable to property taxes paid by the industrial facilities described in clause (B). The reimbursements under this subdivision must be made within three (3) years after the date on which the investments that are the basis for the increment financing are made. ~~The allocation fund may not be used for operating expenses of the authority.~~

(e) In addition to other methods of raising money for property acquisition, redevelopment, or economic development activities in or directly serving or benefitting an economic development area created by an authority under this section, and in anticipation of the taxes allocated under subsection (d), other revenues of the authority, or any combination of these sources, the authority may, by resolution, issue the bonds of the special taxing district in the name of the unit. Bonds issued under this section may be issued in any amount without limitation. The following apply if such a resolution is adopted:

(1) The authority shall certify a copy of the resolution authorizing the bonds to the municipal or county fiscal officer, who shall then prepare the bonds. The seal of the unit must be impressed on the bonds, or a facsimile of the seal must be printed on the bonds.

(2) The bonds must be executed by the appropriate officer of the unit and attested by the unit's fiscal officer.

(3) The bonds are exempt from taxation for all purposes.

(4) Bonds issued under this section may be sold at public sale in accordance with IC 5-1-11 or at a negotiated sale.

(5) The bonds are not a corporate obligation of the unit but are an indebtedness of the taxing district. The bonds and interest are

payable, as set forth in the bond resolution of the authority:

(A) from the tax proceeds allocated under subsection (d);

(B) from other revenues available to the authority; or

(C) from a combination of the methods stated in clauses (A) and (B).

(6) Proceeds from the sale of bonds may be used to pay the cost of interest on the bonds for a period not to exceed five (5) years from the date of issuance.

(7) Laws relating to the filing of petitions requesting the issuance of bonds and the right of taxpayers and voters to remonstrate against the issuance of bonds do not apply to bonds issued under this section.

(8) If a debt service reserve is created from the proceeds of bonds, the debt service reserve may be used to pay principal and interest on the bonds as provided in the bond resolution.

(9) If bonds are issued under this chapter that are payable solely or in part from revenues to the authority from a project or projects, the authority may adopt a resolution or trust indenture or enter into covenants as is customary in the issuance of revenue bonds. The resolution or trust indenture may pledge or assign the revenues from the project or projects. The resolution or trust indenture may also contain any provisions for protecting and enforcing the rights and remedies of the bond owners as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority. The authority may establish fees and charges for the use of any project and covenant with the owners of any bonds to set those fees and charges at a rate sufficient to protect the interest of the owners of the bonds. Any revenue bonds issued by the authority that are payable solely from revenues of the authority shall contain a statement to that effect in the form of bond.

(f) Notwithstanding section 8(a) of this chapter, an ordinance adopted under section 11 of this chapter may provide, or be amended to provide, that the board of directors of the authority shall be composed of not fewer than three (3) nor more than eleven (11) members, who must be residents of or be employed at a place of employment located within the unit. The members shall be appointed by the executive of the unit.

(g) The acquisition of real and personal property by an authority under this section is not subject to the provisions of IC 5-22, IC 36-1-10.5, IC 36-7-14-19, or any other statutes governing the purchase of property by public bodies or their agencies.

(h) An authority may negotiate for the sale, lease, or other disposition of real and personal property without complying with the provisions of IC 5-22-22, IC 36-1-11, IC 36-7-14-22, or any other statute governing the disposition of public property.

(i) Notwithstanding any other law, utility services provided within an economic development area established under this section are subject to regulation by the appropriate regulatory agencies unless the utility service is provided by a utility that provides utility service solely within the geographic boundaries of an existing or a closed military installation, in which case the utility service is not subject to regulation for purposes of rate making, regulation, service delivery, or issuance of bonds or other forms of indebtedness. However, this exemption from regulation does not apply to utility service if the service is generated, treated, or produced outside the boundaries of the existing or closed military installation.

SECTION 2. IC 36-7-30-25, AS AMENDED BY P.L.146-2008, SECTION 770, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 25. (a) The following definitions apply throughout this section:

(1) "Allocation area" means that part of a military base reuse area to which an allocation provision of a declaratory resolution adopted under section 10 of this chapter refers for purposes of distribution and allocation of property taxes.

(2) "Base assessed value" means:

(A) the net assessed value of all the property as finally determined for the assessment date immediately preceding the adoption date of the allocation provision of the declaratory resolution, as adjusted under subsection (h); plus

(B) to the extent that it is not included in clause (A) or (C), the net assessed value of any and all parcels or classes of parcels identified as part of the base assessed value in the declaratory resolution or an amendment thereto, as finally determined for any subsequent assessment date; plus

(C) to the extent that it is not included in clause (A) or (B), the

net assessed value of property that is assessed as residential property under the rules of the department of local government finance, as finally determined for any assessment date after the effective date of the allocation provision.

Clause (C) applies only to allocation areas established in a military reuse area after June 30, 1997, and to the part of an allocation area that was established before June 30, 1997, and that is added to an existing allocation area after June 30, 1997.

(3) "Property taxes" means taxes imposed under IC 6-1.1 on real property.

(b) A declaratory resolution adopted under section 10 of this chapter before the date set forth in IC 36-7-14-39(b) pertaining to declaratory resolutions adopted under IC 36-7-14-15 may include a provision with respect to the allocation and distribution of property taxes for the purposes and in the manner provided in this section. A declaratory resolution previously adopted may include an allocation provision by the amendment of that declaratory resolution in accordance with the procedures set forth in section 13 of this chapter. The allocation provision may apply to all or part of the military base reuse area. The allocation provision must require that any property taxes subsequently levied by or for the benefit of any public body entitled to a distribution of property taxes on taxable property in the allocation area be allocated and distributed as follows:

(1) Except as otherwise provided in this section, the proceeds of the taxes attributable to the lesser of:

(A) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(B) the base assessed value;

shall be allocated to and, when collected, paid into the funds of the respective taxing units.

(2) Except as otherwise provided in this section, property tax proceeds in excess of those described in subdivision (1) shall be allocated to the military base reuse district and, when collected, paid into an allocation fund for that allocation area that may be used by the military base reuse district and only to do one (1) or more of the following:

(A) Pay the principal of and interest and redemption premium

on any obligations incurred by the military base reuse district or any other entity for the purpose of financing or refinancing military base reuse activities in or directly serving or benefiting that allocation area.

(B) Establish, augment, or restore the debt service reserve for bonds payable solely or in part from allocated tax proceeds in that allocation area or from other revenues of the reuse authority, including lease rental revenues.

(C) Make payments on leases payable solely or in part from allocated tax proceeds in that allocation area.

(D) Reimburse any other governmental body for expenditures made for local public improvements (or structures) in or directly serving or benefiting that allocation area.

~~(E) For property taxes first due and payable before 2009, pay all or a part of a property tax replacement credit to taxpayers in an allocation area as determined by the reuse authority. This credit equals the amount determined under the following STEPS for each taxpayer in a taxing district (as defined in IC 6-1.1-1-20) that contains all or part of the allocation area:~~

~~STEP ONE: Determine that part of the sum of the amounts under IC 6-1.1-21-2(g)(1)(A), IC 6-1.1-21-2(g)(2), IC 6-1.1-21-2(g)(3), IC 6-1.1-21-2(g)(4), and IC 6-1.1-21-2(g)(5) that is attributable to the taxing district.~~

~~STEP TWO: Divide:~~

~~(i) that part of each county's eligible property tax replacement amount (as defined in IC 6-1.1-21-2) for that year as determined under IC 6-1.1-21-4 that is attributable to the taxing district; by~~

~~(ii) the STEP ONE sum.~~

~~STEP THREE: Multiply:~~

~~(i) the STEP TWO quotient; times~~

~~(ii) the total amount of the taxpayer's taxes (as defined in IC 6-1.1-21-2) levied in the taxing district that have been allocated during that year to an allocation fund under this section.~~

~~If not all the taxpayers in an allocation area receive the credit in full, each taxpayer in the allocation area is entitled to receive the same proportion of the credit. A taxpayer may not~~

~~receive a credit under this section and a credit under section 27 of this chapter (before its repeal) in the same year.~~

~~(F)~~ **(E)** Pay expenses incurred by the reuse authority, **any other department of the unit, or a department of another governmental entity** for local public improvements or structures that ~~were~~ **are** in the allocation area or directly serving or benefiting the allocation area, **including expenses for the operation and maintenance of these local public improvements or structures if the reuse authority determines those operation and maintenance expenses are necessary or desirable to carry out the purposes of this chapter.**

~~(G)~~ **(F)** Reimburse public and private entities for expenses incurred in training employees of industrial facilities that are located:

(i) in the allocation area; and

(ii) on a parcel of real property that has been classified as industrial property under the rules of the department of local government finance.

However, the total amount of money spent for this purpose in any year may not exceed the total amount of money in the allocation fund that is attributable to property taxes paid by the industrial facilities described in this clause. The reimbursements under this clause must be made not more than three (3) years after the date on which the investments that are the basis for the increment financing are made.

Except as provided in clause (E), the allocation fund may not be used for operating expenses of the reuse authority.

(3) Except as provided in subsection (g), before July 15 of each year the reuse authority shall do the following:

(A) Determine the amount, if any, by which property taxes payable to the allocation fund in the following year will exceed the amount of property taxes necessary to make, when due, principal and interest payments on bonds described in subdivision (2) plus the amount necessary for other purposes described in subdivision (2).

(B) Provide a written notice to the county auditor, the fiscal body of the unit that established the reuse authority, and the

officers who are authorized to fix budgets, tax rates, and tax levies under IC 6-1.1-17-5 for each of the other taxing units that is wholly or partly located within the allocation area. The notice must:

(i) state the amount, if any, of excess property taxes that the reuse authority has determined may be paid to the respective taxing units in the manner prescribed in subdivision (1); or

(ii) state that the reuse authority has determined that there are no excess property tax proceeds that may be allocated to the respective taxing units in the manner prescribed in subdivision (1).

The county auditor shall allocate to the respective taxing units the amount, if any, of excess property tax proceeds determined by the reuse authority. The reuse authority may not authorize a payment to the respective taxing units under this subdivision if to do so would endanger the interest of the holders of bonds described in subdivision (2) or lessors under section 19 of this chapter. ~~Property taxes received by a taxing unit under this subdivision before 2009 are eligible for the property tax replacement credit provided under IC 6-1.1-21.~~

(c) For the purpose of allocating taxes levied by or for any taxing unit or units, the assessed value of taxable property in a territory in the allocation area that is annexed by a taxing unit after the effective date of the allocation provision of the declaratory resolution is the lesser of:

(1) the assessed value of the property for the assessment date with respect to which the allocation and distribution is made; or

(2) the base assessed value.

(d) Property tax proceeds allocable to the military base reuse district under subsection (b)(2) may, subject to subsection (b)(3), be irrevocably pledged by the military base reuse district for payment as set forth in subsection (b)(2).

(e) Notwithstanding any other law, each assessor shall, upon petition of the reuse authority, reassess the taxable property situated upon or in or added to the allocation area, effective on the next assessment date after the petition.

(f) Notwithstanding any other law, the assessed value of all taxable property in the allocation area, for purposes of tax limitation, property tax replacement, and the making of the budget, tax rate, and tax levy

for each political subdivision in which the property is located is the lesser of:

(1) the assessed value of the property as valued without regard to this section; or

(2) the base assessed value.

(g) If any part of the allocation area is located in an enterprise zone created under IC 5-28-15, the unit that designated the allocation area shall create funds as specified in this subsection. A unit that has obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish an allocation fund for the purposes specified in subsection (b)(2) and a special zone fund. Such a unit shall, until the end of the enterprise zone phase out period, deposit each year in the special zone fund any amount in the allocation fund derived from property tax proceeds in excess of those described in subsection (b)(1) from property located in the enterprise zone that exceeds the amount sufficient for the purposes specified in subsection (b)(2) for the year. The amount sufficient for purposes specified in subsection (b)(2) for the year shall be determined based on the pro rata part of such current property tax proceeds from the part of the enterprise zone that is within the allocation area as compared to all such current property tax proceeds derived from the allocation area. A unit that does not have obligations, bonds, or leases payable from allocated tax proceeds under subsection (b)(2) shall establish a special zone fund and deposit all the property tax proceeds in excess of those described in subsection (b)(1) that are derived from property in the enterprise zone in the fund. The unit that creates the special zone fund shall use the fund (based on the recommendations of the urban enterprise association) for programs in job training, job enrichment, and basic skill development that are designed to benefit residents and employers in the enterprise zone or other purposes specified in subsection (b)(2), except that where reference is made in subsection (b)(2) to allocation area it shall refer for purposes of payments from the special zone fund only to that part of the allocation area that is also located in the enterprise zone. The programs shall reserve at least one-half (1/2) of their enrollment in any session for residents of the enterprise zone.

(h) After each general reassessment under IC 6-1.1-4, the department of local government finance shall adjust the base assessed value one (1) time to neutralize any effect of the general reassessment

on the property tax proceeds allocated to the military base reuse district under this section. After each annual adjustment under IC 6-1.1-4-4.5, the department of local government finance shall adjust the base assessed value to neutralize any effect of the annual adjustment on the property tax proceeds allocated to the military base reuse district under this section. However, the adjustments under this subsection may not include the effect of property tax abatements under IC 6-1.1-12.1, and these adjustments may not produce less property tax proceeds allocable to the military base reuse district under subsection (b)(2) than would otherwise have been received if the general reassessment or annual adjustment had not occurred. The department of local government finance may prescribe procedures for county and township officials to follow to assist the department in making the adjustments.

SECTION 3. IC 36-7-30-34 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 34. (a) This section applies to a reuse authority that owns or acquires a public utility (as defined in IC 8-1-2-1) established to provide water service.**

(b) The reuse authority shall operate the public utility as a municipal water utility in accordance with IC 8-1.5-3, and has all the powers and duties of:

(1) the board (as defined in IC 8-1.5-3-2); and

(2) the municipal legislative body;

under IC 8-1.5-3 with respect to the operation of its municipal water utility.

SECTION 4. IC 36-7-30-35 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 35. (a) This section applies to a reuse authority that owns or acquires a public utility (as defined in IC 8-1-2-1) established to provide sewage disposal service.**

(b) The reuse authority shall operate the public utility as a municipal sewage works in accordance with IC 36-9-23, and has all the powers and duties of:

(1) the board (as defined in IC 36-9-23-5); and

(2) the municipal legislative body;

under IC 36-9-23 with respect to the operation of its municipal sewage works.

SECTION 5. **An emergency is declared for this act.**

P.L.105-2010
[S.340. Approved March 24, 2010.]

AN ACT to amend the Indiana Code concerning corrections.

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

SECTION 1. IC 11-11-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. **(a) This chapter applies to persons:**

(1) placed in a community corrections program; or

(2) assigned to a community transition program.

(b) This chapter does not apply to persons released on parole.

SECTION 2. IC 11-12-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) For the purpose of encouraging counties to develop a coordinated local corrections-criminal justice system and providing effective alternatives to imprisonment at the state level, the commissioner shall, out of funds appropriated for such purposes, make grants to counties for the establishment and operation of community corrections programs. Appropriations intended for this purpose may not be used by the department for any other purpose. Money appropriated to the department of correction for the purpose of making grants under this chapter and ~~charges made against a county~~ **any financial aid payments suspended** under section ~~9,~~ **6 of this chapter** do not revert to the state general fund at the close of any fiscal year, but remain available to the department of correction for its use in making grants under this chapter.

(b) The commissioner shall give priority in issuing community corrections grants to programs that provide alternative sentencing projects for persons with mental illness, addictive disorders, mental retardation, and developmental disabilities.

SECTION 3. IC 11-12-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) A county or

group of counties seeking financial aid under this chapter must apply to the commissioner in a manner and form prescribed by the commissioner. The application must include a community corrections plan that has been approved by the community corrections board and the county executive or, in a county having a consolidated city, by the city-county council. No county may receive financial aid until its application is approved by the commissioner.

(b) A community corrections plan must comply with rules adopted under section 5 of this chapter and must include:

(1) a description of each program for which financial aid is sought;

(2) the purpose, objective, administrative structure, staffing, and duration of the program;

(3) a method to evaluate each component of the program to determine the overall use of department approved best practices for the program;

~~(3)~~ **(4)** the program's total operating budget, including all other sources of anticipated income;

~~(4)~~ **(5)** the amount of community involvement and client participation in the program;

~~(5)~~ **(6)** the location and description of facilities that will be used in the program; and

~~(6)~~ **(7)** the manner in which counties that jointly apply for financial aid under this chapter will operate a coordinated community corrections program.

(c) A community corrections plan must be annually updated, approved by the county executive or, in a city having a consolidated city, by the city-county council, and submitted to the commissioner.

(d) No amendment to or substantial modification of an approved community corrections plan may be placed in effect until the department and county executive, or in a county having a consolidated city, the city-county council, have approved the amendment or modification.

(e) A copy of the final plan as approved by the department shall be made available to the board in a timely manner.

SECTION 4. IC 11-12-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) The department shall do the following:

(1) Provide consultation and technical assistance to counties to aid in the development of community corrections plans.

(2) Provide training for community corrections personnel and board members to the extent funds are available.

(3) Adopt under IC 4-22-2 rules governing application by counties for financial aid under this chapter, including the content of community corrections plans.

(4) Adopt under IC 4-22-2 rules governing the disbursement of monies to a county and the county's certification of expenditures.

(5) Adopt under IC 4-22-2 minimum standards for the establishment, operation, and evaluation of programs receiving financial aid under this chapter. (These standards must be sufficiently flexible to foster the development of new and improved correctional practices.)

(6) Examine and either approve or disapprove applications for financial aid. The department's approval or disapproval must be based on this chapter and the rules adopted under this chapter.

(7) Keep the budget agency informed of the amount of appropriation needed to adequately fund programs under this chapter.

(8) Adopt under IC 4-22-2 a formula or other method of determining a participating county's share of funds appropriated for purposes of this chapter. This formula or method must be approved by the budget agency before the formula is adopted and must be designed to accurately reflect a county's correctional needs and ability to pay.

(9) Keep counties informed of money appropriated for the purposes of this chapter.

(10) Provide an approved training curriculum for community corrections field officers.

(11) Require community corrections programs to submit in proposed budget requests an evaluation of the use of department approved best practices for each community corrections program component.

(b) The commissioner may do the following:

(1) Visit and inspect any program receiving financial aid under this chapter.

(2) Require a participating county or program to submit

information or statistics pertinent to the review of applications and programs.

(3) Expend up to three percent (3%) of the money appropriated to the department for community correction grants to provide technical assistance, consultation, and training to counties and to monitor and evaluate program delivery.

(c) Notwithstanding any law prohibiting advance payments, the department of correction may advance grant money to a county or group of counties in order to assist a community corrections program. However, not more than twenty-five percent (25%) of the amount awarded to a county or group of counties may be paid in advance.

(d) The commissioner shall disburse no more funds to any county under this chapter than are required to fund the community corrections plan.

SECTION 5. IC 11-13-3-3, AS AMENDED BY P.L.173-2006, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) A person sentenced under IC 35-50 shall be released on parole or discharged from the person's term of imprisonment under IC 35-50 without a parole release hearing.

(b) A person sentenced for an offense under laws other than IC 35-50 who is eligible for release on parole, or a person whose parole is revoked and is eligible for reinstatement on parole under rules adopted by the parole board shall, before the date of the person's parole eligibility, be granted a parole release hearing to determine whether parole will be granted or denied. The hearing shall be conducted by one (1) or more of the parole board members. If one (1) or more of the members conduct the hearing on behalf of the parole board, the final decision shall be rendered by the full parole board based upon the record of the proceeding and the hearing conductor's findings. Before the hearing, the parole board shall order an investigation to include the collection and consideration of:

(1) reports regarding the person's medical, psychological, educational, vocational, employment, economic, and social condition and history;

(2) official reports of the person's history of criminality;

(3) reports of earlier parole or probation experiences;

(4) reports concerning the person's present commitment that are relevant to the parole release determination;

(5) any relevant information submitted by or on behalf of the person being considered; and

(6) such other relevant information concerning the person as may be reasonably available.

(c) Unless the victim has requested in writing not to be notified, the department shall notify a victim of a felony (or the next of kin of the victim if the felony resulted in the death of the victim) or any witness involved in the prosecution of an offender imprisoned for the commission of a felony when the offender is:

(1) to be discharged from imprisonment;

(2) to be released on parole under IC 35-50-6-1;

(3) to have a parole release hearing under this chapter;

(4) to have a parole violation hearing;

(5) an escaped committed offender; or

(6) to be released from departmental custody under any temporary release program administered by the department, including the following:

(A) Placement on minimum security assignment to a program authorized by IC 11-10-1-3 or IC 35-38-3-6 and requiring periodic reporting to a designated official, including a regulated community assignment program.

(B) Assignment to a minimum security work release program.

(d) The department shall make the notification required under subsection (c):

(1) at least forty (40) days before a discharge, release, or hearing occurs; and

(2) not later than twenty-four (24) hours after the escape of a committed offender.

The department shall supply the information to a victim (or a next of kin of a victim in the appropriate case) and a witness at the address supplied to the department by the victim (or next of kin) or witness. A victim (or next of kin) is responsible for supplying the department with any change of address or telephone number of the victim (or next of kin).

(e) The probation officer conducting the presentence investigation shall inform the victim and witness described in subsection (c), at the time of the interview with the victim or witness, of the right of the victim or witness to receive notification from the department under

subsection (c). The probation department for the sentencing court shall forward the most recent list of the addresses or telephone numbers, or both, of victims to the department of correction. The probation department shall supply the department with the information required by this section as soon as possible but not later than five (5) days from the receipt of the information from the victim. A victim (or next of kin) is responsible for supplying the department with the correct address and telephone number of the victim (or next of kin).

(f) Notwithstanding IC 11-8-5-2 and IC 4-1-6, an inmate may not have access to the name and address of a victim and a witness. Upon the filing of a motion by any person requesting or objecting to the release of victim information, witness information, or both that is retained by the department, the court shall review the information that is the subject of the motion in camera before ruling on the motion.

(g) The notice required under subsection (c) must specify whether the prisoner is being discharged, is being released on parole, is being released on lifetime parole, is having a parole release hearing, is having a parole violation hearing, or has escaped. The notice must contain the following information:

(1) The name of the prisoner.

(2) The date of the offense.

(3) The date of the conviction.

(4) The felony of which the prisoner was convicted.

(5) The sentence imposed.

(6) The amount of time served.

(7) The date and location of the interview (if applicable).

(h) The parole board shall adopt rules under IC 4-22-2 and make available to offenders the criteria considered in making parole release determinations. The criteria must include the:

(1) nature and circumstances of the crime for which the offender is committed;

(2) offender's prior criminal record;

(3) offender's conduct and attitude during the commitment; and

(4) offender's parole plan.

(i) The hearing prescribed by this section may be conducted in an informal manner without regard to rules of evidence. In connection with the hearing, however:

(1) reasonable, advance written notice, including the date, time,

and place of the hearing shall be provided to the person being considered;

(2) the person being considered shall be given access, in accord with IC 11-8-5, to records and reports considered by the parole board in making its parole release decision;

(3) the person being considered may appear, speak in the person's own behalf, and present documentary evidence;

(4) irrelevant, immaterial, or unduly repetitious evidence shall be excluded; and

(5) a record of the proceeding, to include the results of the parole board's investigation, notice of the hearing, and evidence adduced at the hearing, shall be made and preserved.

(j) If parole is denied, the parole board shall give the person written notice of the denial and the reasons for the denial. The parole board may not parole a person if it determines that there is substantial reason to believe that the person:

(1) will engage in further specified criminal activity; or

(2) will not conform to appropriate specified conditions of parole.

(k) If parole is denied, the parole board shall conduct another parole release hearing not earlier than five (5) years after the date of the hearing at which parole was denied. However, the board may conduct a hearing earlier than five (5) years after denial of parole if the board:

(1) finds that special circumstances exist for the holding of a hearing; and

(2) gives reasonable notice to the person being considered for parole.

(l) The parole board may parole a person who is outside Indiana on a record made by the appropriate authorities of the jurisdiction in which that person is imprisoned.

(m) If the board is considering the release on parole of an offender who is serving a sentence of life in prison, a determinate term of imprisonment of at least ten (10) years, or an indeterminate term of imprisonment with a minimum term of at least ten (10) years, in addition to the investigation required under subsection (b), **except as provided in subsection (n),** the board ~~shall~~ **may** order and consider a community investigation, which ~~must~~ **may** include an investigation and report that substantially reflects the attitudes and opinions of:

(1) the community in which the crime committed by the offender

occurred;

(2) law enforcement officers who have jurisdiction in the community in which the crime occurred;

(3) the victim of the crime committed by the offender, or if the victim is deceased or incompetent for any reason, the victim's relatives or friends; and

(4) friends or relatives of the offender.

If the board reconsiders for release on parole an offender who was previously released on parole and whose parole was revoked under section 10 of this chapter, the board may use a community investigation prepared for an earlier parole hearing to comply with this subsection. However, the board shall accept and consider any supplements or amendments to any previous statements from the victim or the victim's relatives or friends.

(n) The board shall conduct the community investigation described in subsection (m) if:

(1) the person was convicted of a crime of violence (as defined in IC 35-50-1-2); or

(2) the person is a sex offender (as defined in IC 11-8-8-4.5).

~~(n)~~ **(o)** As used in this section, "victim" means a person who has suffered direct harm as a result of a violent crime (as defined in IC 5-2-6.1-8).

SECTION 6. IC 27-10-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) An undertaking is valid if it states:

(1) the court where the defendant is to appear;

(2) the amount of the bail; and

(3) that it was made before an official legally authorized to take the bond.

(b) A surety remains liable on an undertaking despite:

(1) any lack of the surety's qualifications as required by section 4 of this chapter;

(2) any other agreement that is expressed in the undertaking;

(3) any failure of the defendant to join in the undertaking; or

(4) any other defect of form or record, or any other irregularity, except as to matters covered by subsection (a).

(c) Any undertaking written after August 31, 1985, shall expire thirty-six (36) months after it is posted for the release of a defendant

from custody. This section does not apply to cases in which a bond has been declared to be forfeited ~~or in which the defendant is a fugitive from the jurisdiction after thirty-six (36) months.~~ **and the surety and bail agent have been notified as described in section 12 of this chapter.**

SECTION 7. IC 27-10-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8. (a) The court shall give the bail agent or insurer legal **written** notice of the defendant's trial or hearing **for purposes of entering a plea** at least seventy-two (72) hours before the defendant's appearance is required unless the appearance is scheduled within seventy-two (72) hours from the execution of the bond.

(b) The defendant's failure to appear constitutes a breach of the undertaking. The court before which the cause is pending shall make a record of the breach at which time section 12 of this chapter then applies.

SECTION 8. IC 27-10-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 12. (a) **Only** if a defendant does not appear as provided in the bond:

(1) the court shall:

(A) issue a warrant for the defendant's arrest; and

(B) order the bail agent and the surety to surrender the defendant to the court immediately;

(2) the clerk shall, **less than thirty (30) days after the defendant's failure to appear,** mail notice of the order to both:

(A) the bail agent; and

(B) the surety;

at each of the addresses indicated in the bonds; and

(3) if the defendant later is arrested or otherwise appears:

(A) the court shall order that the surety be released from the bond; and

(B) after the court issues an order under clause (A), the surety's original undertaking shall be reinstated if the surety files a written request for the reinstatement of the undertaking with the court.

This subsection may not be construed to prevent a court from revoking or resetting bail.

(b) The bail agent or surety must:

(1) produce the defendant; or

(2) prove within three hundred sixty-five (365) days:

(A) that the appearance of the defendant was prevented:

(i) by the defendant's illness or death;

(ii) because the defendant was at the scheduled time of appearance or currently is in the custody of the United States, a state, or a political subdivision of the United States or a state; ~~or~~

(iii) because the required notice was not given; **or**

(iv) because authorities have refused to extradite the defendant, by a preponderance of the evidence; and

(B) the defendant's absence was not with the consent or connivance of the sureties.

(c) If the bail agent or surety does not comply with the terms of subsection (b) within one hundred twenty (120) days after the mailing of the notice required under subsection (a)(2), a late surrender fee shall be assessed against the bail agent or surety as follows:

(1) If compliance occurs more than one hundred twenty (120) days but not more than one hundred eighty (180) days after the mailing of notice, the late surrender fee is twenty percent (20%) of the face value of the bond.

(2) If compliance occurs more than one hundred eighty (180) days but not more than two hundred ten (210) days after the mailing of notice, the late surrender fee is thirty percent (30%) of the face value of the bond.

(3) If compliance occurs more than two hundred ten (210) days but not more than two hundred forty (240) days after the mailing of notice, the late surrender fee is fifty percent (50%) of the face value of the bond.

(4) If compliance occurs more than two hundred forty (240) days but not more than three hundred sixty-five (365) days after the mailing of notice, the late surrender fee is eighty percent (80%) of the face value of the bond.

(5) If the bail agent or surety does not comply with the terms of subsection (b) within three hundred sixty-five (365) days of the mailing of notice required under subsection (a)(2), the late surrender fee is eighty percent (80%) of the face value of the bond.

All late surrender fees are due as of the date of compliance with subsection (b) or three hundred sixty-five (365) days after the mailing of notice required under subsection (a)(2), whichever is earlier, and shall be paid by the surety when due. If the surety fails to pay, then the late surrender fees shall be paid by the commissioner as provided in subsection (f).

(d) If the bail agent or surety does not comply with the terms of subsection (b) within three hundred sixty-five (365) days of the mailing of notice required by subsection (a)(2), the court shall declare forfeited an amount equal to twenty percent (20%) of the face value of the bond. The court shall immediately enter judgment on the forfeiture, without pleadings and without change of judge or change of venue, and assess against the bail agent or surety all actual costs resulting from the defendant's failure to appear. These costs include jury fees, witness fees, and any other documented costs incurred by the court.

(e) Proceedings relative to the bond, forfeiture of a bond, judgment on the forfeiture, execution of judgment, or stay of proceedings shall be in the court in which the bond was posted. Costs and late surrender fee assessed against a bail agent or surety under subsection (c) shall be satisfied without further order of the court as provided in subsection (f). The court may waive the late surrender fee or extend the period for payment beyond the statutorily permitted period, or both, if the following conditions are met:

(1) A written request is filed with the court and the prosecutor.

(2) The surety or bail agent provides evidence satisfactory to the court that diligent efforts were made to locate the defendant.

(f) In the case of an insurer, if the fees, costs, or judgment is not paid, then the clerk shall mail the notice to the commissioner. The commissioner shall:

(1) within ten (10) days of receipt of the notice forward a copy by certified mail to the insurer;

(2) forty-five (45) days after receipt of the notice from the clerk, if the commissioner has not been notified by the clerk that the fees or judgment or both have been paid, pay the late surrender fee assessment, costs, and any judgment of forfeiture ordered by the court from funds the insurer has on deposit with the department of insurance;

(3) upon paying the assessment, costs, and judgment, if any, from

funds on deposit, immediately revoke the license of the insurer, if the satisfaction causes the deposit remaining to be less than the amount required by this article; and

(4) within ten (10) days after revoking a license, notify the insurer and the insurer's agents and the clerk of each county in Indiana of the revocation and the insurer shall be prohibited from conducting a bail bond business in Indiana until the deposit has been replenished.

(g) The notice mailed by the clerk to the commissioner pursuant to the terms of subsection (f) shall include:

(1) the date on which the defendant originally failed to appear as provided in the bond;

(2) the date of compliance with subsection (b), if compliance was achieved within three hundred sixty-five (365) days after the mailing of the notice required by subsection (a)(2);

(3) the amount of the bond;

(4) the dollar amount of the late surrender fee due;

(5) the amount of costs resulting from the defendant's failure to appear; and

(6) if applicable, the dollar amount of the judgment of forfeiture entered by the court.

(h) Any surety on a bond may appeal to the court of appeals as in other civil cases without moving for a new trial, and on the appeal the evidence, if any, shall be reviewed.

(i) Fifty percent (50%) of the late surrender fees collected under this chapter shall be deposited in the police pension trust fund established under IC 36-8-10-12 and the remaining fifty percent (50%) shall be deposited in the county extradition fund established under IC 35-33-14.

SECTION 9. IC 35-33-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. (a) If a defendant:

(1) was admitted to bail under section 3.2(a)(2) of this chapter; and

(2) has failed to appear before the court as ordered;

the court shall, **except as provided in subsection (b) or section 8(b) of this chapter, declare the bond forfeited not earlier than one hundred twenty (120) days after the defendant's failure to appear and** issue a warrant for the defendant's arrest.

(b) In a criminal case, if the court having jurisdiction over the

criminal case receives written notice of a pending civil action or unsatisfied judgment against the criminal defendant arising out of the same transaction or occurrence forming the basis of the criminal case, funds deposited with the clerk of the court under section 3.2(a)(2) of this chapter may not be declared forfeited by the court, and the court shall order the deposited funds to be held by the clerk. If there is an entry of final judgment in favor of the plaintiff in the civil action, and if the deposit and the bond are subject to forfeiture, the criminal court shall order payment of all or any part of the deposit to the plaintiff in the action, as is necessary to satisfy the judgment. The court shall then order the remainder of the deposit, if any, and the bond forfeited.

(c) Any proceedings concerning the bond, or its forfeiture, judgment, or execution of judgment, shall be held in the court that admitted the defendant to bail.

(d) After a bond has been forfeited under subsection **(a) or** (b), the clerk shall mail notice of forfeiture to the defendant. In addition, unless the court finds that there was justification for the defendant's failure to appear, the court shall immediately enter judgment, without pleadings and without change of judge or change of venue, against the defendant for the amount of the bail bond, and the clerk shall record the judgment.

(e) If a bond is forfeited and the court has entered a judgment under subsection (d), the clerk shall transfer to the state common school fund:

(1) any amount remaining on deposit with the court (less the fees retained by the clerk); and

(2) any amount collected in satisfaction of the judgment.

(f) The clerk shall return a deposit, less the administrative fee, made under section 3.2(a)(2) of this chapter to the defendant, if the defendant appeared at trial and the other critical stages of the legal proceedings.

SECTION 10. IC 35-38-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) When the defendant appears for sentencing, the court shall inform the defendant of the verdict of the jury or the finding of the court. The court shall afford counsel for the defendant an opportunity to speak on behalf of the defendant. The defendant may also make a statement personally in the defendant's own behalf and, before pronouncing sentence, the court shall ask the defendant whether the defendant wishes to make such a statement. Sentence shall then be pronounced, unless a sufficient cause

is alleged or appears to the court for delay in sentencing.

(b) **This subsection expires June 30, 2012.** A court that sentences a person to a term of imprisonment shall include the total costs of incarceration in the sentencing order. The court may not consider Class I credit under IC 35-50-6-3 in the calculation of the total costs of incarceration.

SECTION 11. IC 35-38-2.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. As used in this chapter, "home" means:

(1) the interior living area of the temporary or permanent residence of an offender; or

(2) if the offender's residence is a multi-family dwelling, the unit in which the offender resides, and not the:

(A) halls or common areas outside the unit where the offender resides; or

(B) other units, occupied or unoccupied, in the multi-family dwelling.

The term includes a hospital, health care facility, hospice, group home, maternity home, residential treatment facility, and boarding house. The term does not include a public correctional facility. ~~or the residence of another person who is not part of the social unit formed by the offender's immediate family.~~

SECTION 12. IC 35-38-2.6-4.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 4.2. (a) A community corrections program shall establish written criteria and procedures for determining if an offender or alleged offender is eligible for direct placement supervision under this chapter.**

(b) The criteria and procedures established under subsection (a) must establish a record keeping system that allows the department or community corrections program to quickly determine if an offender or alleged offender is in violation of the terms of a direct placement order issued under this chapter.

(c) A community corrections program charged by a court with supervision of offenders and alleged offenders ordered to be placed directly in a community corrections program under this chapter shall provide all law enforcement agencies, including any contract agency (as defined in IC 35-38-2.5-2.5), having jurisdiction in the

place where a community corrections program is located a list of offenders and alleged offenders under direct placement supervision. The list must include the following information about each offender and alleged offender:

(1) The offender's name, any known aliases, and the location of the offender's direct placement under this chapter.

(2) The crime for which the offender was convicted.

(3) The date the offender's direct placement expires.

(4) The name, address, and telephone number of the offender's supervising community corrections program officer for direct placement under this chapter.

(5) An indication of whether the offender is a violent offender.

(d) Except as provided in IC 35-38-2.5-6(1), a community corrections program charged by a court with supervision of offenders and alleged offenders ordered to undergo direct placement under this chapter shall, at the beginning of a period of the direct placement, set any monitoring device (as defined in IC 35-38-2.5-3) and surveillance equipment to minimize the possibility that the offender or alleged offender may enter another residence or structure without the detection of a violation.

(e) A community corrections program charged by a court with supervision of offenders and alleged offenders ordered to undergo direct placement under this chapter shall:

(1) maintain or contract with a contract agency to maintain constant supervision of each offender and alleged offender as described in subsection (f); and

(2) have adequate staff available twenty-four (24) hours each day to respond if an offender or alleged offender violates the conditions of the direct placement order under this chapter.

A community corrections program may contract with a contract agency under this subsection only if the contract agency is able to comply with subsection (f).

(f) A contract agency:

(1) that maintains supervision of an offender or alleged offender under subsection (e)(1) shall follow the rules set by the local community corrections advisory board as a part of community corrections program direct placement written criteria and procedures; and

(2) shall notify the contracting community corrections

program within one (1) hour if the offender or alleged offender violates the conditions of the direct placement order. However, if a shorter notification time is required by the community corrections program, a community corrections advisory board must require a contract agency to comply with the shorter notification requirement for a direct placement order violation as if the offender were serving a direct placement order as part of a community corrections program.

(g) A community corrections program or contract agency charged by a court with supervision of an offender or alleged offender placed under direct placement under this chapter shall cause a local law enforcement agency or contract agency described in this section to be the initial agency contacted upon determining that the offender is in violation of a direct placement order.

SECTION 13. IC 35-38-2.6-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4.5. If a court places a person on home detention as part of a community corrections program, the placement must comply with **all applicable provisions in** IC 35-38-2.5. ~~including the supervision, monitoring, and unauthorized absence provisions of IC 35-38-2.5-10, IC 35-38-2.5-12, and IC 35-38-2.5-13.~~

SECTION 14. IC 35-38-2.6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) As used in this subsection, "home" means the actual living area of the temporary or permanent residence of a person. ~~The term does not include a:~~

~~(1) hospital;~~

~~(2) health care facility;~~

~~(3) hospice;~~

~~(4) group home;~~

~~(5) maternity home;~~

~~(6) residential treatment facility;~~

~~(7) boarding house; or~~

~~(8) public correctional facility.~~

A person who is placed in a community corrections program under this chapter is entitled to earn credit time under IC 35-50-6. ~~unless the person is placed in the person's home.~~

(b) A person who is placed in a community corrections program

under this chapter may be deprived of earned credit time as provided under rules adopted by the department of correction under IC 4-22-2.

SECTION 15. IC 35-50-6-1, AS AMENDED BY P.L.216-2007, SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) Except as provided in subsection (d) or (e), when a person imprisoned for a felony completes the person's fixed term of imprisonment, less the credit time the person has earned with respect to that term, the person shall be:

(1) released on parole for not more than twenty-four (24) months, as determined by the parole board, **unless:**

(A) the person is being placed on parole for the first time;

(B) the person is not being placed on parole for a conviction for a crime of violence (as defined in IC 35-50-1-2);

(C) the person is not a sex offender (as defined in IC 11-8-8-4.5); and

(D) in the six (6) months before being placed on parole, the person has not violated a rule of the department of correction or a rule of the penal facility in which the person is imprisoned;

(2) discharged upon a finding by the committing court that the person was assigned to a community transition program and may be discharged without the requirement of parole; or

(3) released to the committing court if the sentence included a period of probation.

A person described in subdivision (1) shall be released on parole for not more than twelve (12) months, as determined by the parole board.

(b) This subsection does not apply to a person described in subsection (d), (e), or (f). A person released on parole remains on parole from the date of release until the person's fixed term expires, unless the person's parole is revoked or the person is discharged from that term by the parole board. In any event, if the person's parole is not revoked, the parole board shall discharge the person after the period set under subsection (a) or the expiration of the person's fixed term, whichever is shorter.

(c) A person whose parole is revoked shall be imprisoned for all or part of the remainder of the person's fixed term. However, the person

shall again be released on parole when the person completes that remainder, less the credit time the person has earned since the revocation. The parole board may reinstate the person on parole at any time after the revocation.

(d) This subsection does not apply to a person who is a sexually violent predator under IC 35-38-1-7.5. When a sex offender (as defined in IC 11-8-8-4.5) completes the sex offender's fixed term of imprisonment, less credit time earned with respect to that term, the sex offender shall be placed on parole for not more than ten (10) years.

(e) This subsection applies to a person who:

(1) is a sexually violent predator under IC 35-38-1-7.5;

(2) has been convicted of murder (IC 35-42-1-1); or

(3) has been convicted of voluntary manslaughter (IC 35-42-1-3).

When a person described in this subsection completes the person's fixed term of imprisonment, less credit time earned with respect to that term, the person shall be placed on parole for the remainder of the person's life.

(f) This subsection applies to a parolee in another jurisdiction who is a person described in subsection (e) and whose parole supervision is transferred to Indiana from another jurisdiction. In accordance with IC 11-13-4-1(2) (Interstate Compact for Out-of-State Probationers and Parolees) and rules adopted under Article VII (d)(8) of the Interstate Compact for Adult Offender Supervision (IC 11-13-4.5), a parolee who is a person described in subsection (e) and whose parole supervision is transferred to Indiana is subject to the same conditions of parole as a person described in subsection (e) who was convicted in Indiana, including:

(1) lifetime parole (as described in subsection (e)); and

(2) the requirement that the person wear a monitoring device (as described in IC 35-38-2.5-3) that can transmit information twenty-four (24) hours each day regarding a person's precise location, if applicable.

(g) If a person being supervised on lifetime parole as described in subsection (e) is also required to be supervised by a court, a probation department, a community corrections program, a community transition program, or another similar program upon the person's release from imprisonment, the parole board may:

(1) supervise the person while the person is being supervised by

the other supervising agency; or

(2) permit the other supervising agency to exercise all or part of the parole board's supervisory responsibility during the period in which the other supervising agency is required to supervise the person, if supervision by the other supervising agency will be, in the opinion of the parole board:

(A) at least as stringent; and

(B) at least as effective;

as supervision by the parole board.

(h) The parole board is not required to supervise a person on lifetime parole during any period in which the person is imprisoned. However, upon the person's release from imprisonment, the parole board shall recommence its supervision of a person on lifetime parole.

(i) If a court orders the parole board to place a sexually violent predator whose sentence does not include a commitment to the department of correction on lifetime parole under IC 35-38-1-29, the parole board shall place the sexually violent predator on lifetime parole and supervise the person in the same manner in which the parole board supervises a sexually violent predator on lifetime parole whose sentence includes a commitment to the department of correction.

SECTION 16. IC 35-50-6-5, AS AMENDED BY P.L.80-2008, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) A person may, with respect to the same transaction, be deprived of any part of the credit time the person has earned for any of the following:

(1) A violation of one (1) or more rules of the department of correction.

(2) If the person is not committed to the department, a violation of one (1) or more rules of the penal facility in which the person is imprisoned.

(3) A violation of one (1) or more rules or conditions of a:

(A) community transition program; **or**

(B) community corrections program.

(4) If a court determines that a civil claim brought by the person in a state or an administrative court is frivolous, unreasonable, or groundless.

(5) If the person is a sex offender (as defined in IC 11-8-8-5) and refuses to register before being released from the department as

required under IC 11-8-8-7.

(6) If the person is a sex offender (as defined in IC 11-8-8-5) and refuses to participate in a sex offender treatment program specifically offered to the sex offender by the department of correction while the person is serving a period of incarceration with the department of correction.

However, the violation of a condition of parole or probation may not be the basis for deprivation. Whenever a person is deprived of credit time, the person may also be reassigned to Class II (if the person is not a credit restricted felon) or Class III.

(b) Before a person may be deprived of earned credit time, the person must be granted a hearing to determine the person's guilt or innocence and, if found guilty, whether deprivation of earned credit time is an appropriate disciplinary action for the violation. In connection with the hearing, the person is entitled to the procedural safeguards listed in section 4(e) of this chapter. The person may waive the person's right to the hearing.

(c) Any part of the credit time of which a person is deprived under this section may be restored.

SECTION 17. [EFFECTIVE UPON PASSAGE] **(a) The general assembly urges the legislative council to assign to the sentencing policy study committee the issue of whether a sentencing court should include the total costs of incarceration in its sentencing order.**

(b) This section expires December 31, 2010.

SECTION 18. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2010]: IC 11-12-2-9; IC 35-41-1-26.8.

SECTION 19. **An emergency is declared for this act.**

P.L.106-2010
[S.399. Approved March 24, 2010.]

AN ACT to amend the Indiana Code concerning motor vehicles.

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

SECTION 1. IC 9-22-3-7.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7.5. (a) A dealer licensed as a dealer under IC 9-23 on the date of receiving a title by sale or transfer shall secure an affidavit from the person who holds the certificate of title. The affidavit must state whether the vehicle is a flood damaged vehicle.

(b) The dealer shall file the affidavit secured under subsection (a) with the bureau upon receiving the affidavit and shall retain a copy of the affidavit with the records of the dealer.

(c) The bureau shall retain an affidavit regarding flood damage to the vehicle submitted to the bureau by a dealer under this section.

(d) Submission of a fraudulent affidavit under subsection (a) will subject the affiant to civil liability for all damages incurred by a dealer subsequent purchaser or transferee of the title, including reasonable attorney's fees and court costs **(including fees).**

SECTION 2. IC 9-24-15-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) The issues before the court in a proceeding under this chapter must be considered closed by denial of all matters at issue without the necessity of filing any further pleadings.

(b) Changes of venue from the judge or from the county must be granted a party under the law governing changes of venue in civil causes.

(c) A suspension or revocation under this title remains in full force and effect during the pendency of a cause under this chapter and until the issuance of the restricted driving permit by the bureau in accordance with the recommendation of the court.

(d) Records accumulated in the regular course of business and routinely on file in the offices of the prosecuting attorney of the county, sheriff of the county, and bureau may be admitted at the hearing on the petition. The records constitute prima facie evidence of the matters contained on the face of the petition in relation to the petitioner.

(e) Court costs **(including fees)** for the action on the petition must be charged against the petitioner. The prosecuting attorney of the county is not liable or taxable for any costs **(including fees)** in any action under this chapter.

SECTION 3. IC 9-30-10-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. (a) A petition for judicial review under this chapter must:

(1) be verified by the petitioner;

(2) state the petitioner's age, date of birth, place of residence, and driver's license identification number;

(3) state the grounds for relief and the relief sought;

(4) be filed in the county in which the petitioner resides; and

(5) be filed in a circuit, superior, county, or municipal court.

(b) A summons in an action under this chapter shall be issued and served in the manner provided for civil actions. The prosecuting attorney of the county in which the petition is filed and the bureau shall be served with the summons and a copy of the petition.

(c) In an action under this chapter, the petitioner must bear the burden of proof by a preponderance of the evidence to prevail.

(d) IC 9-30-3-15 and the rules of trial procedure apply in a proceeding under this chapter. However, a responsive pleading is not required when a petition for review has been filed, and a person is not entitled to a change of venue from the county.

(e) The prosecuting attorney of the county in which the petition is filed shall represent the state in relation with the bureau.

(f) Court costs **(including fees)** shall be assessed and paid by the petitioner at the time of filing in an amount equal to the costs **(including fees)** assessed in the enforcement of infractions. However, a petitioner who has the petitioner's driving privileges reinstated under section 8 of this chapter is entitled to a refund of all costs paid.

SECTION 4. IC 9-30-3-12, AS AMENDED BY P.L.101-2009, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 12. (a) If during any twelve (12) month period a

person has committed moving traffic violations for which the person has:

(1) been convicted of at least two (2) traffic misdemeanors;

(2) had at least two (2) traffic judgments entered against the person; or

(3) been convicted of at least one (1) traffic misdemeanor and has had at least one (1) traffic judgment entered against the person;

the bureau may require the person to attend and satisfactorily complete a defensive driving school program. The person shall pay all applicable fees required by the bureau.

(b) This subsection applies to an individual who holds a probationary license under IC 9-24-11-3 or IC 9-24-11-3.3 or is less than eighteen (18) years of age. An individual is required to attend and satisfactorily complete a defensive driving school program if either of the following occurs at least twice or if both of the following have occurred when the individual was less than eighteen (18) years of age:

(1) The individual has been convicted of a moving traffic offense (as defined in section 14(a) of this chapter), other than an offense that solely involves motor vehicle equipment.

(2) The individual has been the operator of a motor vehicle involved in an accident for which a report is required to be filed under IC 9-26-2.

The individual shall pay all applicable fees required by the bureau.

(c) The bureau may suspend the driving license of any person who:

(1) fails to attend a defensive driving school program; or

(2) fails to satisfactorily complete a defensive driving school program;

as required by this section.

(d) Notwithstanding IC 33-37-4-2, any court may suspend one-half (1/2) of each applicable court cost **(including fees)** for which a person is liable due to a traffic violation if the person enrolls in and completes a defensive driving school or a similar school conducted by an agency of the state or local government.

SECTION 5. IC 33-37-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. **(a)** The costs imposed by this article are for all proceedings in the action.

(b) The costs imposed by this article include fees.

SECTION 6. IC 34-6-2-30.5 IS ADDED TO THE INDIANA CODE

AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 30.5. "Costs", for purposes of this article, includes fees.**

SECTION 7. IC 34-28-5-4, AS AMENDED BY HEA 1154-2010, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) A judgment of up to ten thousand dollars ($10,000) may be entered for a violation constituting a Class A infraction.

(b) A judgment of up to one thousand dollars ($1,000) may be entered for a violation constituting a Class B infraction.

(c) **Except as provided in subsection (f),** a judgment of up to five hundred dollars ($500) may be entered for a violation constituting a Class C infraction.

(d) A judgment of up to twenty-five dollars ($25) may be entered for a violation constituting a Class D infraction.

(e) Subject to section 1(i) of this chapter, a judgment:

(1) up to the amount requested in the complaint; and

(2) not exceeding any limitation under IC 36-1-3-8;

may be entered for an ordinance violation.

~~(f) This subsection applies only to infraction judgments imposed in Marion County for traffic violations. In addition to any judgment otherwise entered under this section in Marion County for a traffic violation constituting an infraction, an additional judgment amount of not more than thirty-five dollars ($35) may be entered for the traffic violation. A judgment amount imposed under this subsection shall not be included in applying the maximum judgment amount under subsections (a) through (d).~~

(f) Except as provided in subsections (g) and (h), a person who has admitted to a moving violation constituting a Class C infraction, pleaded nolo contendere to a moving violation constituting a Class C infraction, or has been found by a court to have committed a moving violation constituting a Class C infraction may not be required to pay more than the following amounts for the violation:

(1) If, before the appearance date specified in the summons and complaint, the person mails or delivers an admission of the moving violation or a plea of nolo contendere to the moving violation, the person may not be required to pay any

amount, except court costs and a judgment that does not exceed thirty-five dollars and fifty cents ($35.50).

(2) If the person admits the moving violation or enters a plea of nolo contendere to the moving violation on the appearance date specified in the summons and complaint, the person may not be required to pay any amount, except court costs and a judgment that does not exceed thirty-five dollars and fifty cents ($35.50).

(3) If the person contests the moving violation in court and is found to have committed the moving violation, the person may not be required to pay any amount, except:

(A) court costs and a judgment that does not exceed thirty-five dollars and fifty cents ($35.50) if, in the five (5) years before the appearance date specified in the summons and complaint, the person was not found by a court in the county to have committed a moving violation;

(B) court costs and a judgment that does not exceed two hundred fifty dollars and fifty cents ($250.50) if, in the five (5) years before the appearance date specified in the summons and complaint, the person was found by a court in the county to have committed one (1) moving violation; and

(C) court costs and a judgment that does not exceed five hundred dollars ($500) if, in the five (5) years before the appearance date specified in the summons and complaint, the person was found by a court in the county to have committed two (2) or more moving violations.

In a proceeding under subdivision (3), the court may require the person to submit an affidavit or sworn testimony concerning whether, in the five (5) years before the appearance date specified in the summons and complaint, the person has been found by a court to have committed one (1) or more moving violations.

(g) The amounts described in subsection (f) are in addition to any amount that a person may be required to pay for attending a defensive driving school program.

(h) This subsection applies only to infraction judgments imposed in Marion County for traffic violations after December 31, 2010. Subsection (f) applies to an infraction judgment described in this subsection. However, a court shall impose a judgment of not less

than thirty-five dollars ($35) for an infraction judgment that is entered in Marion County. These funds shall be transferred to a dedicated fund in accordance with section 5 of this chapter.

SECTION 8. IC 34-28-5-5, AS AMENDED BY HEA 1154-2010, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011]: Sec. 5. (a) A defendant against whom a judgment is entered is liable for costs. Costs are part of the judgment and may not be suspended except under IC 9-30-3-12. Whenever a judgment is entered against a person for the commission of two (2) or more civil violations (infractions or ordinance violations), the court may waive the person's liability for costs for all but one (1) of the violations. This subsection does not apply to judgments entered for violations constituting:

(1) Class D infractions; or

(2) Class C infractions for unlawfully parking in a space reserved for a person with a physical disability under IC 5-16-9-5 or IC 5-16-9-8.

(b) If a judgment is entered:

(1) for a violation constituting:

(A) a Class D infraction; or

(B) a Class C infraction for unlawfully parking in a space reserved for a person with a physical disability under IC 5-16-9-5 or IC 5-16-9-8; or

(2) in favor of the defendant in any case;

the defendant is not liable for costs.

(c) Except for costs, and except as provided in subsection (e) and IC 9-21-5-11(e), the funds collected as judgments for violations of statutes defining infractions shall be deposited in the state general fund.

(d) A judgment may be entered against a defendant under this section or section 4 of this chapter upon a finding by the court that the defendant:

(1) violated:

(A) a statute defining an infraction; or

(B) an ordinance; or

(2) consents to entry of judgment for the plaintiff upon a pleading of nolo contendere for a moving traffic violation.

(e) The funds collected ~~under~~ **for an infraction judgment described in** section ~~4(f)~~ **4(h)** of this chapter ~~for infraction judgments~~

~~imposed in Marion County for traffic violations~~ shall be transferred to a dedicated county fund. The money in the dedicated county fund does not revert to the county general fund or state general fund and may be used, after appropriation by the county fiscal body, only for the following purposes:

(1) To pay compensation of commissioners appointed under IC 33-33-49.

(2) To pay costs of the county's guardian ad litem program.

SECTION 9. IC 35-33.5-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) A person whose communications are intercepted, disclosed, or used in violation of this article:

(1) has a civil cause of action against a person who intercepts, discloses, uses, or procures another person to intercept, disclose, or use a communication in violation of this article; and

(2) is entitled to recover from that person the following:

(A) The greater of:

(i) actual damages;

(ii) liquidated damages computed at a rate of one hundred dollars ($100) each day for each day of violation; or

(iii) one thousand dollars ($1,000).

(B) Court costs **(including fees).**

(C) Punitive damages, when determined to be appropriate by the court.

(D) Reasonable attorney's fees.

(b) A good faith reliance on a warrant or an extension issued under this article constitutes a complete defense to a civil action brought under this section.

(c) A person described in IC 34-46-4-1 has an affirmative defense under this section if the person was unaware that the communication was intercepted in violation of this article and:

(1) has not intercepted the communication;

(2) has not procured another person to intercept or disclose the communication; and

(3) has used a communication for the purpose of assisting the person to independently confirm information contained in a communication.

(d) An action under this section must be brought within two (2)

years after the date that the interception, disclosure, or use of a communication in violation of this article initially occurs whichever is later.

SECTION 10. IC 35-33-8.5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 11. Whenever any claim or claims to which any person is subrogated under section 10 of this chapter shall be sought to be enforced by any action or legal proceedings, the proper prosecuting attorney shall be made a party to the action or proceedings, to answer as to the fact of such payment and to protect the interests of the state in such action or proceedings: provided, that nothing in this section or section 10 of this chapter shall, in any event, create any liability or authorize judgment against the state, or render the state, or ~~such~~ **the** attorney, liable for any costs **(including fees)** in ~~such~~ **the** action or proceedings.

SECTION 11. IC 35-38-2-3, AS AMENDED BY P.L.48-2008, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) The court may revoke a person's probation if:

(1) the person has violated a condition of probation during the probationary period; and

(2) the petition to revoke probation is filed during the probationary period or before the earlier of the following:

(A) One (1) year after the termination of probation.

(B) Forty-five (45) days after the state receives notice of the violation.

(b) When a petition is filed charging a violation of a condition of probation, the court may:

(1) order a summons to be issued to the person to appear; or

(2) order a warrant for the person's arrest if there is a risk of the person's fleeing the jurisdiction or causing harm to others.

(c) The issuance of a summons or warrant tolls the period of probation until the final determination of the charge.

(d) The court shall conduct a hearing concerning the alleged violation. The court may admit the person to bail pending the hearing.

(e) The state must prove the violation by a preponderance of the evidence. The evidence shall be presented in open court. The person is entitled to confrontation, cross-examination, and representation by counsel.

(f) Probation may not be revoked for failure to comply with conditions of a sentence that imposes financial obligations on the person unless the person recklessly, knowingly, or intentionally fails to pay.

(g) If the court finds that the person has violated a condition at any time before termination of the period, and the petition to revoke is filed within the probationary period, the court may impose one (1) or more of the following sanctions:

(1) Continue the person on probation, with or without modifying or enlarging the conditions.

(2) Extend the person's probationary period for not more than one (1) year beyond the original probationary period.

(3) Order execution of all or part of the sentence that was suspended at the time of initial sentencing.

(h) If the court finds that the person has violated a condition of home detention at any time before termination of the period, and the petition to revoke probation is filed within the probationary period, the court shall:

(1) order one (1) or more sanctions as set forth in subsection (g); and

(2) provide credit for time served as set forth under IC 35-38-2.5-5.

(i) If the court finds that the person has violated a condition during any time before the termination of the period, and the petition is filed under subsection (a) after the probationary period has expired, the court may:

(1) reinstate the person's probationary period, with or without enlarging the conditions, if the sum of the length of the original probationary period and the reinstated probationary period does not exceed the length of the maximum sentence allowable for the offense that is the basis of the probation; or

(2) order execution of all or part of the sentence that was suspended at the time of the initial sentencing.

(j) If the court finds that the person has violated a condition of home detention during any time before termination of the period, and the petition is filed under subsection (a) after the probation period has expired, the court shall:

(1) order a sanction as set forth in subsection (i); and

(2) provide credit for time served as set forth under IC 35-38-2.5-5.

(k) A judgment revoking probation is a final appealable order.

(l) Failure to pay fines or costs **(including fees)** required as a condition of probation may not be the sole basis for commitment to the department of correction.

(m) Failure to pay fees or costs assessed against a person under IC 33-40-3-6, IC 33-37-2-3(e), or IC 35-33-7-6 is not grounds for revocation of probation.

SECTION 12. IC 35-38-3-2, AS AMENDED BY P.L.119-2008, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) When a convicted person is sentenced to imprisonment, the court shall, without delay, certify, under the seal of the court or through any electronic means approved by the department of correction, copies of the judgment of conviction and sentence to the receiving authority.

(b) The judgment must include:

(1) the crime for which the convicted person is adjudged guilty and the classification of the criminal offense;

(2) the period, if any, for which the person is rendered incapable of holding any office of trust or profit;

(3) the amount of the fines or costs **(including fees)** assessed, if any, whether or not the convicted person is indigent, and the method by which the fines or costs **(including fees)** are to be satisfied;

(4) the amount of credit, including credit time earned, for time spent in confinement before sentencing; and

(5) the amount to be credited toward payment of the fines or costs **(including fees)** for time spent in confinement before sentencing.

(c) The judgment may specify the degree of security recommended by the court.

(d) A term of imprisonment begins on the date sentence is imposed, unless execution of the sentence is stayed according to law.

SECTION 13. IC 35-38-4-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) An appeal to the supreme court or to the court of appeals from a judgment of conviction does not stay the execution of the sentence, unless:

(1) the punishment is to be death; or

(2) the judgment is for a fine and costs **(including fees)** only, in which case the execution of the sentence may be stayed by an order of the court.

(b) If the punishment is to be imprisonment and a fine and costs **(including fees),** the execution of the sentence as to the fine and costs **(including fees)** only may be stayed by the court.

(c) In the case of an appeal from a judgment in a capital case, the order of suspension must specify the day until which the execution of the sentence is stayed.

SECTION 14. IC 35-41-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) A corporation, limited liability company, partnership, or unincorporated association may be prosecuted for any offense; it may be convicted of an offense only if it is proved that the offense was committed by its agent acting within the scope of his authority.

(b) Recovery of a fine, costs **(including fees),** or forfeiture from a corporation, limited liability company, partnership, or unincorporated association is limited to the property of the corporation, limited liability company, partnership, or unincorporated association.

SECTION 15. IC 35-42-3.5-3, AS ADDED BY P.L.173-2006, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) If a person is convicted of an offense under section 1 of this chapter, the victim of the offense:

(1) has a civil cause of action against the person convicted of the offense; and

(2) may recover the following from the person in the civil action:

(A) Actual damages.

(B) Court costs **(including fees).**

(C) Punitive damages, when determined to be appropriate by the court.

(D) Reasonable attorney's fees.

(b) An action under this section must be brought not more than two (2) years after the date the person is convicted of the offense under section 1 of this chapter.

SECTION 16. IC 35-45-13-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8. (a) The court may, in addition to any other sentence imposed for a conviction under this chapter, order a person convicted under this chapter to make restitution

for the offense.

(b) A person or an entity that is the victim of an offense under this chapter may, in a civil action brought in the circuit or superior court in the county in which the person who committed the offense under this chapter was convicted, obtain appropriate relief, including preliminary and other equitable or declaratory relief, compensatory and punitive damages, reasonable investigation expense, court costs **(including fees),** and attorney's fees.

SECTION 17. IC 35-50-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) This section applies only:

(1) if the county in which a criminal proceeding was filed adopts an ordinance under IC 36-2-13-15; and

(2) to a person who is sentenced under this article for a felony or a misdemeanor.

(b) At the time the court imposes a sentence, the court may order the person to execute a reimbursement plan as directed by the court and make repayments under the plan to the county for the costs described in IC 36-2-13-15.

(c) The court shall fix an amount under this section that:

(1) may not exceed an amount the person can or will be able to pay;

(2) does not harm the person's ability to reasonably be self-supporting or to reasonably support any dependent of the person; and

(3) takes into consideration and gives priority to any other restitution, reparation, repayment, costs **(including fees),** fine, or child support obligations the person is required to pay.

(d) When an order is issued under this section, the issuing court shall send a certified copy of the order to the clerk of the circuit court in the county where the felony or misdemeanor charge was filed. Upon receiving the order, the clerk shall enter and index the order in the circuit court judgment docket in the manner prescribed by IC 33-32-3-2.

(e) An order under this section is not discharged:

(1) by the completion of a sentence imposed for a felony or misdemeanor; or

(2) by the liquidation of a person's estate by a receiver under

IC 32-30-5 (or IC 34-48-1, IC 34-48-4, IC 34-48-5, and IC 34-48-6 before their repeal).

SECTION 18. [EFFECTIVE JULY 1, 2010] **(a) The general assembly recognizes that HEA 1154-2010 amended IC 34-28-5-4 and IC 34-28-5-5, effective January 1, 2011. The general assembly intends to amend IC 34-28-5-4 and IC 34-28-5-5 as those sections are amended by this act.**

(b) This SECTION expires January 2, 2011.

P.L.107-2010
[H.1205. Approved March 24, 2010.]

AN ACT to amend the Indiana Code concerning pensions.

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

SECTION 1. IC 5-10.2-2-19 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 19. (a) The board of trustees of the public employees' retirement fund and the board of trustees of the Indiana state teachers' retirement fund shall appoint a common director for the funds.**

(b) The board of trustees of the public employees' retirement fund and the board of trustees of the Indiana state teachers' retirement fund shall fix the compensation of the director. Each fund shall pay fifty percent (50%) of the director's compensation.

SECTION 2. IC 5-10.3-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. The board shall do all of the following:

(1) **In conjunction with the board of trustees of the Indiana state teachers' retirement fund,** appoint a director. ~~subject to the approval of the governor.~~

(2) Appoint an actuary and employ or contract with employees,

auditors, technical experts, legal counsel, and other service providers as it considers necessary to transact the business of the fund, without the approval of any state officer.

(3) Fix the compensation of persons:

(A) appointed or employed by the board; or

(B) who contract with the board.

(4) Establish a general office in Indianapolis for board meetings and for administrative personnel.

(5) Provide for the installation in the general office of a complete system of books, accounts including reserve accounts, and records in order to give effect to all the requirements of this article and to assure the proper operation of the fund.

(6) Provide for a report at least annually, before June 1, to each member of the amount credited to him in the annuity savings account in each investment program under IC 5-10.2-2.

(7) With the advice of the actuary, adopt actuarial tables and compile data needed for actuarial studies which are necessary for the fund's operation.

(8) Act on applications for benefits and claims of error filed by members.

(9) Have the accounts of the fund audited annually by the state board of accounts.

(10) Publish for the members a synopsis of the fund's condition.

(11) Adopt a budget on a calendar year or fiscal year basis that is sufficient, as determined by the board, to perform the board's duties and, as appropriate and reasonable, draw upon fund assets to fund the budget.

(12) Expend money, including income from the fund's investments, for effectuating the fund's purposes.

(13) Establish personnel programs and policies for its employees.

(14) Submit a report of its activities each year to the governor, the pension management oversight commission, and the budget committee before November 1 of each year. The report under this subdivision must set forth a complete operating and financial statement covering its operations during the most recent fiscal year, including information on the following:

(A) Investment performance.

(B) Investment and administrative costs as a percentage of

assets under management.

(C) Investment asset allocation strategy.

(D) Member services.

(E) Member communications.

(15) Establish a code of ethics or decide to be under the jurisdiction and rules adopted by the state ethics commission.

(16) Cooperate with the board of trustees of the Indiana state teachers' retirement fund to the extent practicable and feasible in:

(A) administering and investing the assets of the funds administered by the board; and

(B) hiring investment managers, investment advisors, and other service providers.

SECTION 3. IC 5-10.4-3-5, AS ADDED BY P.L.2-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) ~~The governor~~ **In conjunction with the board of trustees of the public employees' retirement fund, the board** shall:

(1) appoint a director; ~~from the members. Subject only to the governor's approval, the board shall~~ **and**

(2) fix the salary of the director.

(b) The director **shall perform all of the following:**

(1) ~~shall~~ Maintain a record of the board's proceedings.

(2) ~~is~~ **Be** responsible for the safekeeping of the books and records of the fund. ~~and~~

(3) ~~shall~~ Give **a** bond as specified by the board.

SECTION 4. IC 5-10.4-3-6, AS ADDED BY P.L.2-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) A trustee shall give bond as specified periodically by the state board of finance.

(b) The board shall do all the following:

(1) Act on an application for benefits.

(2) Provide the necessary forms for administering the fund.

(3) Establish records and accounts, which:

(A) provide the necessary information for an actuary's examination; and

(B) are sanctioned by the state board of accounts.

(4) Maintain individual records for each member containing the member's:

(A) name;
(B) date of birth;
(C) age at beginning service;
(D) service record;
(E) address;
(F) contributions to the fund;
(G) amounts withdrawn; and
(H) benefits paid;

and other items considered necessary.

(5) Employ or contract with employees, auditors, technical experts, legal counsel, and other service providers as the board considers necessary to transact the business of the fund without the approval of any state officer, and fix the compensation of those persons.

(6) Make rules as required to administer the fund.

(7) Publish a summary of the fund's condition.

(8) Provide for a report for each member, at least annually before June 1, of the value of the amount credited to the member in the annuity savings account in each investment program under IC 5-10.2-2.

(9) Provide for the installation in the general office of a complete system of:

(A) books;
(B) accounts, including reserve accounts; and
(C) records;

to give effect to all the requirements of this article and to ensure the proper operation of the fund.

(10) Appoint an actuary.

(11) With the advice of the actuary, adopt actuarial tables and compile data needed for actuarial studies necessary for the fund's operation.

(12) Adopt a budget on a calendar year or fiscal year basis that is sufficient, as determined by the board, to perform the board's duties and, as appropriate and reasonable, draw upon fund assets to fund the budget.

(13) Expend money, including income from the fund's investments, for effectuating the fund's purposes.

(14) Establish personnel programs and policies for the employees

of the board.

(15) Submit a report of the board's activities to the governor, the pension management oversight commission, and the budget committee before November 1 of each year. The report under this subdivision shall set forth a complete operating and financial statement covering the board's operations during the most recent fiscal year, including information on the following:

(A) Investment performance.

(B) Investment and administrative costs as a percentage of assets under management.

(C) Investment asset allocation strategy.

(D) Member services.

(E) Member communications.

(16) Establish a code of ethics or decide to be under the jurisdiction and rules adopted by the state ethics commission.

(17) Cooperate with the board of trustees of the public employees' retirement fund to the extent practicable and feasible in:

(A) administering and investing the assets of the fund; and

(B) hiring investment managers, investment advisors, and other service providers.

SECTION 5. [EFFECTIVE JULY 1, 2010] **(a) As used in this SECTION, "fund" refers to the Indiana state teachers' retirement fund established by IC 5-10.4-2-1.**

(b) Not later than October 1, 2010, the fund shall pay the amount determined under subsection (c) to a member of the fund (or to a survivor or beneficiary of a member) who retired or was disabled on or before December 1, 2009, and who is entitled to receive a monthly benefit on July 1, 2010. The amount is not an increase in the pension portion of the monthly benefit.

(c) The amount paid under this SECTION to a member of the fund (or to a survivor or beneficiary of a member) who meets the requirements of subsection (b) is determined as follows:

If a Member's Creditable Service Is:	**The Amount Is:**
At least 5 years, but less than 10 years (only in the case of a member receiving disability retirement benefits)	**$125**

At least 10 years, but less than 20 years	**$235**
At least 20 years, but less than 30 years	**$325**
At least 30 years	**$400**

(d) The creditable service used to determine the amount paid to a member (or a survivor or beneficiary of a member) under this SECTION is the creditable service that was used to compute the member's retirement benefit under IC 5-10.2-4-4 except that partial years of creditable service may not be used to determine the amount paid under this SECTION.

(e) This SECTION expires January 1, 2011.

SECTION 6. [EFFECTIVE JULY 1, 2010] **(a) As used in this SECTION, "fund" refers to the public employees' retirement fund established by IC 5-10.3-2-1.**

(b) Not later than October 1, 2010, the fund shall pay the amount determined under subsection (c) to a member of the fund (or to a survivor or beneficiary of a member) who retired or was disabled on or before December 1, 2009, and who is entitled to receive a monthly benefit on July 1, 2010. The amount is not an increase in the pension portion of the monthly benefit.

(c) The amount paid under this SECTION to a member of the fund (or to a survivor or beneficiary of a member) who meets the requirements of subsection (b) is determined as follows:

If a Member's Creditable Service Is:	**The Amount Is:**
At least 5 years, but less than 10 years (only in the case of a member receiving disability retirement benefits)	**$125**
At least 10 years, but less than 20 years	**$235**
At least 20 years, but less than 30 years	**$325**
At least 30 years	**$400**

(d) The creditable service used to determine the amount paid to a member (or a survivor or beneficiary of a member) under this SECTION is the creditable service that was used to compute the member's retirement benefit under IC 5-10.2-4-4 except that partial years of creditable service may not be used to determine the amount paid under this SECTION.

(e) This SECTION expires January 1, 2011.

SECTION 7. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "trustee" has the meaning set forth in IC 10-12-1-10.**

(b) As used in this SECTION, "trust fund" has the meaning set forth in IC 10-12-1-11.

(c) Not later than July 1, 2010, the trustee shall pay from the trust fund to each employee beneficiary of the state police 1987 benefit system covered by IC 10-12-4 who:

(1) retired or was disabled after June 30, 1987, and before July 2, 2008; and

(2) is entitled to receive a monthly benefit as of June 1, 2010; an amount equal to one percent (1%) of the maximum basic annual pension amount payable to a retired state police employee in the grade of trooper who has completed twenty-five (25) years of service as of July 1, 2009, as calculated under IC 10-12-4-7.

(d) The amount paid under this SECTION is not an increase in the monthly pension amount of an employee beneficiary.

(e) This SECTION expires June 30, 2011.

SECTION 8. [EFFECTIVE UPON PASSAGE] **(a) The definitions in IC 5-10.2-1 apply throughout this SECTION.**

(b) Not later than July 1, 2010, the board of trustees of the public employees' retirement fund and the board of trustees of the Indiana state teachers' retirement fund shall appoint the initial common director for the fund under IC 5-10.2-2-19, as added by this act.

(c) This SECTION expires December 31, 2010.

SECTION 9. **An emergency is declared for this act.**

P.L.108-2010
[H.1271. Approved March 24, 2010.]

AN ACT to amend the Indiana Code concerning courts and court officers.

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

SECTION 1. IC 11-12-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) A community corrections advisory board shall:

(1) formulate:

(A) the community corrections plan and the application for financial aid required by section 4 of this chapter; and

(B) the forensic diversion program plan under IC 11-12-3.7;

(2) observe and coordinate community corrections programs in the county;

(3) make an annual report to the county fiscal body, county executive, or, in a county having a consolidated city, the city-county council, containing an evaluation of the effectiveness of programs receiving financial aid under this chapter and recommendations for improvement, modification, or discontinuance of these programs;

(4) ensure that programs receiving financial aid under this chapter comply with the standards adopted by the department under section 5 of this chapter; and

(5) recommend to the county executive or, in a county having a consolidated city, to the city-county council, the approval or disapproval of contracts with units of local government or nongovernmental agencies that desire to participate in the community corrections plan.

Before recommending approval of a contract, the advisory board must determine that a program is capable of meeting the standards adopted by the department under section 5 of this chapter.

(b) A community corrections advisory board shall do the following:

(1) Adopt bylaws for the conduct of its own business.

(2) Hold a regular meeting at least one (1) time every three (3) months and at other times as needed to conduct all necessary business. Dates of regular meetings shall be established at the first meeting of each year.

(3) Comply with the public meeting and notice requirements under IC 5-14-1.5.

(c) A community corrections advisory board may contain an office as designated by the county executive or, in a county having a consolidated city, by the city-county council.

(d) Notwithstanding subsection (a)(4), the standards applied to a court alcohol and drug program or a ~~drug~~ **problem solving** court that provides services to a forensic diversion program under IC 11-12-3.7 must be the standards established under IC 12-23-14 or ~~IC 12-23-14.5.~~ **IC 33-23-16.**

SECTION 2. IC 11-12-3.7-7, AS AMENDED BY P.L.192-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. (a) An advisory board shall develop a forensic diversion plan to provide an adult who:

(1) has a mental illness, an addictive disorder, or both a mental illness and an addictive disorder; and

(2) has been charged with a crime that is not a violent crime;

an opportunity, pre-conviction or post-conviction, to receive community treatment and other services addressing mental health and addictions instead of or in addition to incarceration.

(b) The forensic diversion plan may include any combination of the following program components:

(1) Pre-conviction diversion for adults with mental illness.

(2) Pre-conviction diversion for adults with addictive disorders.

(3) Post-conviction diversion for adults with mental illness.

(4) Post-conviction diversion for adults with addictive disorders.

(c) In developing a plan, the advisory board must consider the ability of existing programs and resources within the community, including:

(1) a ~~drug~~ **problem solving** court established under ~~IC 12-23-14.5,~~ **IC 33-23-16;**

(2) a court alcohol and drug program certified under

IC 12-23-14-13;

(3) treatment providers certified by the division of mental health and addiction under IC 12-23-1-6 or IC 12-21-2-3(a)(5); and

(4) other public and private agencies.

(d) Development of a forensic diversion program plan under this chapter or IC 11-12-2-3 does not require implementation of a forensic diversion program.

(e) The advisory board may:

(1) operate the program;

(2) contract with existing public or private agencies to operate one (1) or more components of the program; or

(3) take any combination of actions under subdivisions (1) or (2).

(f) Any treatment services provided under the forensic diversion program:

(1) for addictions must be provided by an entity that is certified by the division of mental health and addiction under IC 12-23-1-6; or

(2) for mental health must be provided by an entity that is:

(A) certified by the division of mental health and addiction under IC 12-21-2-3(a)(5);

(B) accredited by an accrediting body approved by the division of mental health and addiction; or

(C) licensed to provide mental health services under IC 25.

SECTION 3. IC 12-7-2-26.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 26.5. "Chemical test", for purposes of IC 12-23-14, ~~and IC 12-23-14.5,~~ means an analysis of an individual's:

(1) blood;

(2) breath;

(3) hair;

(4) sweat;

(5) saliva;

(6) urine; or

(7) other bodily substance;

to determine the presence of alcohol or a controlled substance (as defined in IC 35-48-1-9).

SECTION 4. IC 33-23-16 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2010]:

Chapter 16. Problem Solving Courts

Sec. 1. As used in this chapter, "board" refers to the board of directors of the judicial conference of Indiana under IC 33-38-9-4.

Sec. 2. As used in this chapter, "chemical test" means an analysis of an individual's:

(1) blood;

(2) breath;

(3) hair;

(4) sweat;

(5) saliva;

(6) urine; or

(7) other bodily substance;

to determine the presence of alcohol or a controlled substance (as defined in IC 35-48-1-9).

Sec. 3. As used in this chapter, "community court" means a problem solving court focused on addressing specific neighborhood or local criminal problems by:

(1) bringing together criminal justice professionals, local social programs, and intensive judicial monitoring; and

(2) linking eligible defendants or juveniles to individually tailored programs or services.

Sec. 4. As used in this chapter, "domestic violence court" means a problem solving court focused on the safety of the victim and the defendant's accountability by:

(1) bringing together criminal justice professionals, local social programs, and intensive judicial monitoring;

(2) linking victims to programs and services; and

(3) linking eligible defendants and juveniles to programs and services.

Sec. 5. (a) As used in this chapter, "drug court" means a problem solving court focused on addressing the substance abuse issues of defendants or juveniles in the criminal justice system by:

(1) bringing together substance abuse rehabilitation professionals, local social programs, and intensive judicial monitoring; and

(2) linking eligible defendants or juveniles to individually tailored programs or services.

(b) The term does not include an alcohol abuse deterrent

program established under IC 9-30-9.

Sec. 6. As used in this chapter, "family dependency drug court" means a problem solving court focused on supporting families that include a child who has been adjudicated a child in need of services and a parent, guardian, or other household member who has substance abuse problems by:

(1) bringing together substance abuse rehabilitation professionals, local social programs, and intensive judicial monitoring; and

(2) linking eligible parents, guardians, other household members, and juveniles to individually tailored programs or services.

Sec. 7. As used in this chapter, "mental health court" means a problem solving court focused on addressing the mental health needs of individuals in the court system by:

(1) bringing together mental health professionals, local social programs, and intensive judicial monitoring; and

(2) linking eligible individuals to individually tailored programs or services.

Sec. 8. As used in this chapter, "problem solving court" means a court providing a process for immediate and highly structured judicial intervention for eligible individuals that incorporates the following problem solving concepts:

(1) Enhanced information to improve decision making.

(2) Engaging the community to assist with problem solving.

(3) Collaboration with social service providers and other stakeholders.

(4) Linking participants with community services based on risk and needs.

(5) Participant accountability.

(6) Evaluating the effectiveness of operations continuously.

Sec. 9. As used in this chapter, "reentry court" means a problem solving court that is focused on the needs of individuals who reenter the community after a period of incarceration and that may provide a range of necessary reintegration services for eligible individuals, including the following:

(1) Supervision.

(2) Offender assessment.

(3) Judicial involvement.

(4) Case management and services.

(5) Program evaluation.

(6) Counseling.

(7) Rehabilitative care.

Sec. 10. As used in this chapter, "veterans' court" means a problem solving court focused on addressing the needs of veterans in the court system by:

(1) bringing together substance abuse rehabilitation professionals, mental health professionals, local social programs, and intensive judicial monitoring; and

(2) linking eligible veterans to individually tailored programs or services.

Sec. 11. A city court or county court may establish a problem solving court. A problem solving court established under this section may be a:

(1) drug court;

(2) mental health court;

(3) family dependency drug court;

(4) community court;

(5) reentry court;

(6) domestic violence court;

(7) veteran's court; or

(8) any other court certified as a problem solving court by the Indiana judicial center under section 17 of this chapter.

Sec. 12. (a) A problem solving court and accompanying services of the problem solving court are available only to individuals over whom the court that established the problem solving court has jurisdiction.

(b) A problem solving court with criminal jurisdiction that does not have felony jurisdiction may assume jurisdiction over an individual convicted of a felony from another court within the county if the problem solving court returns the case to the referring court for additional proceedings when:

(1) the individual has successfully completed the problem solving court's program; or

(2) the individual's participation in the problem solving court program is terminated by the problem solving court.

(c) The board shall adopt rules prescribing minimum eligibility criteria for an individual to participate in a problem solving court

program.

Sec. 13. An individual is eligible to participate in a problem solving court program only if:

(1) the individual meets all of the eligibility criteria established by the board under section 12 of this chapter;

(2) the judge of the problem solving court approves the admission of the individual to the problem solving court program; and

(3) the individual is referred to the problem solving court as a result of at least one (1) of the following:

(A) A condition of a pretrial diversion program authorized by statute or authorized by the judge of the problem solving court and the prosecuting attorney.

(B) The procedure described in section 14 of this chapter.

(C) The procedure described in section 15 of this chapter.

(D) A condition of probation.

(E) A condition of participation in a community corrections program under IC 11-12-1.

(F) A condition of participation in a forensic diversion program under IC 11-12-3.7.

(G) A condition of a community transition program under IC 11-10-11.5.

(H) A condition of parole.

(I) An order in a dispositional decree under IC 31-34-20 to participate in a family dependency drug court if the individual is a parent, guardian, or another household member of a child adjudicated a child in need of services.

(J) A condition of an informal adjustment program under IC 31-37-9.

(K) Involvement in:

(i) a child support proceeding;

(ii) a mental health commitment; or

(iii) a civil protection proceeding.

Sec. 14. (a) A problem solving court, without entering a judgment of conviction, may defer proceedings against an individual and place the individual in a problem solving court program under this section only if:

(1) the individual meets the conditions for eligibility set forth in section 13(1) and 13(2) of this chapter;

(2) the individual pleads guilty and consents to the referral; and

(3) the judge of the problem solving court, the prosecuting attorney, and the individual all agree upon certain conditions for the individual's participation in the problem solving court program and on the duration of those conditions.

(b) If the judge of a problem solving court determines, after a hearing, that:

(1) an individual participating in a problem solving court program under this section violated a condition established under subsection (a)(3); or

(2) the period during which the conditions established under subsection (a)(3) were in effect expired before the individual successfully completed each condition established by the problem solving court;

the problem solving court may terminate the individual's participation in the problem solving court program.

(c) When an individual's participation in a problem solving court program has been terminated under subsection (b), the problem solving court shall:

(1) enter a judgment of conviction against the individual;

(2) refer the individual's case back to the court that referred the case to the problem solving court to allow the referring court to enter a judgment of conviction against the individual; or

(3) otherwise dispose of the case.

(d) If an individual fulfills the conditions established by a problem solving court under subsection (a), the problem solving court shall:

(1) dismiss the charges against the individual;

(2) refer the individual's case back to the court that referred the case to the problem solving court to allow the referring court to dismiss the charges against the individual; or

(3) otherwise dispose of the case.

Sec. 15. (a) A problem solving court may place an individual in a problem solving court program under this section only if:

(1) the individual is convicted of an offense that is nonsuspendible and the individual meets the conditions for eligibility set forth in section 13(1) and 13(2) of this chapter;

and

(2) the judge of the problem solving court and the individual agree upon the conditions for the individual's participation in the problem solving court program.

(b) If the requirements of subsection (a) are met in the case of an individual, the court may:

(1) order the execution of the individual's nonsuspendible sentence and stay execution of all or part of the nonsuspendible part of the individual's sentence pending the individual's successful completion of a problem solving court program; and

(2) suspend all or part of the suspendible part of the individual's nonsuspendible sentence, place the individual on probation for the suspended part of the sentence, and require as a condition of probation that the person successfully complete a problem solving court program.

(c) If an individual fails to successfully complete and has been terminated from a problem solving court program under this section, the problem solving court may:

(1) if the person is serving the nonsuspendible part of the person's sentence:

(A) lift the stay of execution of the nonsuspendible part of the individual's sentence and order the individual to serve all or a part of the nonsuspendible sentence; or

(B) otherwise dispose of the case; or

(2) if the individual is serving the suspendible part of the individual's sentence:

(A) order all or a part of the individual's suspendible sentence to be executed; or

(B) otherwise dispose of the case.

(d) If an individual successfully completes a problem solving court program under this section, the problem solving court may:

(1) waive execution of the nonsuspendible part of the individual's sentence; or

(2) otherwise dispose of the case.

Sec. 16. (a) As used in this section, "effective date" means the date established by the board after which minimum employment qualifications are required for persons employed by a problem solving court program.

(b) A program established under this chapter is subject to the regulatory powers of the Indiana judicial center established under IC 33-38-9.

(c) The board:

(1) shall adopt rules establishing requirements and procedures for:

(A) initial certification;

(B) recertification; and

(C) decertification;

of problem solving courts; and

(2) may adopt rules concerning educational and occupational qualifications for problem solving court employees.

(d) If the board adopts qualifications for the employees of problem solving courts under subsection (c)(2):

(1) the board shall establish an effective date after which a person employed by a problem solving court must meet the qualifications; and

(2) the qualifications do not apply to a person who is employed:

(A) by a certified problem solving court before the effective date; or

(B) as administrative personnel.

Sec. 17. The Indiana judicial center shall:

(1) ensure that problem solving courts comply with the rules adopted under this chapter and applicable federal regulations;

(2) certify problem solving courts according to the requirements and procedures established under section 16(c)(1) of this chapter; and

(3) require, as a condition of operation, that each problem solving court created or funded under this chapter be certified according to the rules adopted by the board.

Sec. 18. The Indiana judicial center may:

(1) revoke the certification of a problem solving court if the Indiana judicial center determines that the problem solving court does not comply with rules adopted under this chapter and applicable federal regulations; and

(2) enter into agreements or contracts with:

(A) another department, authority, or agency of the state;

(B) another state;

(C) the federal government;

(D) a state educational institution or private postsecondary educational institution; or

(E) a public or private agency;

to implement this chapter.

Sec. 19. (a) A court shall notify the Indiana judicial center of the court's intention to establish a problem solving court during the planning for the establishment of the problem solving court.

(b) A court seeking to establish a problem solving court must submit a petition for approval to the Indiana judicial center in accordance with rules adopted by the board.

(c) A problem solving court may not:

(1) assess fees; or

(2) collect fees;

until the problem solving court is certified by the Indiana judicial center.

Sec. 20. (a) A problem solving court may provide the following services to individuals participating in problem solving court programs:

(1) Screening for eligibility and other appropriate services.

(2) Assessment.

(3) Education.

(4) Referral.

(5) Service coordination and case management.

(6) Supervision.

(7) Judicial involvement.

(8) Program evaluation.

(b) A problem solving court may not provide direct treatment or rehabilitation services unless:

(1) the problem solving court is certified by the division of mental health and addiction under IC 12-23-1-6;

(2) the problem solving court uses licensed medical professionals who provide mental health treatment to individuals with psychiatric disorders; and

(3) the court that establishes the problem solving court determines that existing community resources are inadequate to respond satisfactorily to the demand for services from the court.

Sec. 21. A court may take steps necessary to carry out the functions of the problem solving court, including the following:

(1) Hiring employees as needed to perform the required functions of the problem solving court.

(2) Establishing policies and procedures for the problem solving court.

(3) Adopting local court rules as necessary for the problem solving court.

Sec. 22. (a) The costs of a problem solving court may, at the discretion of the fiscal body of the unit, be supplemented out of the city general fund or the county general fund and may be further supplemented by payment from the user fee fund upon appropriation made under IC 33-37-8.

(b) A problem solving court may apply for and receive the following:

(1) Gifts, bequests, and donations from private sources.

(2) Grants and contract money from governmental sources.

(3) Other forms of financial assistance approved by the court to supplement the problem solving court's budget.

Sec. 23. (a) The board shall adopt rules establishing a range of fees that may be assessed to an eligible individual to receive problem solving court services under this chapter.

(b) A court that has established a problem solving court under this chapter may require eligible individuals to pay a fee for problem solving court services.

(c) If a fee is required under subsection (b), the court shall adopt by local court rule a schedule of fees, consistent with the rules adopted by the board under subsection (a), to be assessed for problem solving court services.

(d) The clerk of the court shall collect fees under this section. The clerk shall transmit the fees within thirty (30) days after the fees are collected, for deposit by the auditor or fiscal officer in the appropriate user fee fund established under IC 33-37-8.

(e) Fees collected under this section must be used only to fund problem solving court services under this chapter.

Sec. 24. (a) A problem solving court may require an individual participating in a problem solving court program to undergo chemical testing.

(b) An individual may be liable for the cost of any or all

chemical tests required by the problem solving court under subsection (a), including:

(1) laboratory expenses; and

(2) problem solving court expenses.

(c) A laboratory that performs a chemical test as ordered by a problem solving court under subsection (a) shall report the results to the problem solving court.

Sec. 25. (a) The Indiana judicial center problem solving court fund is established for the purpose of administering, certifying, and supporting problem solving court programs under this chapter. The fund shall be administered by the Indiana judicial center.

(b) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(c) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 26. An individual does not have a right to participate in a problem solving court program under this chapter.

Sec. 27. The coordinator and members of the professional and administrative staff of a problem solving court who perform duties in good faith under this chapter are immune from civil liability for:

(1) acts or omissions in providing services under this chapter; and

(2) the reasonable exercise of discretion in determining eligibility to participate in a problem solving court program.

SECTION 5. IC 33-37-5-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 24. (a) This section applies to a proceeding in a ~~drug court~~ **problem solving court** under ~~IC 12-23-14.5.~~ **IC 33-23-16.**

(b) The clerk shall collect a ~~drug~~ **problem solving** court fee if payment of the fee is ordered by a ~~drug~~ **problem solving** court under ~~IC 12-23-14.5-12.~~ **IC 33-23-16-23.**

SECTION 6. IC 33-38-9-9, AS AMENDED BY P.L.60-2006, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9. The Indiana judicial center shall administer the following:

(1) The alcohol and drug services program under IC 12-23-14. ~~and the certification of drug courts under IC 12-23-14.5.~~

(2) The certification of ~~recntry~~ **problem solving** courts under ~~IC 33-23-14.~~ **IC 33-23-16.**

SECTION 7. IC 33-38-9-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 10. (a) Beginning in 2011, the Indiana judicial center shall submit a report to the commission on courts established by IC 33-23-10-1 by July 1 of each year concerning the status of problem solving courts. Each report must contain the following information:**

(1) The number of problem solving courts certified by the Indiana judicial center.

(2) The number of courts that have notified the Indiana judicial center of their intention to establish a problem solving court.

(3) The number of each type of problem solving court, as set forth in IC 33-23-16-11, that have been established, including courts certified under IC 33-23-16-11(8).

(4) The success rates of problem solving courts with specific examples of successes and failures.

(5) Legislative suggestions to improve the certification or operation of problem solving courts.

(b) The first report required by this section must be submitted not later than July 1, 2011.

(c) This section expires June 30, 2014.

SECTION 8. IC 34-6-2-80, AS AMENDED BY P.L.2-2007, SECTION 370, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 80. "Mental health service provider", for purposes of IC 34-30-16, means any of the following:

(1) A physician licensed under IC 25-22.5.

(2) A hospital licensed under IC 16-21.

(3) A private institution licensed under IC 12-25.

(4) A psychologist licensed under IC 25-33.

(5) A school psychologist licensed by the Indiana state board of education.

(6) A postsecondary educational institution counseling center under the direction of a licensed psychologist, physician, or mental health professional.

(7) A registered nurse or licensed practical nurse licensed under

IC 25-23.

(8) A clinical social worker licensed under IC 25-23.6-5-2.

(9) A partnership, a limited liability company, a corporation, or a professional corporation (as defined in IC 23-1.5-1-10) whose partners, members, or shareholders are mental health service providers described in subdivisions (1) through (6).

(10) A community mental health center (as defined in IC 12-7-2-38).

(11) A program for the treatment, care, or rehabilitation of alcohol abusers or drug abusers that is:

(A) certified under IC 12-23-1-6; or

(B) created and funded under IC 12-23-14 or ~~IC 12-23-14.5.~~ **IC 33-23-16.**

(12) A state institution (as defined in IC 12-7-2-184).

(13) A managed care provider (as defined in IC 12-7-2-127(b)).

SECTION 9. IC 34-30-2-140.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 140.7. IC 33-23-16-27 (Concerning the coordinator and members of the professional and administrative staff of a problem solving court).**

SECTION 10. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2010]: IC 12-7-2-73.5; IC 12-23-14.5; IC 33-23-14; IC 33-37-5-29; IC 34-30-2-47.7; IC 34-30-2-140.5.

SECTION 11. [EFFECTIVE JULY 1, 2010] **(a) A drug court established under IC 12-23-14.5 (before its repeal by this act) or a reentry court established under IC 33-23-14 (before its repeal by this act) shall be certified by the Indiana judicial center as a problem solving court in accordance with IC 33-23-16, as added by this act.**

(b) All funds in the Indiana judicial center drug court fund (IC 12-23-14.5-13) (before its repeal by this act) on June 30, 2010, are transferred to the Indiana judicial center problem solving court fund (IC 33-23-16-25), as added by this act, on July 1, 2010.

(c) This SECTION expires July 1, 2011.

P.L.109-2010
[H.1367. Approved March 24, 2010.]

AN ACT to amend the Indiana Code concerning education.

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

SECTION 1. IC 5-10-8-6.7, AS ADDED BY P.L.182-2009(ss), SECTION 515, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.7. (a) As used in this section, "state employee health plan" means a:

(1) self-insurance program established under section 7(b) of this chapter; or

(2) contract with a prepaid health care delivery plan entered into under section 7(c) of this chapter;

to provide group health coverage for state employees.

(b) The state personnel department shall allow a school corporation to elect to provide coverage of health care services for active and retired employees of the school corporation under any state employee health plan. If a school corporation elects to provide coverage of health care services for active and retired employees of the school corporation under a state employee health plan, it must provide coverage for all active and retired employees of the school corporation under the state employee health plan (other than any employees covered by an Indiana comprehensive health insurance association policy **or individuals who retire from the school corporation before July 1, 2010)** if coverage was provided for these employees under the prior policies.

(c) The following apply if a school corporation elects to provide coverage for active and retired employees of the school corporation under subsection (b):

(1) The state shall not pay any part of the cost of the coverage.

(2) The coverage provided to an active or retired school corporation employee under this section must be the same as the coverage provided to an active or retired state employee under the

state employee health plan.

(3) Notwithstanding sections 2.2 and 2.6 of this chapter:

(A) the school corporation shall pay for the coverage provided to an active or retired school corporation employee under this section an amount not more than the amount paid by the state for coverage provided to an active or retired state employee under the state employee health plan; and

(B) an active or retired school corporation employee shall pay for the coverage provided to the active or retired school corporation employee under this section an amount that is at least equal to the amount paid by an active or retired state employee for coverage provided to the active or retired state employee under the state employee health plan.

However, this subdivision does not apply to contractual commitments made by a school corporation to individuals who retire before July 1, 2010.

(4) The school corporation shall pay any administrative costs of the school corporation's participation in the state employee health plan.

(5) The school corporation shall provide the coverage elected under subsection (b) for a period of at least three (3) years beginning on the date the coverage of the school corporation employees under the state employee health plan begins.

(d) The state personnel department shall provide an enrollment period at least every thirty (30) days for a school corporation that elects to provide coverage under subsection (b).

(e) The state personnel department may adopt rules under IC 4-22-2 to implement this section.

(f) Neither this section nor a school corporation's election to participate in a state employee health plan as provided in this section impairs the rights of an exclusive representative of the certificated or noncertificated employees of the school corporation to collectively bargain all matters related to school employee health insurance programs and benefits.

SECTION 2. IC 20-32-8-9, AS ADDED BY P.L.1-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9. If the governing body decides to establish a remediation program or preventive remediation program under this chapter, the

governing body must:

(1) give priority in the allocation of resources to students who are deficient in reading skills in grades 1 through grade 3;

~~(1)~~ **(2)** subject to section 10 of this chapter, determine the type of program that best fits the needs of the students of the school corporation; and

~~(2)~~ **(3)** adopt guidelines for:

(A) procedures for determining student eligibility for a program; and

(B) implementation of the program.

SECTION 3. IC 20-32-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

Chapter 8.5. Reading Deficiency Remediation Plan

Sec. 1. The state superintendent, in conjunction with the state board, shall develop a plan to improve reading skills of students and implement appropriate remediation techniques for students.

Sec. 2. The plan required by this chapter must include the following:

(1) Reading skill standards for grade 1 through grade 3.

(2) An emphasis on a method for making determinant evaluations by grade 3 that might require remedial action for the student, including retention as a last resort, after other methods of remediation have been evaluated or used, or both, if reading skills are below the standard. Appropriate consultation with parents or guardians must be part of the plan.

(3) The fiscal impact of each component of the plan, if any. In determining whether a component has a fiscal impact, consideration shall be given to whether the component will increase costs to the state or a school corporation or require the state or school corporation to reallocate resources.

Sec. 3. (a) For any component of the plan that has a fiscal impact, the state superintendent shall present those components of the plan to the general assembly:

(1) for consideration of the plan; and

(2) to determine the amount of any appropriation in the state budget for the state fiscal years beginning in 2011 and 2012

that is necessary to carry out the plan.

(b) To the extent a component of the plan does not have a fiscal impact, that component of the plan may be implemented after the state board holds a public hearing at which there is full public discussion and review by the state board.

Sec. 4. The state board may adopt rules under IC 4-22-2 to carry out this chapter.

SECTION 4. IC 20-40-16 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

Chapter 16. School Fund Transfers

Sec. 1. As used in this chapter, "capital projects fund levy", with respect to a particular school corporation, means the maximum levy that the school corporation could impose in calendar year 2010 under IC 20-46-6-5 for the school corporation's capital projects fund.

Sec. 2. As used in this chapter, "wage and salary increase" means an increase in wages or salaries payable for the same or a similar position after subtracting, for all employees, any of the following received by the individual:

(1) An increase in wages or salary of an employee from an increment under IC 20-28-9-2 bargained for under a written contract signed before March 1, 2010, that has not expired.

(2) An increase in wages or salary of an employee from an increment under IC 20-28-9-2 that does not exceed the increment permitted under an increment schedule in effect during the previous year under a written contract in effect for the previous year or under the status quo provisions in IC 20-29-9-16. However, the increment may not exceed two percent (2%) of the wages and salary of the employee in the previous year.

(3) An increase in wages or salary that is paid to an employee as a result of the employee completing licensing requirements.

(4) Health care benefit cost increases for the same or an equivalent plan that are shared by the employee and the employer in the same proportion as health care benefit costs are shared in the previous year.

Sec. 3. No funds transferred under this chapter may be used to increase an increment schedule from an existing increment

agreement or to increase fringe benefits except those under section 2(4) of this chapter.

Sec. 4. Notwithstanding any other law except this chapter, a school corporation may transfer money during the 2010-2011 school year to one (1) or more funds held by the school corporation for the purposes of the funds from any fund held by the school corporation other than a debt service fund or a racial balance fund.

Sec. 5. A transfer is not permitted under this chapter after June 30, 2011.

Sec. 6. Money transferred under this chapter must be used to preserve and protect instructional programs.

Sec. 7. A transfer under this chapter must be authorized by a resolution adopted by the school corporation's governing body.

Sec. 8. The total amount that may be transferred under section 4 of this chapter in the 2010-2011 school year may not exceed an amount equal to:

(1) five percent (5%) of the school corporation's capital projects fund levy, if the governing body does not comply with section 9 of this chapter; and

(2) ten percent (10%) of the school corporation's capital projects fund levy, if the governing body complies with section 9 of this chapter.

Sec. 9. To authorize, in the aggregate, transfers exceeding five percent (5%) of the school corporation's capital projects fund levy, a governing body must include in the authorizing resolution a certification that the employees of the school corporation will not receive a general wage and salary increase for the 2010-2011 school year. The resolution must be submitted to the department.

Sec. 10. If a transfer is made under this chapter during the 2010-2011 school year, the school corporation shall file a report with the department before October 1, 2011. The report must include the following:

(1) The purpose of the transfer.

(2) The funds involved in the transfer.

(3) The amount transferred between the funds.

(4) The impact of the transfer to the programs that are supported by the fund from which the transfer was made.

Sec. 11. Notwithstanding any other law (including IC 20-28-9),

the governing body of a school corporation and an exclusive representative may mutually agree to forego any wage or salary increases that would otherwise be required under IC 20-28-9 for the 2010-2011 school year.

Sec. 12. This chapter expires October 1, 2011.

SECTION 5. IC 20-42.5-4 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 4. Emergency Measures to Maintain Instruction and Learning Programs

Sec. 1. A school corporation shall take the actions necessary and desirable to preserve and protect instructional programs, including class sizes, curriculum, or program offerings.

SECTION 6. IC 20-43-12-2, AS ADDED BY P.L.182-2009(ss), SECTION 343, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: Sec. 2. The amount of the restoration grant to which a school corporation is entitled in ~~a~~ **calendar year 2010 and calendar** year **2011** is equal to the result determined under the following formula:

STEP ONE: Determine the school corporation's basic tuition support for the current year.

STEP TWO: Determine the amount of the ~~basic tuition support to which the~~ school ~~corporation~~ **corporation's previous year revenue that** ~~would have been entitled~~ **applies to the determination of the school corporation's basic tuition support** for the ~~2009~~ **2010 calendar** year. ~~if the school corporation's basic tuition support had been computed using the formula for computing basic tuition support for 2009 as that formula existed after the amendments made by P.L.146-2008.~~

STEP THREE: Determine the sum of:

(A) the STEP TWO amount divided by the school corporation's 2009 ADM; plus

(B) twenty-five dollars ($25) for 2010 and seventy-five dollars ($75) for 2011.

STEP FOUR: Determine the result of:

(A) the school corporation's STEP THREE amount; multiplied by

(B) the school corporation's ADM for the current year.

STEP FIVE: Determine the sum of:

(A) the STEP TWO amount divided by the school corporation's 2009 ADM; minus

(B) twenty-five dollars ($25) for 2010 and seventy-five dollars ($75) for 2011.

STEP SIX: Determine the result of:

(A) the school corporation's STEP FIVE amount; multiplied by

(B) the school corporation's ADM for the current year.

STEP SEVEN: Determine the lesser of:

(A) the STEP FOUR amount; or

(B) the STEP TWO amount.

STEP EIGHT: Determine the greater of:

(A) the STEP SEVEN amount; or

(B) the STEP SIX amount.

STEP NINE: Determine the greater of zero (0) or the result of:

(A) the STEP EIGHT amount; minus

(B) the STEP ONE amount.

STEP TEN: Determine the sum of the current year basic tuition support plus the STEP NINE amount.

STEP ELEVEN: Determine the result of the following:

(A) For 2010, divide the STEP TEN amount by the STEP TWO amount.

(B) For 2011, divide:

(i) the STEP TEN amount; by

(ii) the sum of the prior year basic tuition support plus the prior year STEP NINE amount.

STEP TWELVE: Determine the greater of:

(A) zero (0); or

(B) the result of:

(i) ninety-seven hundredths (0.97); minus

(ii) the STEP ELEVEN amount.

STEP THIRTEEN: Determine the lesser of:

(A) two hundred twenty dollars ($220) for 2010 and three hundred fifty dollars ($350) for 2011; or

(B) the result of:

(i) the STEP TWELVE amount multiplied by nine thousand five hundred (9,500), in 2010; and

(ii) the STEP TWELVE amount multiplied by twelve

thousand (12,000), in 2011.

STEP FOURTEEN: Determine the product of:

(A) the STEP THIRTEEN amount; multiplied by

(B) the school corporation's current ADM.

STEP FIFTEEN: Determine the sum of:

(A) the STEP NINE amount; plus

(B) the STEP FOURTEEN amount.

SECTION 7. [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)] **The changes, by the amendment of IC 20-43-12-2 by this act, to the amount of state tuition support to which a school corporation is entitled under IC 20-43 in 2010 and 2011 shall be applied before making any reduction in the amount under IC 4-13-2-18, IC 20-43-2-3, and IC 20-43-2-4, or another law.**

SECTION 8. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding the effective date of IC 20-40-16, as added by this act, a governing body (as defined in IC 20-18-2-5) of a school corporation (as defined in IC 20-18-2-16(a)) may adopt, before July 1, 2010, the resolutions necessary to implement IC 20-40-16, as added by this act. A resolution described in this subsection is effective to the same extent as if it were adopted after June 30, 2010.**

(b) This SECTION expires October 1, 2011.

SECTION 9. **An emergency is declared for this act.**

P.L.110-2010
[S.23. Approved March 25, 2010.]

AN ACT to amend the Indiana Code concerning state and local administration and to make an appropriation.

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

SECTION 1. IC 4-3-22-16, AS ADDED BY P.L.137-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 16. (a) As used in this section, "coordinator" means the following:

(1) A small business regulatory coordinator (as defined in IC 4-22-2-28.1(b)).

(2) An ombudsman designated under IC 13-28-3-2.

(3) An ombudsman designated under IC 5-28-17-5.

(b) Each coordinator may review proposed legislation affecting the small businesses that are regulated by the agency or that would be regulated by the agency under proposed legislation. A coordinator may submit to the OMB written comments concerning the impact of proposed legislation on small business.

(c) The OMB may review comments received under subsection (b). The OMB may amend the comments. After completing its review, the OMB shall transmit the comments to the legislative services agency for posting on the general assembly's web site. The comments submitted under this section shall be transmitted electronically in a format suitable for posting to the general assembly's web site as determined by the legislative services agency.

SECTION 2. IC 4-22-2-28, AS AMENDED BY P.L.123-2006, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 28. (a) ~~As used in~~ **The following definitions apply throughout** this section:

(1) "Ombudsman" refers to the small business ombudsman designated under IC 5-28-17-5.

(2) "Total estimated economic impact" means the annual economic impact of a rule on all regulated persons after the rule is fully implemented under subsection (g).

(b) The ~~Indiana economic development corporation established by IC 5-28-3-1.~~ **ombudsman:**

(1) shall review a proposed rule that:

(A) imposes requirements or costs on small businesses (as defined in IC 4-22-2.1-4); and

(B) is referred to the ~~corporation~~ **ombudsman** by an agency under IC 4-22-2.1-5(c); and

(2) may review a proposed rule that imposes requirements or costs on businesses other than small businesses (as defined in IC 4-22-2.1-4).

After conducting a review under subdivision (1) or (2), the ~~corporation~~ **ombudsman** may suggest alternatives to reduce any regulatory burden that the proposed rule imposes on small businesses or other businesses. The agency that intends to adopt the proposed rule shall respond in writing to the ~~Indiana economic development corporation~~ **ombudsman** concerning the ~~corporation's~~ **ombudsman's** comments or suggested alternatives before adopting the proposed rule under section 29 of this chapter.

(c) Subject to subsection (f) and not later than fifty (50) days before the public hearing required by section 26 of this chapter, an agency shall submit a proposed rule to the office of management and budget for a review under subsection (d) if the agency proposing the rule determines that the rule will have a total estimated economic impact greater than five hundred thousand dollars ($500,000) on all regulated persons. In determining the total estimated economic impact under this subsection, the agency shall consider any applicable information submitted by the regulated persons affected by the rule. To assist the office of management and budget in preparing the fiscal impact statement required by subsection (d), the agency shall submit, along with the proposed rule, the data used and assumptions made by the agency in determining the total estimated economic impact of the rule.

(d) Except as provided in subsection (e), before the adoption of the rule, and not more than forty-five (45) days after receiving a proposed rule under subsection (c), the office of management and budget shall prepare, using the data and assumptions provided by the agency

proposing the rule, along with any other data or information available to the office of management and budget, a fiscal impact statement concerning the effect that compliance with the proposed rule will have on:

(1) the state; and

(2) all persons regulated by the proposed rule.

The fiscal impact statement must contain the total estimated economic impact of the proposed rule and a determination concerning the extent to which the proposed rule creates an unfunded mandate on a state agency or political subdivision. The fiscal impact statement is a public document. The office of management and budget shall make the fiscal impact statement available to interested parties upon request. The agency proposing the rule shall consider the fiscal impact statement as part of the rulemaking process and shall provide the office of management and budget with the information necessary to prepare the fiscal impact statement, including any economic impact statement prepared by the agency under IC 4-22-2.1-5. The office of management and budget may also receive and consider applicable information from the regulated persons affected by the rule in preparation of the fiscal impact statement.

(e) With respect to a proposed rule subject to IC 13-14-9:

(1) the department of environmental management shall give written notice to the office of management and budget of the proposed date of preliminary adoption of the proposed rule not less than sixty-six (66) days before that date; and

(2) the office of management and budget shall prepare the fiscal impact statement referred to in subsection (d) not later than twenty-one (21) days before the proposed date of preliminary adoption of the proposed rule.

(f) In determining whether a proposed rule has a total estimated economic impact greater than five hundred thousand dollars ($500,000), the agency proposing the rule shall consider the impact of the rule on any regulated person that already complies with the standards imposed by the rule on a voluntary basis.

(g) For purposes of this section, a rule is fully implemented after:

(1) the conclusion of any phase-in period during which:

(A) the rule is gradually made to apply to certain regulated persons; or

(B) the costs of the rule are gradually implemented; and

(2) the rule applies to all regulated persons that will be affected by the rule.

In determining the total estimated economic impact of a proposed rule under this section, the agency proposing the rule shall consider the annual economic impact on all regulated persons beginning with the first twelve (12) month period after the rule is fully implemented. The agency may use actual or forecasted data and may consider the actual and anticipated effects of inflation and deflation. The agency shall describe any assumptions made and any data used in determining the total estimated economic impact of a rule under this section.

SECTION 3. IC 4-22-2-28.1, AS AMENDED BY P.L.123-2006, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 28.1. (a) This section applies to the following:

(1) A rule for which the notice required by section 23 of this chapter or by IC 13-14-9-3 is published by an agency or by any of the boards (as defined in IC 13-11-2-18).

(2) A rule for which:

(A) the notice required by IC 13-14-9-3; or

(B) an appropriate later notice for circumstances described in subsection (g);

is published by the department of environmental management after June 30, 2006.

(b) As used in this section, "coordinator" refers to the small business regulatory coordinator assigned to a rule by an agency under subsection (e).

(c) As used in this section, "director" refers to the director or other administrative head of an agency.

(d) As used in this section, "small business" ~~means any person, firm, corporation, limited liability company, partnership, or association that:~~

~~(1) is actively engaged in business in Indiana and maintains its principal place of business in Indiana;~~

~~(2) is independently owned and operated;~~

~~(3) employs not more than one hundred (100) full-time employees; and~~

~~(4) has gross annual receipts of not more than five million dollars ($5,000,000).~~ **has the meaning set forth in IC 5-28-2-6.**

(e) For each rulemaking action and rule finally adopted as a result

of a rulemaking action by an agency under this chapter, the agency shall assign one (1) staff person to serve as the agency's small business regulatory coordinator with respect to the proposed or adopted rule. The agency shall assign a staff person to a rule under this subsection based on the person's knowledge of, or experience with, the subject matter of the rule. A staff person may serve as the coordinator for more than one (1) rule proposed or adopted by the agency if the person is qualified by knowledge or experience with respect to each rule. Subject to subsection (f):

(1) in the case of a proposed rule, the notice of intent to adopt the rule published under section 23 of this chapter; or

(2) in the case of a rule proposed by the department of environmental management or any of the boards (as defined in IC 13-11-2-18), the notice published under IC 13-14-9-3 or the findings published under IC 13-14-9-8(b)(1), whichever applies;

must include the name, address, telephone number, and electronic mail address of the small business coordinator for the proposed rule, **the name, address, telephone number, and electronic mail address of the small business ombudsman designated under IC 5-28-17-5, and a statement of the resources available to regulated entities through the small business ombudsman designated under IC 5-28-17-5.** Subject to subsection (f), in the case of a rule finally adopted, the final rule, as published in the Indiana Register, must include the name, address, telephone number, and electronic mail address of the coordinator.

(f) This subsection applies to a rule adopted by the department of environmental management or any of the boards (as defined in IC 13-11-2-18) under IC 13-14-9. Subject to subsection (g), the department shall include in the notice provided under IC 13-14-9-3 or in the findings published under IC 13-14-9-8(b)(1), whichever applies, and in the publication of the final rule in the Indiana Register:

(1) a statement of the resources available to regulated entities through the technical and compliance assistance program established under IC 13-28-3

(2) the name, address, telephone number, and electronic mail address of the ombudsman designated under IC 13-28-3-2;

(3) if applicable, a statement of:

(A) the resources available to small businesses through the

small business stationary source technical assistance program established under IC 13-28-5; and

(B) the name, address, telephone number, and electronic mail address of the ombudsman for small business designated under IC 13-28-5-2(3); and

(4) the information required by subsection (e).

The coordinator assigned to the rule under subsection (e) shall work with the ombudsman described in subdivision (2) and the office of voluntary compliance established by IC 13-28-1-1 to coordinate the provision of services required under subsection (h) and IC 13-28-3. If applicable, the coordinator assigned to the rule under subsection (e) shall work with the ombudsman referred to in subdivision (3)(B) to coordinate the provision of services required under subsection (h) and IC 13-28-5.

(g) If the notice provided under IC 13-14-9-3 is not published as allowed by IC 13-14-9-7, the department of environmental management shall publish in the notice provided under IC 13-14-9-4 the information that subsection (f) would otherwise require to be published in the notice under IC 13-14-9-3. If neither the notice under IC 13-14-9-3 nor the notice under IC 13-14-9-4 is published as allowed by IC 13-14-9-8, the department of environmental management shall publish in the commissioner's written findings under IC 13-14-9-8(b) the information that subsection (f) would otherwise require to be published in the notice under IC 13-14-9-3.

(h) The coordinator assigned to a rule under subsection (e) shall serve as a liaison between the agency and any small business subject to regulation under the rule. The coordinator shall provide guidance to small businesses affected by the rule on the following:

(1) Any requirements imposed by the rule, including any reporting, record keeping, or accounting requirements.

(2) How the agency determines or measures compliance with the rule, including any deadlines for action by regulated entities.

(3) Any penalties, sanctions, or fines imposed for noncompliance with the rule.

(4) Any other concerns of small businesses with respect to the rule, including the agency's application or enforcement of the rule in particular situations. However, in the case of a rule adopted under IC 13-14-9, the coordinator assigned to the rule may refer

a small business with concerns about the application or enforcement of the rule in a particular situation to the ombudsman designated under IC 13-28-3-2 or, if applicable, under IC 13-28-5-2(3).

(i) The coordinator assigned to a rule under subsection (e) shall provide guidance under this section in response to questions and concerns expressed by small businesses affected by the rule. The coordinator may also issue general guidelines or informational pamphlets to assist small businesses in complying with the rule. Any guidelines or informational pamphlets issued under this subsection shall be made available:

(1) for public inspection and copying at the offices of the agency under IC 5-14-3; and

(2) electronically through electronic gateway access.

(j) The coordinator assigned to a rule under subsection (e) shall keep a record of all comments, questions, and complaints received from small businesses with respect to the rule. The coordinator shall deliver the record, along with any accompanying documents submitted by small businesses, to the director:

(1) not later than ten (10) days after the date on which the rule is submitted to the publisher under section 35 of this chapter; and

(2) before July 15 of each year during which the rule remains in effect.

The coordinator and the director shall keep confidential any information concerning a small business to the extent that the information is exempt from public disclosure under IC 5-14-3-4.

(k) Not later than November 1 of each year, the director shall:

(1) compile the records received from all of the agency's coordinators under subsection (j);

(2) prepare a report that sets forth:

(A) the number of comments, complaints, and questions received by the agency from small businesses during the most recent state fiscal year, categorized by the subject matter of the rules involved;

(B) the number of complaints or questions reported under clause (A) that were resolved to the satisfaction of the agency and the small businesses involved;

(C) the total number of staff serving as coordinators under this

section during the most recent state fiscal year;

(D) the agency's costs in complying with this section during the most recent state fiscal year; and

(E) the projected budget required by the agency to comply with this section during the current state fiscal year; and

(3) deliver the report to the legislative council in an electronic format under IC 5-14-6 and to the ~~Indiana economic development corporation established~~ **small business ombudsman designated** by ~~IC 5-28-3.~~ **IC 5-28-17-5.**

SECTION 4. IC 4-22-2.1-4, AS ADDED BY P.L.188-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. As used in this chapter, "small business" ~~means any person, firm, corporation, limited liability company, partnership, or association that:~~

~~(1) is actively engaged in business in Indiana and maintains its principal place of business in Indiana;~~

~~(2) is independently owned and operated;~~

~~(3) employs one hundred (100) or fewer full-time employees; and~~

~~(4) has gross annual receipts of five million dollars ($5,000,000) or less.~~ **has the meaning set forth in IC 5-28-2-6.**

SECTION 5. IC 4-22-2.1-5, AS AMENDED BY P.L.123-2006, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) If an agency intends to adopt a rule under IC 4-22-2 that will impose requirements or costs on small businesses, the agency shall prepare a statement that describes the annual economic impact of a rule on all small businesses after the rule is fully implemented as described in subsection (b). The statement required by this section must include the following:

(1) An estimate of the number of small businesses, classified by industry sector, that will be subject to the proposed rule.

(2) An estimate of the average annual reporting, record keeping, and other administrative costs that small businesses will incur to comply with the proposed rule.

(3) An estimate of the total annual economic impact that compliance with the proposed rule will have on all small businesses subject to the rule. The agency is not required to submit the proposed rule to the office of management and budget for a fiscal analysis under IC 4-22-2-28 unless the estimated

economic impact of the rule is greater than five hundred thousand dollars ($500,000) on all regulated entities, as set forth in IC 4-22-2-28.

(4) A statement justifying any requirement or cost that is:

(A) imposed on small businesses by the rule; and

(B) not expressly required by:

(i) the statute authorizing the agency to adopt the rule; or

(ii) any other state or federal law.

The statement required by this subdivision must include a reference to any data, studies, or analyses relied upon by the agency in determining that the imposition of the requirement or cost is necessary.

(5) A regulatory flexibility analysis that considers any less intrusive or less costly alternative methods of achieving the purpose of the proposed rule. The analysis under this subdivision must consider the following methods of minimizing the economic impact of the proposed rule on small businesses:

(A) The establishment of less stringent compliance or reporting requirements for small businesses.

(B) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses.

(C) The consolidation or simplification of compliance or reporting requirements for small businesses.

(D) The establishment of performance standards for small businesses instead of design or operational standards imposed on other regulated entities by the rule.

(E) The exemption of small businesses from part or all of the requirements or costs imposed by the rule.

If the agency has made a preliminary determination not to implement one (1) or more of the alternative methods considered, the agency shall include a statement explaining the agency's reasons for the determination, including a reference to any data, studies, or analyses relied upon by the agency in making the determination.

(b) For purposes of subsection (a), a proposed rule will be fully implemented with respect to small businesses after:

(1) the conclusion of any phase-in period during which:

(A) the rule is gradually made to apply to small businesses or

certain types of small businesses; or

(B) the costs of the rule are gradually implemented; and

(2) the rule applies to all small businesses that will be affected by the rule.

In determining the total annual economic impact of the rule under subsection (a)(3), the agency shall consider the annual economic impact on all small businesses beginning with the first twelve (12) month period after the rule is fully implemented. The agency may use actual or forecasted data and may consider the actual and anticipated effects of inflation and deflation. The agency shall describe any assumptions made and any data used in determining the total annual economic impact of a rule under subsection (a)(3).

(c) The agency shall:

(1) publish the statement required under subsection (a) in the Indiana Register as required by IC 4-22-2-24; and

(2) deliver a copy of the statement, along with the proposed rule, to the ~~Indiana economic development corporation~~ **small business ombudsman designated under IC 5-28-17-5** not later than the date of publication under subdivision (1).

SECTION 6. IC 5-28-2-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5.5. "Job creation incentive" means a tax credit, tax deduction, grant, loan, or loan guarantee that a statute authorizes the state or an instrumentality of the state (excluding any political subdivision or other unit of local government) to award or approve for the purpose of encouraging the creation of new jobs in Indiana.**

SECTION 7. IC 5-28-6-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 4. The board, the corporation, and the officers and employees of the board or corporation, when developing job creation incentive packages to locate companies in Indiana, shall give weight, in the awarding or approving of job creation incentives, to business entities that locate in an area where individuals have become dislocated workers due to a permanent closure of a plant or facility or a significant reduction in the workforce.**

SECTION 8. IC 5-28-6-5 IS ADDED TO THE INDIANA CODE

AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5. The corporation shall designate an employee to serve as a compliance officer whose duties are to determine and report to the corporation whether each person that receives a job creation incentive granted by the corporation or another agency or instrumentality of the state (excluding any political subdivision or other unit of local government) complies with the terms and conditions of the person's incentive agreement.**

SECTION 9. IC 5-28-6-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6. The corporation shall require an applicant for a job creation incentive to be granted by the corporation after March 31, 2010, to enter into an agreement with the corporation as a condition of receiving the incentive. Subject to IC 5-28-28-8, the agreement must include the following requirements:**

(1) The number of individuals that are expected to be employed by the applicant.

(2) A requirement that the applicant will file with the compliance officer an annual compliance report detailing the applicant's compliance, or progress toward compliance, with subdivision (1).

(3) A provision that notifies the applicant that the applicant is subject to a determination of the corporation under this subdivision. The corporation, after a finding that the applicant is employing fewer individuals than the applicant agreed to employ under subdivision (1), subject to any confidentiality laws, shall hold a hearing to determine if the applicant shall be required to pay back to the state a part of the incentive granted to the applicant under the agreement. The penalty imposed must be a matter of public record and must reflect in a fair and balanced way the amount of incentive received.

(4) A requirement that the applicant will pay back to the state the incentive that has been received by the applicant if the applicant moves or closes.

SECTION 10. IC 5-28-6-7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE

UPON PASSAGE]: **Sec. 7. The corporation shall establish a program to ensure that dislocated workers from Indiana are given consideration for jobs created by business entities receiving a job creation incentive from the state or an instrumentality of the state (excluding any political subdivision or other unit of local government). The corporation, including its board, shall condition job creation incentives awarded or approved by the corporation after March 31, 2010, on compliance with the corporation's program under this section. This requirement must be included in an agreement entered into by the recipient and the corporation.**

SECTION 11. IC 5-28-17-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 5. The board shall designate an employee in the small business division to be the small business ombudsman. The small business ombudsman serves at the pleasure of the board. The corporation shall provide staff support to the small business ombudsman. The small business ombudsman shall carry out the following duties:**

(1) Work with state agencies to permit increased enforcement flexibility and the ability to grant common sense exemptions for first time offenders of state rules and policies, including, notwithstanding any other law, policies for the compromise of interest and penalties related to a listed tax (as defined in IC 6-8.1-1-1) and other taxes and fees collected or administered by a state agency.

(2) Work with state agencies to seek ways to consolidate forms and eliminate the duplication of paperwork, harmonize data, and coordinate due dates.

(3) Coordinate with OMB (as defined in IC 4-3-22-3) to perform cost benefit analyses.

(4) Work with state agencies to monitor any outdated, ineffective, or overly burdensome information requests from state agencies to small businesses.

(5) Carry out the duties specified under IC 4-22-2-28 and IC 4-22-2.1 to review proposed rules and participate in rulemaking actions that affect small businesses.

(6) Coordinate with the ombudsmen designated under IC 13-28-3-2 and the office of voluntary compliance established by IC 13-28-1-1 to coordinate the provision of

services required under IC 4-22-2-28.1 and IC 13-28-3.

(7) Prepare written and electronic information for periodic distribution to small businesses describing the small business services provided by coordinators (as defined in IC 4-3-22-16) and work with the office of technology established by IC 4-13.1-2-1 to place information concerning the availability of these services on state Internet web sites that the small business ombudsman or a state agency determines are most likely to be visited by small business owners and managers.

(8) Assist in training agency coordinators that will be assigned to rules under IC 4-22-2-28.1(e).

(9) Investigate and attempt to resolve any matter regarding compliance by a small business with a law, rule, or policy administered by a state agency, either as a party to a proceeding or as a mediator.

State agencies shall cooperate with the small business ombudsman to carry out the purpose of this section. The department of state revenue and the department of workforce development shall establish a program to distribute the information described in subdivision (7) to small businesses that are required to file returns or information with these state agencies.

SECTION 12. IC 5-28-28-7, AS ADDED BY P.L.222-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) If, in the course of compiling information to complete a report required by section 5 of this chapter **or upon the receipt of any other information concerning noncompliance with the terms and conditions of an incentive granted by the corporation,** the corporation determines that a recipient of ~~a grant or loan~~ **an incentive awarded by the corporation** has not complied with the representations that the recipient made in obtaining the ~~grant or loan,~~ **incentive,** the corporation shall **take the actions required under subsections (b) and (d).**

(b) If the incentive is a grant or loan awarded before April 1, 2010, the corporation shall determine:

(1) whether there was good cause for the noncompliance; and

(2) whether the recipient is in default.

~~(b)~~ If in the judgment of the corporation there is not good cause for any noncompliance discovered under subsection (a), the corporation may

seek a refund or arrange other methods of reclaiming the grant or loan from the recipient. If the corporation does seek a refund or otherwise reclaims a grant or loan from the recipient under this section, the amount of the refund or reclaimed part must be in proportion to the degree of default by the recipient as determined by the corporation.

(c) Subsection (b) does not apply to a recipient of a grant or loan if:

(1) the grant or loan has been disbursed on a pro rata basis; and

(2) in the judgment of the corporation, the recipient's performance in relation to the recipient's performance goals equals or exceeds the ratio of the amount of the recipient's actual benefit from the grant or loan to the total amount of the grant or loan originally contemplated in the grant or loan award.

(d) If the incentive granted by the corporation was awarded after March 31, 2010, the corporation shall seek a refund or arrange other methods of reclaiming the value of the incentive granted by the corporation from the recipient. The amount of the refund or reclaimed part must be in proportion to the degree of default by the recipient as determined by the corporation.

SECTION 13. IC 5-28-28-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 8. (a) As used in this section, "recapture provision" means language that requires the recipient of an incentive to repay some part of the incentive.**

(b) The corporation may waive or modify a recapture provision of this article or an agreement made with a person to whom the corporation has awarded an incentive if the corporation determines that the recipient of an incentive awarded by the corporation has failed to meet a condition for receiving the incentive because of circumstances beyond the recipient's control, including:

(1) natural disaster;

(2) unforeseen industry trends;

(3) lack of available labor force;

(4) loss of a major supplier or market; or

(5) another circumstance beyond the recipient's control, as determined by the corporation.

SECTION 14. IC 5-28-28-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE

UPON PASSAGE]: **Sec. 9. (a) Beginning in 2010, the economic incentives and compliance report required under section 5 of this chapter must include an annual report containing summary statistics on the effectiveness of and compliance with all incentives granted by the corporation. The report required by this section must describe:**

(1) the overall compliance with the terms and conditions of incentives provided; and

(2) penalties imposed for failure to comply with the terms and conditions of incentives provided.

The report must also be submitted to the general assembly in an electronic format under IC 5-14-6.

(b) Upon request, the corporation shall make available:

(1) information specifying each person's compliance with its incentive agreement and any incentive that had to be reduced or paid back as a result of noncompliance with an incentive agreement;

(2) information stating, for each incentive recipient, the total incentive provided for each job created, computed from the date the incentive is granted through June 30 of the year of the report;

(3) information concerning all waivers or modifications under section 8 of this chapter; and

(4) information describing all hearings and determinations under IC 5-28-6-6.

SECTION 15. IC 6-3.1-13-15.5, AS AMENDED BY P.L.137-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: Sec. 15.5. This section applies to an application proposing to retain existing jobs in Indiana. After receipt of an application, the corporation may enter into an agreement with the applicant for a credit under this chapter if the corporation determines that all the following conditions exist:

(1) The applicant's project will retain existing jobs performed by the employees of the applicant in Indiana.

(2) The applicant is engaged in research and development, manufacturing, or business services, according to the NAICS Manual of the United States Office of Management and Budget.

(3) The average compensation (including benefits) provided to the

applicant's employees during the applicant's previous fiscal year exceeds the greater of the following:

(A) If there is more than one (1) business in the same NAICS industry sector as the applicant's business in the county in which the applicant's business is located, the average compensation paid during that same period to all employees working in that NAICS industry sector in that county multiplied by one hundred five percent (105%).

(B) If there is more than one (1) business in the same NAICS industry sector as the applicant's business in Indiana, the average compensation paid during that same period to all employees working in that NAICS industry sector throughout Indiana multiplied by one hundred five percent (105%).

(C) The compensation for that same period corresponding to the federal minimum wage multiplied by two hundred percent (200%).

(4) **For taxable years beginning before January 1, 2010,** the applicant employs at least thirty-five (35) employees in Indiana.

(5) The applicant has prepared a plan for the use of the credits under this chapter for:

(A) investment in facility improvements or equipment and machinery upgrades, repairs, or retrofits; or

(B) other direct business related investments, including but not limited to training.

(6) Receiving the tax credit is a major factor in the applicant's decision to go forward with the project, and not receiving the tax credit will increase the likelihood of the applicant reducing jobs in Indiana.

(7) Awarding the tax credit will result in an overall positive fiscal impact to the state, as certified by the budget agency using the best available data.

(8) The applicant's business and project are economically sound and will benefit the people of Indiana by increasing or maintaining opportunities for employment and strengthening the economy of Indiana.

(9) The communities affected by the potential reduction in jobs or relocation of jobs to another site outside Indiana have committed local incentives with respect to the retention of jobs in an amount

determined by the corporation. For purposes of this subdivision, local incentives include, but are not limited to, cash grants, tax abatements, infrastructure improvements, investment in facility rehabilitation, construction, and training investments.

(10) The credit is not prohibited by section 16 of this chapter.

(11) If the business is located in a community revitalization enhancement district established under IC 36-7-13 or a certified technology park established under IC 36-7-32, the legislative body of the political subdivision establishing the district or park has adopted an ordinance recommending the granting of a credit amount that is at least equal to the credit amount provided in the agreement.

SECTION 16. IC 6-3.1-33 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]:

Chapter 33. New Employer Tax Credit

Sec. 1. This chapter applies to taxable years beginning after December 31, 2009.

Sec. 2. As used in this chapter, "department" refers to:

(1) the department of state revenue; or

(2) the department of insurance;

whichever agency is obligated to administer the tax against which a credit is applied.

Sec. 3. As used in the chapter, "IEDC" refers to the Indiana economic development corporation.

Sec. 4. As used in this chapter, "new Indiana business" means a corporation or pass through entity that after December 31, 2009:

(1) either:

(A) locates or relocates the operations of a business enterprise in Indiana;

(B) incorporates or otherwise first organizes in Indiana; or

(C) expands the entity's operation of a business enterprise in Indiana;

(2) employs at least ten (10) qualified employees;

(3) makes an application to the IEDC under this chapter; and

(4) is issued a certificate of approval by the IEDC under this chapter.

Sec. 5. As used in this chapter, "qualified employee" means an

individual who is:

(1) a full-time employee (as defined in IC 6-3.1-13-4) first hired by a new Indiana business during the period specified in section 10(b) of this chapter;

(2) a resident of Indiana; and

(3) not more than a five percent (5%) shareholder, partner, member, or owner of the applicant;

as determined by the IEDC. The term does not include rehired individuals, individuals employed to fill positions vacated as the result of a layoff that occurred during the previous two (2) years, or individuals employed in the same business operation before and after a change of business ownership.

Sec. 6. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

(1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);

(2) IC 27-1-18-2 (the insurance premiums tax); and

(3) IC 6-5.5 (the financial institutions tax);

as computed before the application of any other credit against state tax liability to which the taxpayer is entitled, including any credit described in IC 6-3.1-1-2.

Sec. 7. As used in this chapter, "tax credit" refers to a tax credit granted by this chapter before the application of any other tax credits to which a new Indiana business might be eligible.

Sec. 8. As used in this chapter, "taxpayer" means a person, corporation, partnership, or other entity that has any state tax liability.

Sec. 9. (a) Before January 1, 2013, a corporation or pass through entity that desires to qualify for the credit provided by this chapter may submit an application to the IEDC in the form and manner specified by the IEDC.

(b) The IEDC shall promptly review all applications submitted to the IEDC under this chapter.

(c) If the IEDC determines that an applicant for the tax credit provided by this chapter has furnished reliable evidence, as determined by the IEDC, that the applicant is reasonably capable of:

(1) employing at least ten (10) qualified employees in each month of the period specified in section 10(b) of this chapter during the taxable year; and

(2) meeting the requirements for the tax credit provided by this chapter;

the IEDC may issue the applicant a certificate of approval. If a certificate of approval is issued, the IEDC shall provide a copy of the certificate to the department.

(d) In making a determination of whether an applicant is qualified for a credit under this chapter, the IEDC may consider the following:

(1) The applicant's employment levels in previous years to determine if the applicant is hiring new individuals or rehiring individuals.

(2) Whether the applicant is the successor to part or all of the assets or business operations of another corporation or pass through entity that conducted business operations in Indiana in the same line of business to determine if the applicant is a new Indiana business under this chapter.

(e) If the IEDC determines that the applicant will not employ at least ten (10) qualified employees in each month of the period specified in section 10(b) of this chapter during the taxable year, is not a new Indiana business, or does not meet, or is unlikely to meet, any other requirements for the tax credit provided by this chapter, the IEDC shall notify the applicant of the IEDC's determination.

(f) The IEDC may not issue a certificate of approval under this chapter after December 31, 2012.

Sec. 10. (a) Each taxable year, a new Indiana business is entitled to a tax credit against the new Indiana business's state tax liability for the taxable year in the amount specified by section 11 of this chapter.

(b) The tax credit provided by subsection (a) is based on a period not exceeding twenty-four (24) consecutive calendar months during which the new Indiana business meets the conditions of this chapter. The period begins on the first day of the month following the month in which the new Indiana business is approved by the IEDC under this chapter. The period ends on the final day of:

(1) the twenty-fourth consecutive calendar month that the new Indiana business complies with the conditions of this chapter; or

(2) the month in which the new Indiana business ceases to comply with the conditions of this chapter;

whichever month occurs first.

Sec. 11. For each taxable year, the amount of the tax credit under this chapter is equal to ten percent (10%) of the wages paid by the new Indiana business to qualified employees during the calendar months of the period specified in section 10(b) of this chapter that are included in the taxable year.

Sec. 12. If a pass through entity does not have state tax liability against which a tax credit may be applied, a shareholder, partner, fiduciary, or member of the pass through entity is entitled to a tax credit equal to:

(1) the tax credit to which the pass through entity would be entitled under this chapter for the taxable year if the pass through entity were a taxpayer; multiplied by

(2) the percentage of the pass through entity's distributive income to which the shareholder, partner, fiduciary, or member is entitled.

Sec. 13. (a) If the credit provided by this chapter exceeds the taxpayer's state tax liability for the taxable year for which the credit is first claimed, the excess may be carried forward to succeeding taxable years and used as a credit against the taxpayer's state tax liability during those taxable years. Each time that the credit is carried forward to a succeeding taxable year, the credit is to be reduced by the amount that was used as a credit during the immediately preceding taxable year. The credit provided by this chapter may be carried forward and applied to succeeding taxable years for not more than nine (9) taxable years following the first year the credit is claimed.

(b) A taxpayer is not entitled to any carryback or refund of any unused credit.

Sec. 14. To qualify for a tax credit under this chapter, a taxpayer must claim the tax credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department. The taxpayer shall maintain the records required by the department for the period specified by the department to substantiate the taxpayer's eligibility for the credit.

SECTION 17. IC 12-7-2-64, AS AMENDED BY P.L.146-2008, SECTION 379, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 64. "Director" refers to the following:

(1) With respect to a particular division, the director of the division.

(2) With respect to a particular state institution, the director who has administrative control of and responsibility for the state institution.

(3) For purposes of IC 12-8-12.5, the term refers to the director of the division of family resources.

~~(3)~~ **(4)** For purposes of IC 12-10-15, the term refers to the director of the division of aging.

~~(4)~~ **(5)** For purposes of IC 12-25, the term refers to the director of the division of mental health and addiction.

~~(5)~~ **(6)** For purposes of IC 12-26, the term:

(A) refers to the director who has administrative control of and responsibility for the appropriate state institution; and

(B) includes the director's designee.

~~(6)~~ **(7)** If subdivisions (1) through ~~(5)~~ **(6)** do not apply, the term refers to the director of any of the divisions.

SECTION 18. IC 12-7-2-146 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 146. "Program" refers to the following:

(1) For purposes of IC 12-8-12.5, the meaning set forth in IC 12-8-12.5-1.

~~(1)~~ **(2)** For purposes of IC 12-10-7, the adult guardianship services program established by IC 12-10-7-5.

~~(2)~~ **(3)** For purposes of IC 12-10-10, the meaning set forth in IC 12-10-10-5.

~~(3)~~ **(4)** For purposes of IC 12-17.6, the meaning set forth in IC 12-17.6-1-5.

SECTION 19. IC 12-7-2-184.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 184.3. "State match", for purposes of IC 12-8-12.5, means funding that counts toward the state's maintenance of effort under TANF (45 CFR 265) to obtain the maximum reimbursement available to the state from the TANF emergency fund under Division B, Title II, Subtitle B of the federal American Recovery and Reinvestment Act of 2009.**

SECTION 20. IC 12-7-2-189.7, AS ADDED BY P.L.180-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

UPON PASSAGE]: Sec. 189.7. "TANF", for purposes of IC 12-20 **and IC 12-8-12.5,** refers to the federal Temporary Assistance for Needy Families program under 42 U.S.C. 601 et seq.

SECTION 21. IC 12-8-12.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 12.5. TANF Emergency Funds

Sec. 1. As used in this chapter, "program" refers to the Helping Indiana Restart Employment (HIRE) program established under IC 22-4.1-17.

Sec. 2. The secretary may apply to the United States Department of Health and Human Services for maximum reimbursement available to the state from the TANF emergency fund under Division B, Title II, Subtitle B of the federal American Recovery and Reinvestment Act of 2009 as follows:

(1) Nonrecurrent short term benefits, including qualified state expenditures for the following:

(A) The earned income tax credit under IC 6-3.1-21.

(B) The domestic violence prevention and treatment fund under IC 5-2-6.7.

(C) Food bank allocations as supplemented by third party expenditures that qualify as the state's maintenance of effort under TANF (45 CFR 263.2(e)).

(D) Any other qualified state expenditure.

(2) The HIRE program.

Sec. 3. Upon approval of an application described in section 2 of this chapter, the secretary may administer funding of the HIRE program.

Sec. 4. For each state fiscal year that an appropriation is made by P.L.182-2009(ss) for TANF, augmentation is allowed (as defined in P.L.182-2009(ss), SECTION 1) from any state fund that is not restricted by federal law or the terms of a contract, grant, loan, gift, or bequest solely for the purpose of providing state match money for the program. The amount of augmentation from a fund other than the state general fund that is not expended or unencumbered before the end of a state fiscal year reverts to and is available for the purposes of the fund from which the augmentation came. Notwithstanding IC 4-9.1-1-7, IC 4-12-1-12, IC 4-13-2-23, or another law, the money may not be transferred,

assigned, or reassigned for another purpose.

Sec. 5. On or before June 30, 2010, and at the end of each quarter thereafter, the secretary shall submit to the budget committee a report describing the secretary's progress in implementing this chapter, including a description of the sources of state match money used for the program.

Sec. 6. This chapter expires December 31, 2013.

SECTION 22. IC 22-2-15 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

Chapter 15. Guidelines and Procedures for Investigating Questions and Complaints Concerning Employee Classification

Sec. 1. As used in this chapter, "department" refers to the department of labor created by IC 22-1-1-1.

Sec. 2. (a) The department shall develop guidelines and procedures for investigating questions and complaints concerning employee classification and a plan for implementation of those guidelines and procedures.

(b) The guidelines and procedures must do the following:

(1) Cover at least the following:

(A) Who is eligible to file a complaint. The guidelines and procedures must allow any aggrieved person to file a complaint and must indicate what evidence is needed to initiate an investigation.

(B) Applicable and appropriate penalties, taking into consideration:

(i) the financial impact on both employers and misclassified employees; and

(ii) whether the employer has previously misclassified employees.

(C) Mechanisms to share data with appropriate state agencies to assist those agencies in determining compliance with and enforcing state laws concerning misclassified employees and to recoup contributions owed, depending on the level of culpability.

(D) Record keeping requirements for contractors, including any records necessary for the department to investigate alleged violations concerning misclassification of employees.

(E) Investigative procedures.

(2) Apply to public works and private work projects for the construction industry (as described in IC 4-13.5-1-1(3)), including demolition.

(3) Apply to any contractor that engages in construction and is authorized to do business in Indiana.

(4) Provide a remedy for an employer or a misclassified employee in response to:

(A) any retaliation that occurs as the result of an investigation or a complaint; and

(B) any complaints that the department determines are frivolous or that are filed for the purpose of harassment.

(5) Provide that in carrying out this chapter the department has the same inspection, investigative, and enforcement powers that the department has in enforcing the labor laws of this state, including powers described in IC 22-1-1.

(c) The guidelines and procedures may include other elements as determined by the department.

(d) The department shall exempt the following from the guidelines and procedures developed under this chapter:

(1) Residential construction of a single family home or duplex if the builder builds less than twenty-five (25) units each year.

(2) An owner-operator that provides a motor vehicle and the services of a driver under a written contract that is subject to IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR 376, to a motor carrier.

Sec. 3. In developing the guidelines and procedures under this chapter, the department shall use:

(1) the definition of "employee" used in Section 3401(c) of the Internal Revenue Code; and

(2) the following factors used by the Internal Revenue Service to determine whether a worker is an independent contractor:

(A) Instructions. A worker who is required to comply with other persons' instructions about when, where, and how he or she is to work is ordinarily an employee. This control factor is present if the person or persons for whom the services are performed have the right to require compliance with instructions. See, for example, Rev. Rul. 68-598, 1968-2 C.B. 464, and Rev. Rul. 66-381, 1966-2 C.B.

449.

(B) Training. Training a worker by requiring an experienced employee to work with the worker, by corresponding with the worker, by requiring the worker to attend meetings, or by using other methods, indicates that the person or persons for whom the services are performed want the services performed in a particular method or manner. See Rev. Rul. 70-630, 1970-2 C.B. 229.

(C) Integration. Integration of the worker's services into the business operations generally shows that the worker is subject to direction and control. When the success or continuation of a business depends to an appreciable degree upon the performance of certain services, the workers who perform those services must necessarily be subject to a certain amount of control by the owner of the business. See United States v. Silk, 331 U.S. 704 (1947), 1947-2 C.B. 167.

(D) Services rendered personally. If the services must be rendered personally, presumably the person or persons for whom the services are performed are interested in the methods used to accomplish the work as well as in the results. See Rev. Rul. 55-695, 1955-2 C.B. 410.

(E) Hiring, supervising, and paying assistants. If the person or persons for whom the services are performed hire, supervise, and pay assistants, that factor generally shows control over the workers on the job. However, if one (1) worker hires, supervises, and pays the other assistants under a contract under which the worker agrees to provide materials and labor and under which the worker is responsible only for the attainment of a result, this factor indicates an independent contractor status. Compare Rev. Rul. 63-115, 1963-1 C.B. 178, with Rev. Rul. 55-593 1955-2 C.B. 610.

(F) Continuing relationship. A continuing relationship between the worker and the person or persons for whom the services are performed indicates that an employer-employee relationship exists. A continuing relationship may exist where work is performed at frequently recurring although irregular intervals. See

United States v. Silk.

(G) Set hours of work. The establishment of set hours of work by the person or persons for whom the services are performed is a factor indicating control. See Rev. Rul. 73-591, 1973-2 C.B. 337.

(H) Full time required. If the worker must devote substantially full time to the business of the person or persons for whom the services are performed, such person or persons have control over the amount of time the worker spends working and impliedly restrict the worker from doing other gainful work. An independent contractor on the other hand, is free to work when and for whom he or she chooses. See Rev. Rul. 56-694, 1956-2 C.B. 694.

(I) Doing work on employer's premises. If the work is performed on the premises of the person or persons for whom the services are performed, that factor suggests control over the worker, especially if the work could be done elsewhere. Rev. Rul. 56-660, 1956-2 C.B. 693. Work done off the premises of the person or persons receiving the services, such as at the office of the worker, indicates some freedom from control. However, this fact by itself does not mean that the worker is not an employee. The importance of this factor depends on the nature of the service involved and the extent to which an employer generally would require that employees perform such services on the employer's premises. Control over the place of work is indicated when the person or persons for whom the services are performed have the right to compel the worker to travel a designated route, to canvass a territory within a certain time, or to work at specific places as required. See Rev. Rul. 56-694.

(J) Order of sequence set. If a worker must perform services in the order or sequence set by the person or persons for whom the services are performed, that factor shows that the worker is not free to follow the worker's own pattern of work but must follow the established routines and schedules of the person or persons for whom the services are performed. Often, because of the nature of an occupation, the person or persons for whom the services

are performed do not set the order of the services or set the order infrequently. It is sufficient to show control, however, if such person or persons retain the right to do so. See Rev. Rul. 56-694.

(K) Oral or written reports. A requirement that the worker submit regular or written reports to the person or persons for whom the services are performed indicates a degree of control. See Rev. Rul. 70-309, 1970-1 C.B. 199, and Rev. Rul. 68-248, 1968-1 C.B. 431.

(L) Payment by hour, week, month. Payment by the hour, week, or month generally points to an employer-employee relationship, if this method of payment is not just a convenient way of paying a lump sum agreed upon as the cost of a job. Payment made by the job or on a straight commission generally indicates that the worker is an independent contractor. See Rev. Rul. 74-389, 1974-2 C.B. 330.

(M) Payment of business and traveling expenses. If the person or persons for whom the services are performed ordinarily pay the worker's business or traveling expenses or business and traveling expenses, the worker is ordinarily an employee. An employer, to be able to control expenses, generally retains the right to regulate and direct the worker's business activities. See Rev. Rul. 55-144, 1955-1 C.B. 483.

(N) Furnishing of tools and materials. The fact that the person or persons for whom the services are performed furnish significant tools, materials, and other equipment tends to show the existence of an employer-employee relationship. See Rev. Rul. 71-524, 1971-2 C.B. 346.

(O) Significant investment. If the worker invests in facilities that are used by the worker in performing services and are not typically maintained by employees (such as the maintenance of an office rented at fair value from an unrelated party), that factor tends to indicate that the worker is an independent contractor. On the other hand, lack of investment in facilities indicates dependence on the person or persons for whom the services are performed for such facilities and, accordingly, the

existence of an employer-employee relationship. See Rev. Rul. 71-524. Special scrutiny is required with respect to certain types of facilities, such as home offices.

(P) Realization of profit or loss. A worker who can realize a profit or suffer a loss as a result of the worker's services (in addition to the profit or loss ordinarily realized by employees) is generally an independent contractor, but the worker who cannot is an employee. See Rev. Rul. 70-309. For example, if the worker is subject to a real risk of economic loss due to significant investments or a bona fide liability for expenses, such as salary payments to unrelated employees, that factor indicates that the worker is an independent contractor. The risk that a worker will not receive payment for his or her services, however, is common to both independent contractors and employees and thus does not constitute a sufficient economic risk to support treatment as an independent contractor.

(Q) Working for more than one (1) firm at a time. If a worker performs more than de minimis services for a multiple of unrelated persons or firms at the same time, that factor generally indicates that the worker is an independent contractor. See Rev. Rul. 70-572, 1970-2 C.B. 221. However, a worker who performs services for more than one (1) person may be an employee of each of the persons, especially where such persons are part of the same service arrangement.

(R) Making service available to general public. The fact that a worker makes his or her services available to the general public on a regular and consistent basis indicates an independent contractor relationship. See Rev. Rul. 56-660.

(S) Right to discharge. The right to discharge a worker is a factor indicating that the worker is an employee and the person possessing the right is an employer. An employer exercises control through the threat of dismissal, which causes the worker to obey the employer's instructions. An independent contractor, on the other hand, cannot be fired so long as the independent contractor produces a result that meets the contract specifications. Rev. Rul. 75-41,

1975-1 C.B. 323.

(T) Right to terminate. If the worker has the right to end his or her relationship with the person for whom the services are performed at any time he or she wishes without incurring liability, that factor indicates an employer-employee relationship. See Rev. Rul. 70-309.

(U) Any other guidelines under IC 22-3-6-1(b) and IC 22-3-7-9(b)(5).

Sec. 4. The department shall make a presentation to the pension management oversight commission not later than October 1, 2010, outlining the proposed guidelines and procedures.

Sec. 5. The department shall before November 1, 2010, make recommendations in an electronic format under IC 5-14-6 to the legislative council concerning any legislative changes needed to implement the guidelines and procedures developed under this chapter, including a budgetary recommendation for the implementation of the guidelines and procedures and a funding mechanism, to the extent possible, which must include a fee.

Sec. 6. After considering any recommendations by the pension management oversight commission, the department shall convert the guidelines and procedures to rules by adopting rules under IC 4-22-2 before August 1, 2011. The department shall implement the rules before August 1, 2011.

SECTION 23. IC 22-4-4-2, AS AMENDED BY P.L.175-2009, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: Sec. 2. (a) Except as otherwise provided in this section, "wages" means all remuneration as defined in section 1 of this chapter paid to an individual by an employer, remuneration received as tips or gratuities in accordance with Sections 3301 and 3102 et seq. of the Internal Revenue Code, and includes all remuneration considered as wages under Sections 3301 and 3102 et seq. of the Internal Revenue Code. However, the term shall not include any amounts paid as compensation for services specifically excluded by IC 22-4-8-3 or IC 22-4-8-3.5 from the definition of employment as defined in IC 22-4-8-1 and IC 22-4-8-2. The term shall include, but not be limited to, any payments made by an employer to an employee or former employee, under order of the National Labor Relations Board, or a successor thereto, or agency named to perform

the duties thereof, as additional pay, back pay, or for loss of employment, or any such payments made in accordance with an agreement made and entered into by an employer, a union, and the National Labor Relations Board.

(b) The term "wages" shall not include the following:

(1) That part of remuneration which, after remuneration equal to:

(A) seven thousand dollars ($7,000), has been paid in a calendar year to an individual by an employer or the employer's predecessor with respect to employment during any calendar year that begins after December 31, 1982, and before January 1, ~~2010,~~ **2011;** or

(B) nine thousand five hundred dollars ($9,500), has been paid in a calendar year to an individual by an employer or the employer's predecessor for employment during a calendar year that begins after December 31, ~~2009,~~ **2010;**

unless that part of the remuneration is subject to a tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund. For the purposes of this subdivision, the term "employment" shall include service constituting employment under any employment security law of any state or of the federal government. However, nothing in this subdivision shall be taken as an approval or disapproval of any related federal legislation.

(2) The amount of any payment (including any amount paid by an employer for insurance or annuities or into a fund to provide for any such payment) made to, or on behalf of, an individual or any of the individual's dependents under a plan or system established by an employer which makes provision generally for individuals performing service for it (or for such individuals generally and their dependents) or for a class or classes of such individuals (or for a class or classes of such individuals and their dependents) on account of:

(A) retirement;

(B) sickness or accident disability;

(C) medical or hospitalization expenses in connection with sickness or accident disability; or

(D) death.

(3) The amount of any payment made by an employer to an

individual performing service for it (including any amount paid by an employer for insurance or annuities or into a fund to provide for any such payment) on account of retirement.

(4) The amount of any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability made by an employer to, or on behalf of, an individual performing services for it and after the expiration of six (6) calendar months following the last calendar month in which the individual performed services for such employer.

(5) The amount of any payment made by an employer to, or on behalf of, an individual performing services for it or to the individual's beneficiary:

(A) from or to a trust exempt from tax under Section 401(a) of the Internal Revenue Code at the time of such payment unless such payment is made to an individual performing services for the trust as remuneration for such services and not as a beneficiary of the trust; or

(B) under or to an annuity plan which, at the time of such payments, meets the requirements of Section 401(a)(3), 401(a)(4), 401(a)(5), and 401(a)(6) of the Internal Revenue Code.

(6) Remuneration paid in any medium other than cash to an individual for service not in the course of the employer's trade or business.

(7) The amount of any payment (other than vacation or sick pay) made to an individual after the month in which the individual attains the age of sixty-five (65) if the individual did not perform services for the employer in the period for which such payment is made.

(8) The payment by an employer (without deduction from the remuneration of the employee) of the tax imposed upon an employee under Sections 3101 et seq. of the Internal Revenue Code (Federal Insurance Contributions Act).

SECTION 24. IC 22-4-5-1, AS AMENDED BY P.L.138-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) "Deductible income" wherever used in this article, means income deductible from the weekly benefit amount

of an individual in any week, and shall include, but shall not be limited to:

(1) remuneration for services from employing units, whether or not such remuneration is subject to contribution under this article, except as provided in subsection (c);

(2) dismissal pay;

(3) vacation pay;

(4) pay for idle time;

(5) holiday pay;

(6) sick pay;

(7) traveling expenses granted to an individual by an employing unit and not fully accounted for by such individual;

(8) net earnings from self-employment;

(9) payments in lieu of compensation for services;

(10) awards by the national labor relations board of additional pay, back pay, or for loss of employment, or any such payments made under an agreement entered into by an employer, a union, and the National Labor Relations Board;

(11) payments made to an individual by an employing unit pursuant to the terms of the Fair Labor Standards Act (Federal Wage and Hour Law, 29 U.S.C. 201 et seq.);

(12) for a week in which a payment is actually received by an individual, payments made by an employer to an individual who accepts an offer from the employer in connection with a layoff or a plant closure; or

(13) except as provided in subsection (c)(2), the part of a payment made by an employer to an individual who accepts an offer from the employer in connection with a layoff or a plant closure if that part is attributable to a week and the week:

(A) occurs after an individual receives the payment; and

(B) was used under the terms of a written agreement to compute the payment.

(b) Deductible income shall not include the first three dollars ($3), or twenty percent (20%) of the claimant's weekly benefit amount rounded to the next lowest dollar, whichever is the larger, of remuneration paid or payable to an individual with respect to any week by other than the individual's base period employer or employers.

(c) For the purpose of deductible income only, remuneration for

services from employing units does not include:

(1) bonuses, gifts, or prizes awarded to an employee by an employing unit; or

(2) compensation made under a valid negotiated contract or agreement in connection with a layoff or plant closure, without regard to how the compensation is characterized by the contract or agreement.

(d) Deductible income does not include a supplemental unemployment insurance benefit made under a valid negotiated contract or agreement.

(e) Deductible income does not include any payments made to an individual by a court system under a summons for jury service.

SECTION 25. IC 22-4-10-3, AS AMENDED BY P.L.175-2009, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: Sec. 3. (a) This subsection applies before January 1, ~~2010.~~ **2011.** Except as provided in section 1(b) through 1(e) of this chapter, each employer shall pay contributions equal to five and six-tenths percent (5.6%) of wages, except as otherwise provided in IC 22-4-11-2, IC 22-4-11-3, **IC** 22-4-11.5, and IC 22-4-37-3.

(b) This subsection applies after December 31, ~~2009.~~ **2010.** Except as provided in section 1(b) through 1(e) of this chapter, each employer shall pay contributions equal to twelve percent (12%) of wages, except as otherwise provided in IC 22-4-11-2, IC 22-4-11-3.5, **IC** 22-4-11.5, and IC 22-4-37-3.

SECTION 26. IC 22-4-11-2, AS AMENDED BY P.L.175-2009, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: Sec. 2. (a) Except as provided in IC 22-4-11.5, the department shall for each year determine the contribution rate applicable to each employer.

(b) The balance shall include contributions with respect to the period ending on the computation date and actually paid on or before July 31 immediately following the computation date and benefits actually paid on or before the computation date and shall also include any voluntary payments made in accordance with IC 22-4-10-5 or IC 22-4-10-5.5(1) **(repealed)** for each calendar year, an employer's rate shall be determined in accordance with the rate schedules in section 3.3 or 3.5 of this chapter; and

(2) for each calendar year, an employer's rate shall be two and seven-tenths percent (2.7%) before January 1, ~~2010,~~ **2011,** and two and five-tenths percent (2.5%) after December 31, ~~2009,~~ **2010,** except as otherwise provided in IC 22-4-37-3, unless and until:

(A) the employer has been subject to this article throughout the thirty-six (36) consecutive calendar months immediately preceding the computation date; and

(B) there has been some annual payroll in each of the three (3) twelve (12) month periods immediately preceding the computation date.

(c) This subsection applies before January 1, ~~2010.~~ **2011.** In addition to the conditions and requirements set forth and provided in subsection (b)(2)(A) and (b)(2)(B), an employer's rate shall not be less than five and six-tenths percent (5.6%) unless all required contribution and wage reports have been filed within thirty-one (31) days following the computation date and all contributions, penalties, and interest due and owing by the employer or the employer's predecessors for periods prior to and including the computation date have been paid:

(1) within thirty-one (31) days following the computation date; or

(2) within ten (10) days after the department has given the employer a written notice by registered mail to the employer's last known address of:

(A) the delinquency; or

(B) failure to file the reports;

whichever is the later date.

The board or the board's designee may waive the imposition of rates under this subsection if the board finds the employer's failure to meet the deadlines was for excusable cause. The department shall give written notice to the employer before this additional condition or requirement shall apply.

(d) This subsection applies after December 31, ~~2009.~~ **2010.** In addition to the conditions and requirements set forth and provided in subsection (b)(2)(A) and (b)(2)(B), an employer's rate ~~shall not be less than twelve percent (12%)~~ **is equal to the sum of the employer's contribution rate determined under this article plus two percent (2%)** unless all required contributions and wage reports have been filed within thirty-one (31) days following the computation date and all

contributions, penalties, and interest due and ~~owning~~ **owing** by the employer or the employer's predecessor for periods before and including the computation date have been paid:

(1) within thirty-one (31) days following the computation date; or

(2) within ten (10) days after the department has given the employer a written notice by registered mail to the employer's last known address of:

(A) the delinquency; or

(B) failure to file the reports;

whichever is the later date. The board or the board's designee may waive the imposition of rates under this subsection if the board finds the employer's failure to meet the deadlines was for excusable cause. The department shall give written notice to the employer before this additional condition or requirement shall apply.

(e) However, if the employer is the state or a political subdivision of the state or any instrumentality of a state or a political subdivision, or any instrumentality which is wholly owned by the state and one (1) or more other states or political subdivisions, the employer may contribute at a rate of:

(1) one percent (1%), before January 1, ~~2010,~~ **2011;** or

(2) one and six-tenths percent (1.6%), after December 31, ~~2009,~~ **2010;**

until it has been subject to this article throughout the thirty-six (36) consecutive calendar months immediately preceding the computation date.

(f) On the computation date every employer who had taxable wages in the previous calendar year shall have the employer's experience account charged with the amount determined under the following formula:

STEP ONE: Divide:

(A) the employer's taxable wages for the preceding calendar year; by

(B) the total taxable wages for the preceding calendar year.

STEP TWO: Multiply the quotient determined under STEP ONE by the total amount of benefits charged to the fund under section 1 of this chapter.

(g) One (1) percentage point of the rate imposed under subsection (c) or (d), or the amount of the employer's payment that is attributable

to the increase in the contribution rate, whichever is less, shall be imposed as a penalty that is due and shall be deposited upon collection into the special employment and training services fund established under IC 22-4-25-1. The remainder of the contributions paid by an employer pursuant to the maximum rate shall be:

(1) considered a contribution for the purposes of this article; and

(2) deposited in the unemployment insurance benefit fund established under IC 22-4-26.

SECTION 27. IC 22-4-11-3, AS AMENDED BY P.L.175-2009, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: Sec. 3. (a) The applicable schedule of rates for calendar years before January 1, ~~2010,~~ **2011,** shall be determined by the ratio resulting when the balance in the fund as of the determination date is divided by the total payroll of all subject employers for the immediately preceding calendar year. Schedule A, B, C, or D, appearing on the line opposite the fund ratio in the schedule below, shall be applicable in determining and assigning each employer's contribution rate for the calendar year immediately following the determination date. For the purposes of this subsection, "total payroll" means total remuneration reported by all contributing employers as required by this article and does not include the total payroll of any employer who elected to become liable for payments in lieu of contributions (as defined in IC 22-4-2-32). For the purposes of this subsection, "subject employers" means those employers who are subject to contribution.

FUND RATIO SCHEDULE

When the Fund Ratio Is:

As Much As	But Less Than	Applicable Schedule
	1.0%	A
1.0%	1.5%	B
1.5%	2.25%	C
2.25%		D

(b) Except as provided in subsection (c), the applicable schedule of rates for calendar years after December 31, ~~2009,~~ **2010,** shall be determined by the ratio resulting when the balance in the fund as of the determination date is divided by the total payroll of all subject employers for the immediately preceding calendar year. Schedules A

through I appearing on the line opposite the fund ratio in the schedule below are applicable in determining and assigning each employer's contribution rate for the calendar year immediately following the determination date. For purposes of this subsection, "total payroll" means total remuneration reported by all contributing employers as required by this article and does not include the total payroll of any employer who elected ~~or is required~~ to become liable for payments in lieu of contributions (as defined in IC 22-4-2-32). For purposes of this subsection, "subject employers" means those employers who are subject to contribution.

FUND RATIO SCHEDULE

When the Fund Ratio Is:

As Much As	But Less Than	Applicable Schedule
	0.2%	A
0.2%	0.4%	B
0.4%	0.6%	C
0.6%	0.8%	D
0.8%	1.0%	E
1.0%	1.2%	F
1.2%	1.4%	G
1.4%	1.6%	H
1.6%		I

(c) For calendar year ~~2010~~ **2011** only, Schedule B applies in determining and assigning each employer's contribution rate.

(d) Any adjustment in the amount charged to any employer's experience account made subsequent to the assignment of rates of contributions for any calendar year shall not operate to alter the amount charged to the experience accounts of any other base-period employers.

SECTION 28. IC 22-4-11-3.3, AS AMENDED BY P.L.175-2009, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: Sec. 3.3. (a) For calendar years after 2001 and before ~~2010,~~ **2011,** if the conditions of section 2 of this chapter are met, the rate of contributions shall be determined and assigned, with respect to each calendar year, to employers whose accounts have a credit balance and who are eligible therefore according to each employer's credit reserve ratio. Each employer shall be assigned the contribution rate appearing in the applicable schedule A, B, C, D,

or E on the line opposite the employer's credit reserve ratio as set forth in the rate schedule below:

RATE SCHEDULE FOR ACCOUNTS
WITH CREDIT BALANCES

When the Credit Reserve Ratio Is:

As Much As	But Less Than	Rate Schedules (%) A	B	C	D	E
3.00		1.10	0.10	0.10	0.10	0.15
2.80	3.00	1.30	0.30	0.10	0.10	0.15
2.60	2.80	1.50	0.50	0.10	0.10	0.15
2.40	2.60	1.70	0.70	0.30	0.10	0.20
2.20	2.40	1.90	0.90	0.50	0.10	0.20
2.00	2.20	2.10	1.10	0.70	0.30	0.40
1.80	2.00	2.30	1.30	0.90	0.50	0.60
1.60	1.80	2.50	1.50	1.10	0.70	0.80
1.40	1.60	2.70	1.70	1.30	0.90	1.00
1.20	1.40	2.90	1.90	1.50	1.10	1.20
1.00	1.20	3.10	2.10	1.70	1.30	1.40
0.80	1.00	3.30	2.30	1.90	1.50	1.60
0.60	0.80	3.50	2.50	2.10	1.70	1.80
0.40	0.60	3.70	2.70	2.30	1.90	2.00
0.20	0.40	3.90	2.90	2.50	2.10	2.20
0.00	0.20	4.10	3.10	2.70	2.30	2.40

(b) For calendar years after 2001 and before ~~2010,~~ **2011,** if the conditions of section 2 of this chapter are met, the rate of contributions shall be determined and assigned, with respect to each calendar year, to employers whose accounts have a debit balance and who are eligible therefore according to each employer's debit reserve ratio. Each employer shall be assigned the contribution rate appearing in the applicable schedule A, B, C, D, or E on the line opposite the employer's debit reserve ratio as set forth in the rate schedule below:

RATE SCHEDULE FOR ACCOUNTS
WITH DEBIT BALANCES

When the Debit Reserve Ratio Is:

As Much As	But Less Than	Rate Schedules (%) A	B	C	D	E

	1.50	4.40	4.30	4.20	4.10	5.40
1.50	3.00	4.70	4.60	4.50	4.40	5.40
3.00	4.50	5.00	4.90	4.70	4.70	5.40
4.50	6.00	5.30	5.20	5.10	5.00	5.40
6.00		5.60	5.50	5.40	5.40	5.40

SECTION 29. IC 22-4-11-3.5, AS ADDED BY P.L.175-2009, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: Sec. 3.5. (a) For calendar years after ~~2009,~~ **2010,** if the conditions of section 2 of this chapter are met, the rate of contributions shall be determined and assigned, with respect to each calendar year, to employers whose accounts have a credit balance and who are therefore eligible according to each employer's credit reserve ratio. Each employer shall be assigned the contribution rate appearing in the applicable schedule A through I on the line opposite the employer's credit reserve ratio as set forth in the rate schedule below:

RATE SCHEDULE FOR ACCOUNTS
WITH CREDIT BALANCES

When the Credit Reserve Ratio Is:

As Much As	But Less Than	Rate Schedules (%) A	B	C	D	E
3.00		0.75	0.70	0.70	0.60	0.50
2.80	3.00	1.00	0.90	0.90	0.80	0.70
2.60	2.80	1.30	1.20	1.10	1.00	0.90
2.40	2.60	1.60	1.50	1.40	1.30	1.20
2.20	2.40	1.90	1.80	1.70	1.50	1.40
2.00	2.20	2.20	2.00	1.90	1.80	1.60
1.80	2.00	2.50	2.30	2.20	2.00	1.80
1.60	1.80	2.80	2.60	2.40	2.20	2.00
1.40	1.60	3.10	2.90	2.70	2.50	2.30
1.20	1.40	3.40	3.20	3.00	2.70	2.50
1.00	1.20	3.70	3.40	3.20	3.00	2.70
0.80	1.00	4.00	3.70	3.50	3.20	2.90
0.60	0.80	4.30	4.00	3.70	3.40	3.10
0.40	0.60	4.60	4.30	4.00	3.70	3.40
0.20	0.40	4.90	4.60	4.30	3.90	3.60
0.00	0.20	5.20	4.80	4.50	4.20	3.80

RATE SCHEDULE FOR ACCOUNTS
WITH CREDIT BALANCES

When the Credit Reserve Ratio Is:

As Much As	But Less Than	Rate Schedules (%) F	G	H	I
3.00		0.40	0.40	0.30	0.00
2.80	3.00	0.60	0.50	0.40	0.00
2.60	2.80	0.80	0.70	0.60	0.10
2.40	2.60	1.10	1.00	0.90	0.10
2.20	2.40	1.30	1.20	1.00	0.10
2.00	2.20	1.40	1.20	1.00	0.10
1.80	2.00	1.60	1.40	1.20	0.10
1.60	1.80	1.80	1.60	1.40	0.20
1.40	1.60	2.10	1.90	1.70	0.20
1.20	1.40	2.20	2.00	1.70	0.20
1.00	1.20	2.40	2.10	1.80	0.20
0.80	1.00	2.60	2.30	2.00	0.20
0.60	0.80	2.80	2.50	2.20	0.20
0.40	0.60	3.10	2.80	2.40	0.30
0.20	0.40	3.20	2.80	2.40	0.30
0.00	0.20	3.40	3.00	2.60	0.30

(b) For calendar years after ~~2009,~~ **2010,** if the conditions of section 2 of this chapter are met, the rate of contributions shall be determined and assigned, with respect to each calendar year, to employers whose accounts have a debit balance and who are therefore eligible according to each employer's debit reserve ratio. Each employer shall be assigned the contribution rate appearing in the applicable schedule A through I on the line opposite the employer's debit reserve ratio as set forth in the rate schedule below:

RATE SCHEDULE FOR ACCOUNTS
WITH DEBIT BALANCES

When the Debit Reserve Ratio Is:

As Much As	But Less Than	Rate Schedules (%) A	B	C	D	E
0.00	1.50	6.75	6.30	5.90	5.40	4.90
1.50	3.00	7.00	6.50	6.10	5.60	5.10

3.00	4.50	7.25	6.70	6.30	5.80	5.30
4.50	6.00	7.50	7.00	6.50	6.00	5.50
6.00	8.00	7.75	7.20	6.70	6.20	5.70
8.00	10.00	8.25	7.70	7.20	6.60	6.00
10.00	12.00	8.75	8.10	7.60	7.00	6.40
12.00	14.00	9.25	8.60	8.00	7.40	6.80
14.00	16.00	9.75	9.10	8.50	7.80	7.10
16.00		10.20	9.50	8.90	8.20	7.40

RATE SCHEDULE FOR ACCOUNTS
WITH DEBIT BALANCES

When the Debit Reserve Ratio Is:

As Much As	But Less Than	Rate Schedules (%) F	G	H	I
0.00	1.50	4.40	3.90	3.40	0.40
1.50	3.00	4.60	4.10	3.60	0.40
3.00	4.50	4.80	4.30	3.80	0.40
4.50	6.00	4.90	4.40	3.80	0.40
6.00	8.00	5.10	4.50	3.90	0.40
8.00	10.00	5.40	4.80	4.20	0.50
10.00	12.00	5.80	5.20	4.50	0.50
12.00	14.00	6.10	5.40	4.70	0.50
14.00	16.00	6.40	5.70	5.00	0.50
16.00		6.70	6.00	5.40	5.40

SECTION 30. IC 22-4-14-3, AS AMENDED BY P.L.175-2009, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) An individual who is receiving benefits as determined under IC 22-4-15-1(c)(8) may restrict the individual's availability because of the individual's need to address the physical, psychological, or legal effects of being a victim of domestic or family violence (as defined in IC 31-9-2-42).

(b) An unemployed individual shall be eligible to receive benefits with respect to any week only if the individual:

(1) is physically and mentally able to work;

(2) is available for work;

(3) is found by the department to be making an effort to secure full-time work; and

(4) participates in reemployment services, such as job search

assistance services, if the individual has been determined to be likely to exhaust regular benefits and to need reemployment services under a profiling system established by the department, unless the department determines that:

(A) the individual has completed the reemployment services; or

(B) failure by the individual to participate in or complete the reemployment services is excused by the director under IC 22-4-14-2(b).

The term "effort to secure full-time work" shall be defined by the department through rule which shall take into consideration whether such individual has a reasonable assurance of reemployment and, if so, the length of the prospective period of unemployment. ~~but must include as a condition the individual's submission of at least one (1) application for work in each week for which the individual is claiming benefits. An individual who submits an application for work online through an Internet web site complies with this condition.~~ However, if an otherwise eligible individual is unable to work or unavailable for work on any normal work day of the week the individual shall be eligible to receive benefits with respect to such week reduced by one-third (1/3) of the individual's weekly benefit amount for each day of such inability to work or unavailability for work.

(c) For the purpose of this article, unavailability for work of an individual exists in, but is not limited to, any case in which, with respect to any week, it is found:

(1) that such individual is engaged by any unit, agency, or instrumentality of the United States, in charge of public works or assistance through public employment, or any unit, agency, or instrumentality of this state, or any political subdivision thereof, in charge of any public works or assistance through public employment;

(2) that such individual is in full-time active military service of the United States, or is enrolled in civilian service as a conscientious objector to military service;

(3) that such individual is suspended for misconduct in connection with the individual's work; or

(4) that such individual is in attendance at a regularly established public or private school during the customary hours of the

individual's occupation or is in any vacation period intervening between regular school terms during which the individual is a student. However, this subdivision does not apply to any individual who is attending a regularly established school, has been regularly employed and upon becoming unemployed makes an effort to secure full-time work and is available for suitable full-time work with the individual's last employer, or is available for any other full-time employment deemed suitable.

(d) Notwithstanding any other provisions in this section or IC 22-4-15-2, no otherwise eligible individual shall be denied benefits for any week because the individual is in training with the approval of the department, nor shall such individual be denied benefits with respect to any week in which the individual is in training with the approval of the department by reason of the application of the provisions of this section with respect to the availability for work or active search for work or by reason of the application of the provisions of IC 22-4-15-2 relating to failure to apply for, or the refusal to accept, suitable work. The department shall by rule prescribe the conditions under which approval of such training will be granted.

(e) Notwithstanding subsection (b), (c), or (d), or IC 22-4-15-2, an otherwise eligible individual shall not be denied benefits for any week or determined not able, available, and actively seeking work, because the individual is responding to a summons for jury service. The individual shall:

(1) obtain from the court proof of the individual's jury service; and

(2) provide to the department, in the manner the department prescribes by rule, proof of the individual's jury service.

SECTION 31. IC 22-4-17-2, AS AMENDED BY P.L.175-2009, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: Sec. 2. (a) When an individual files an initial claim, the department shall promptly ~~follow the procedure described in subsections (b) through (e) to~~ make a determination of the individual's status as an insured worker in a form prescribed by the department. A written notice of the determination of insured status shall be furnished to the individual promptly. ~~The notice must include the time by which the employer is required to respond to the department's notice of the individual's claim, and complete~~

~~information about the rules of evidence and standards of proof that the department will apply to determine the validity of the individual's claim, if the employer disputes the claim.~~ Each such determination shall be based on and include a written statement showing the amount of wages paid to the individual for insured work by each employer during the individual's base period and shall include a finding as to whether such wages meet the requirements for the individual to be an insured worker, and, if so, the week ending date of the first week of the individual's benefit period, the individual's weekly benefit amount, and the maximum amount of benefits that may be paid to the individual for weeks of unemployment in the individual's benefit period. For the individual who is not insured, the notice shall include the reason for the determination. Unless the individual, within ten (10) days after such determination was mailed to the individual's last known address, or otherwise delivered to the individual, asks a hearing thereon before an administrative law judge, such determination shall be final and benefits shall be paid or denied in accordance therewith.

~~(b) Not later than January 1, 2010, the department shall establish an unemployment claims compliance center. When an individual files an initial claim after the unemployment claims compliance center is established, the department, before making a determination that the individual is eligible for benefits, shall compare the information provided by the individual making the claim with information from the separating employer concerning the individual's eligibility for benefits. If the information provided by the individual making the claim does not match the information from the separating employer, the department may not pay the individual benefits and shall refer the individual's claim to the department's unemployment claims compliance center for investigation. The department shall provide a written notice to the individual who filed the claim that the individual's claim is being referred to the unemployment claims compliance center, including the reason for the referral.~~

~~(c) After receiving a claim from the department, the unemployment claims compliance center shall contact the separating employer that provided information that does not match information provided by the individual making the claim to obtain information about the claim that is accurate and sufficient for the department to determine whether the individual is eligible for benefits. The center shall also obtain from the~~

~~employer the name and address of a person to receive without delay notices served on the employer concerning the claim.~~

~~(d) Except as provided in subsection (e), the department may not pay the individual benefits under this article as long as the discrepancy between the information provided by the individual and the information provided by the individual's separating employer is unresolved. If the information provided by an individual and the information provided by the individual's separating employer does not match, the department shall notify both the separating employer and the individual that they have forty-eight (48) hours to resolve the discrepancy. If the discrepancy is not resolved at the end of the forty-eighth hour, the department shall use the information provided by the employer to determine the individual's eligibility for benefits.~~

~~(e) If the employer does not respond to the inquiry from the unemployment claims compliance center within five (5) days after the date of the inquiry, the center shall report to the department that the employer has not responded, and the department shall use the information provided by the individual to determine the individual's eligibility for benefits.~~

~~(f)~~ **(b)** ~~After the department makes a determination concerning the individual's eligibility for benefits,~~ The department shall promptly furnish each employer in the base period whose experience or reimbursable account is potentially chargeable with benefits to be paid to such individual with a notice in writing of the employer's benefit liability. The notice shall contain the date, the name and Social Security account number of the individual, the ending date of the individual's base period, **and** the week ending date of the first week of the individual's benefit period. ~~the time by which the employer is required to respond to the notice, and complete information about the rules of evidence and standards of proof that the department will apply to determine the validity of a claim, if an employer disputes the claim.~~ The notice shall further contain information as to the proportion of benefits chargeable to the employer's experience or reimbursable account in ratio to the earnings of such individual from such employer. Unless the employer within ten (10) days after such notice of benefit liability was mailed to the employer's last known address, or otherwise delivered to the employer, asks a hearing thereon before an administrative law judge, such determination shall be final and benefits

paid shall be charged in accordance therewith.

~~(g)~~ **(c)** An employing unit, including an employer, having knowledge of any facts which may affect an individual's eligibility or right to waiting period credits or benefits, shall notify the department of such facts within ten (10) days after the mailing of notice that a former employee has filed an initial or additional claim for benefits on a form prescribed by the department.

~~(h)~~ **(d)** If, after the department determines that additional information is necessary to make a determination under this chapter:

(1) the department makes a request in writing for additional information from an employing unit, including an employer, on a form prescribed by the department; and

(2) the employing unit fails to respond within ten (10) days after the date the request is ~~delivered~~ **mailed** to the employing unit;

the department shall make ~~the determination~~ **a decision** with the information available.

~~(i)~~ **(e)** If:

(1) an employer ~~subsequently obtains a determination by the department that the employee is not eligible for benefits;~~ **appeals an original determination granting benefits to a claimant and the determination is reversed on appeal;** and

(2) the ~~determination~~ **decision to reverse the determination** is at least in part based on information that the department requested from the employer under subsection ~~(h);~~ **(d),** but which the employer failed to provide within ten (10) days after the department's request was ~~delivered~~ **mailed** to the employer;

the employer's experience account shall be charged an amount equal to fifty percent (50%) of the benefits paid to the employee to which the employee was not entitled **and for which the employer's experience account may be charged.**

~~(j)~~ **(f)** If:

(1) the employer's experience account is charged under subsection ~~(i);~~ **(e);** and

(2) the employee repays all or a part of the benefits on which the charge under subsection ~~(i)~~ **(e)** is based;

the employer shall receive a credit to the employer's experience account that is equal to the amount of the employee's repayment up to **fifty percent (50%) of** the amount charged to the employer's

experience account under subsection ~~(i).~~ **(e).**

~~(k)~~ **(g)** In addition to the foregoing determination of insured status by the department, the deputy shall, throughout the benefit period, determine the claimant's eligibility with respect to each week for which the claimant claims waiting period credit or benefit rights, the validity of the claimant's claim therefor, and the cause for which the claimant left the claimant's work, or may refer such claim to an administrative law judge who shall make the initial determination with respect thereto in accordance with the procedure in section 3 of this chapter.

~~(l)~~ **(h)** In cases where the claimant's benefit eligibility or disqualification is disputed, the department shall promptly notify the claimant and the employer or employers directly involved or connected with the issue raised as to the validity of such claim, the eligibility of the claimant for waiting period credit or benefits, or the imposition of a disqualification period or penalty, or the denial thereof, and of the cause for which the claimant left the claimant's work, of such determination and the reasons thereof.

~~(m)~~ **(i)** Except as otherwise hereinafter provided in this section regarding parties located in Alaska, Hawaii, and Puerto Rico, unless the claimant or such employer, within ten (10) days after the notification required by subsection ~~(k)~~ **(h),** was mailed to the claimant's or the employer's last known address or otherwise delivered to the claimant or the employer, asks for a hearing before an administrative law judge thereon, such decision shall be final and benefits shall be paid or denied in accordance therewith.

~~(n)~~ **(j)** For a notice of disputed administrative determination or decision mailed or otherwise delivered to the claimant or employer either of whom is located in Alaska, Hawaii, or Puerto Rico, unless the claimant or employer, within fifteen (15) days after the notification required by subsection ~~(k)~~ **(h),** was mailed to the claimant's or employer's last known address or otherwise delivered to the claimant or employer, asks for a hearing before an administrative law judge thereon, such decision shall be final and benefits shall be paid or denied in accordance therewith.

~~(o)~~ **(k)** If a claimant or an employer requests a hearing under subsection ~~(m)~~ **(i)** or ~~(n),~~ **(j),** the request therefor shall be filed with the department in writing within the prescribed periods as above set forth in this section and shall be in such form as the department may

prescribe. In the event a hearing is requested by an employer or the department after it has been administratively determined that benefits should be allowed to a claimant, entitled benefits shall continue to be paid to said claimant unless said administrative determination has been reversed by a due process hearing. Benefits with respect to any week not in dispute shall be paid promptly regardless of any appeal.

~~(p)~~ **(l)** A person may not participate on behalf of the department in any case in which the person is an interested party.

~~(q)~~ **(m)** Solely on the ground of obvious administrative error appearing on the face of an original determination, and within the benefit year of the affected claims, the commissioner, or a representative authorized by the commissioner to act in the commissioner's behalf, may reconsider and direct the deputy to revise the original determination so as to correct the obvious error appearing therein. Time for filing an appeal and requesting a hearing before an administrative law judge regarding the determinations handed down pursuant to this subsection shall begin on the date following the date of revision of the original determination and shall be filed with the commissioner in writing within the prescribed periods as above set forth in subsection ~~(g).~~ **(c).**

~~(r)~~ **(n)** Notice to the employer and the claimant that the determination of the department is final if a hearing is not requested shall be prominently displayed on the notice of the determination which is sent to the employer and the claimant.

~~(s)~~ **(o)** If an allegation of the applicability of IC 22-4-15-1(c)(8) is made by the individual at the time of the claim for benefits, the department shall not notify the employer of the claimant's current address or physical location.

SECTION 32. IC 22-4-18-4.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 4.2. Each administrative law judge employed or used by the department of workforce development must be an attorney who is licensed to practice law in Indiana.**

SECTION 33. IC 22-4-19-6, AS AMENDED BY P.L.182-2009(ss), SECTION 367, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) Each employing unit shall keep true and accurate records containing information the department

considers necessary. These records are:

(1) open to inspection; and

(2) subject to being copied;

by an authorized representative of the department at any reasonable time and as often as may be necessary. The department, the review board, or an administrative law judge may require from any employing unit any verified or unverified report, with respect to persons employed by it, which is considered necessary for the effective administration of this article.

(b) Except as provided in subsections (d) and (f), information obtained or obtained from any person in the administration of this article and the records of the department relating to the unemployment tax or the payment of benefits is confidential and may not be published or be open to public inspection in any manner revealing the individual's or the employing unit's identity, except in obedience to an order of a court or as provided in this section.

(c) A claimant or an employer at a hearing before an administrative law judge or the review board shall be supplied with information from the records referred to in this section to the extent necessary for the proper presentation of the subject matter of the appearance. The department may make the information necessary for a proper presentation of a subject matter before an administrative law judge or the review board available to an agency of the United States or an Indiana state agency.

(d) The department may release the following information:

(1) Summary statistical data may be released to the public.

(2) Employer specific information known as ES 202 data and data resulting from enhancements made through the business establishment list improvement project may be released to the Indiana economic development corporation only for the following purposes:

(A) The purpose of conducting a survey.

(B) The purpose of aiding the officers or employees of the Indiana economic development corporation in providing economic development assistance through program development, research, or other methods.

(C) Other purposes consistent with the goals of the Indiana economic development corporation and not inconsistent with

those of the department, **including the purposes of IC 5-28-6-7.**

(3) Employer specific information known as ES 202 data and data resulting from enhancements made through the business establishment list improvement project may be released to the budget agency and the legislative services agency only for aiding the employees of the budget agency or the legislative services agency in forecasting tax revenues.

(4) Information obtained from any person in the administration of this article and the records of the department relating to the unemployment tax or the payment of benefits for use by the following governmental entities:

(A) department of state revenue; or

(B) state or local law enforcement agencies;

only if there is an agreement that the information will be kept confidential and used for legitimate governmental purposes.

(e) The department may make information available under subsection (d)(1), (d)(2), or (d)(3) only:

(1) if:

(A) data provided in summary form cannot be used to identify information relating to a specific employer or specific employee; or

(B) there is an agreement that the employer specific information released to the Indiana economic development corporation, the budget agency, or the legislative services agency will be treated as confidential and will be released only in summary form that cannot be used to identify information relating to a specific employer or a specific employee; and

(2) after the cost of making the information available to the person requesting the information is paid under IC 5-14-3.

(f) In addition to the confidentiality provisions of subsection (b), the fact that a claim has been made under IC 22-4-15-1(c)(8) and any information furnished by the claimant or an agent to the department to verify a claim of domestic or family violence are confidential. Information concerning the claimant's current address or physical location shall not be disclosed to the employer or any other person. Disclosure is subject to the following additional restrictions:

(1) The claimant must be notified before any release of

information.

(2) Any disclosure is subject to redaction of unnecessary identifying information, including the claimant's address.

(g) An employee:

(1) of the department who recklessly violates subsection (a), (c), (d), (e), or (f); or

(2) of any governmental entity listed in subsection (d)(4) who recklessly violates subsection (d)(4);

commits a Class B misdemeanor.

(h) An employee of the Indiana economic development corporation, the budget agency, or the legislative services agency who violates subsection (d) or (e) commits a Class B misdemeanor.

(i) An employer or agent of an employer that becomes aware that a claim has been made under IC 22-4-15-1(c)(8) shall maintain that information as confidential.

(j) The department may charge a reasonable processing fee not to exceed two dollars ($2) for each record that provides information about an individual's last known employer released in compliance with a court order under subsection (b).

SECTION 34. IC 22-4.1-17 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 17. Helping Indiana Restart Employment (HIRE) Program

Sec. 1. This chapter applies upon approval of reimbursement as described in IC 12-8-12.5-2.

Sec. 2. As used in this chapter, "eligible employer" means an employer that meets the requirements established by the commissioner to participate in the program.

Sec. 3. As used in this chapter, "employer" means an individual, corporation, partnership, limited liability company, or any other legal entity that has at least one (1) employee and is legally doing business in Indiana.

Sec. 4. As used in this chapter, "participant" means an individual who is participating in the program as an employee of an eligible employer.

Sec. 5. As used in this chapter, "program" refers to the Helping Indiana Restart Employment (HIRE) program established under

section 7 of this chapter.

Sec. 6. As used in this chapter, "secretary" refers to the secretary of family and social services appointed under IC 12-8-1-2.

Sec. 7. (a) The commissioner may adopt rules under IC 4-22-2 to establish, implement, and maintain the Helping Indiana Restart Employment (HIRE) program for the purpose of increasing employment opportunities for unemployed or underemployed individuals by providing a wage and benefit subsidy to eligible employers that provide to participants an hourly wage and a transferable work skill.

(b) Rules adopted under subsection (a) may include the following:

(1) Eligibility requirements for an employer to participate in the program as an eligible employer.

(2) Eligibility requirements for an individual to participate in the program as a participant employed by an eligible employer.

(c) The commissioner shall administer the program with the assistance of the secretary.

(d) The secretary shall administer funding of the program as provided in IC 12-8-12.5.

Sec. 8. This chapter expires December 31, 2013.

SECTION 35. IC 36-8-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) Subject to subsection ~~(b),~~ **(c),** the board or persons having the authority to employ members of the fire or police department shall give a preference for employment according to the following priority:

(1) A war veteran who has been honorably discharged from the United States armed forces.

(2) A person whose mother or father was a:

(A) firefighter of a unit;

(B) municipal police officer; or

(C) county police officer;

who died in the line of duty (as defined in IC 5-10-10-2).

(b) Subject to subsection (c), the board or person having the authority to employ members of a fire or police department may give a preference for employment to any of the following:

(1) A police officer or firefighter laid off by another city under section 11 of this chapter.

(2) A county police officer laid off by a sheriff's department under IC 36-8-10-11.1.

(3) A person who:

(A) was employed full-time or part-time by a township to provide fire protection and emergency services; and

(B) has been laid off by the township.

~~(b)~~ **(c)** A person described in subsection (a) **or (b)** may not receive a preference for employment unless the person:

(1) applies; and

(2) meets all employment requirements prescribed:

(A) by law, including physical and age requirements; and

(B) by the fire or police department.

SECTION 36. IC 36-8-10-10.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10.4. (a) Subject to subsection ~~(b),~~ **(c),** the board shall give a preference for employment according to the following priority:

(1) A war veteran who has been honorably discharged from the United States armed forces.

(2) A person whose mother or father was a:

(A) firefighter of a unit;

(B) municipal police officer; or

(C) county police officer;

who died in the line of duty (as defined in IC 5-10-10-2).

(b) Subject to subsection (c), the board may give a preference for employment to any of the following:

(1) A member of another department laid off under section 11.1 of this chapter.

(2) A police officer laid off by a city under IC 36-8-4-11.

~~(b)~~ **(c)** A person described in subsection (a) **or (b)** may not receive a preference for employment unless the person:

(1) applies; and

(2) meets all employment requirements prescribed:

(A) by law, including physical and age requirements; and

(B) by the department.

SECTION 37. IC 36-8-13-3, AS AMENDED BY P.L.182-2009(ss), SECTION 439, IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The executive of a township, with the approval of the legislative body, may do the following:

(1) Purchase firefighting and emergency services apparatus and equipment for the township, provide for the housing, care, maintenance, operation, and use of the apparatus and equipment to provide services within the township but outside the corporate boundaries of municipalities, and employ full-time or part-time personnel to operate the apparatus and equipment and to provide services in that area. Preference in employment under this section shall be given according to the following priority:

(A) A war veteran who has been honorably discharged from the United States armed forces.

(B) A person whose mother or father was a:

(i) firefighter of a unit;

(ii) municipal police officer; or

(iii) county police officer;

who died in the line of duty (as defined in IC 5-10-10-2).

The executive of a township may give a preference for employment under this section to a person who was employed full-time or part-time by another township to provide fire protection and emergency services and has been laid off by the township. The executive of a township may also give a preference for employment to a firefighter laid off by a city under IC 36-8-4-11. A person described in this subdivision may not receive a preference for employment unless the person applies for employment and meets all employment requirements prescribed by law, including physical and age requirements, and all employment requirements prescribed by the fire department.

(2) Contract with a municipality in the township or in a contiguous township that maintains adequate firefighting or emergency services apparatus and equipment to provide fire protection or emergency services for the township in accordance with IC 36-1-7.

(3) Cooperate with a municipality in the township or in a contiguous township in the purchase, maintenance, and upkeep of firefighting or emergency services apparatus and equipment for use in the municipality and township in accordance with

IC 36-1-7.

(4) Contract with a volunteer fire department that has been organized to fight fires in the township for the use and operation of firefighting apparatus and equipment that has been purchased by the township in order to save the private and public property of the township from destruction by fire, including use of the apparatus and equipment in an adjoining township by the department if the department has made a contract with the executive of the adjoining township for the furnishing of firefighting service within the township.

(5) Contract with a volunteer fire department that maintains adequate firefighting service in accordance with IC 36-8-12.

(b) This subsection applies only to townships that provide fire protection or emergency services or both under subsection (a)(1) and to municipalities that have some part of the municipal territory within a township and do not have a full-time paid fire department. A township may provide fire protection or emergency services or both without contracts inside the corporate boundaries of the municipalities if before July 1 of a year the following occur:

(1) The legislative body of the municipality adopts an ordinance to have the township provide the services without a contract.

(2) The township legislative body passes a resolution approving the township's provision of the services without contracts to the municipality.

In a township providing services to a municipality under this section, the legislative body of either the township or a municipality in the township may opt out of participation under this subsection by adopting an ordinance or a resolution, respectively, before July 1 of a year.

(c) This subsection applies only to a township that:

(1) is located in a county containing a consolidated city;

(2) has at least three (3) included towns (as defined in IC 36-3-1-7) that have all municipal territory completely within the township on January 1, 1996; and

(3) provides fire protection or emergency services, or both, under subsection (a)(1);

and to included towns (as defined in IC 36-3-1-7) that have all the included town's municipal territory completely within the township. A township may provide fire protection or emergency services, or both,

without contracts inside the corporate boundaries of the municipalities if before August 1 of the year preceding the first calendar year to which this subsection applies the township legislative body passes a resolution approving the township's provision of the services without contracts to the municipality. The resolution must identify the included towns to which the resolution applies. In a township providing services to a municipality under this section, the legislative body of the township may opt out of participation under this subsection by adopting a resolution before July 1 of a year. A copy of a resolution adopted under this subsection shall be submitted to the executive of each included town covered by the resolution, the county auditor, and the department of local government finance.

SECTION 38. IC 22-4-10-5.5 IS REPEALED [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)].

SECTION 39. [EFFECTIVE UPON PASSAGE] **(a) An interim study committee is established to study the feasibility and value of indexing unemployment benefits and the taxable wage base under IC 22-4.**

(b) The interim study committee consists of the following four (4) members:

(1) One (1) member appointed by the president pro tempore of the senate.

(2) One (1) member appointed by the minority leader of the senate.

(3) One (1) member appointed by the speaker of the house of representatives.

(4) One (1) member appointed by the minority leader of the house of representatives.

(c) The member appointed under subsection (b)(1) and the member appointed under subsection (b)(3) shall be co-chairs of the interim study committee.

(d) The interim study committee shall issue a final report in an electronic format under IC 5-14-6 before November 1, 2010, to the legislative council containing any findings and recommendations of the committee.

(e) Except as otherwise provided, the committee shall operate under the policies governing study committees adopted by the legislative council.

(f) The affirmative votes of a majority of the members appointed to the committee are required for the committee to take action on any measure, including final reports.

(g) This SECTION expires January 1, 2011.

SECTION 40. [EFFECTIVE UPON PASSAGE] **(a) The commissioner of the department of workforce development shall:**

(1) examine whether expenditures by an eligible employer that are allocated to state match money for the HIRE program established under IC 22-4.1-17 may be credited under state or federal law toward the eligible employer's contributions under IC 22-4; and

(2) not later than June 1, 2010, report to the budget committee the results of the examination.

(b) This SECTION expires June 30, 2010.

SECTION 41. **An emergency is declared for this act.**

P.L.111-2010

[S.309. Approved March 25, 2010.]

AN ACT to amend the Indiana Code concerning education and to make an appropriation.

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

SECTION 1. IC 6-1.1-17-5, AS AMENDED BY P.L.182-2009(ss), SECTION 116, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The officers of political subdivisions shall meet each year to fix the budget, tax rate, and tax levy of their respective subdivisions for the ensuing budget year as follows:

(1) The board of school trustees of a school corporation that is located in a city having a population of more than one hundred five thousand (105,000) but less than one hundred twenty

thousand (120,000), not later than:

(A) the time required in section 5.6(b) of this chapter; or

(B) ~~for budget years beginning before July 1, 2011,~~ November 1 if a resolution adopted under section 5.6(d) of this chapter is in effect.

(2) The proper officers of all other political subdivisions **that are not school corporations,** not later than November 1.

(3) The governing body of ~~each~~ **a** school corporation ~~(including~~ **(other than** a school corporation described in subdivision (1)) **that elects to adopt a budget under section 5.6 of this chapter for budget years beginning after June 30, 2011,** not later than the time required under section 5.6(b) of this chapter for budget years beginning after June 30, 2011.

(4) The governing body of a school corporation that is not described in subdivision (1) or (3), not later than November 1.

Except in a consolidated city and county and in a second class city, the public hearing required by section 3 of this chapter must be completed at least ten (10) days before the proper officers of the political subdivision meet to fix the budget, tax rate, and tax levy. In a consolidated city and county and in a second class city, that public hearing, by any committee or by the entire fiscal body, may be held at any time after introduction of the budget.

(b) Ten (10) or more taxpayers may object to a budget, tax rate, or tax levy of a political subdivision fixed under subsection (a) by filing an objection petition with the proper officers of the political subdivision not more than seven (7) days after the hearing. The objection petition must specifically identify the provisions of the budget, tax rate, and tax levy to which the taxpayers object.

(c) If a petition is filed under subsection (b), the fiscal body of the political subdivision shall adopt with its budget a finding concerning the objections in the petition and any testimony presented at the adoption hearing.

(d) This subsection does not apply to a school corporation. Each year at least two (2) days before the first meeting of the county board of tax adjustment held under IC 6-1.1-29-4, a political subdivision shall file with the county auditor:

(1) a statement of the tax rate and levy fixed by the political subdivision for the ensuing budget year;

(2) two (2) copies of the budget adopted by the political subdivision for the ensuing budget year; and

(3) two (2) copies of any findings adopted under subsection (c).

Each year the county auditor shall present these items to the county board of tax adjustment at the board's first meeting under IC 6-1.1-29-4.

(e) In a consolidated city and county and in a second class city, the clerk of the fiscal body shall, notwithstanding subsection (d), file the adopted budget and tax ordinances with the county board of tax adjustment within two (2) days after the ordinances are signed by the executive, or within two (2) days after action is taken by the fiscal body to override a veto of the ordinances, whichever is later.

(f) If a fiscal body does not fix the budget, tax rate, and tax levy of the political subdivisions for the ensuing budget year as required under this section, the most recent annual appropriations and annual tax levy are continued for the ensuing budget year.

SECTION 2. IC 6-1.1-17-5.6, AS AMENDED BY P.L.182-2009(ss), SECTION 117, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.6. (a) For budget years beginning before July 1, 2011, this section applies only to a school corporation that is located in a city having a population of more than one hundred five thousand (105,000) but less than one hundred twenty thousand (120,000). For budget years beginning after June 30, 2011, this section applies to all school corporations. Beginning in 2011, each school corporation ~~shall~~ **may elect to** adopt a budget under this section that applies from July 1 of the year through June 30 of the following year. In the initial budget adopted by a school corporation ~~in 2011~~ under this section, the first six (6) months of that initial budget must be consistent with the last six (6) months of the budget adopted by the school corporation for **the** calendar year ~~2011.~~ **in which the school corporation elects by resolution to begin adopting budgets that correspond to the state fiscal year. A corporation shall submit a copy of the resolution to the department of local government finance and the department of education not more than thirty (30) days after the date the governing body adopts the resolution.**

(b) Before February 1 of each year, the officers of the school corporation shall meet to fix the budget for the school corporation for the ensuing budget year, with notice given by the same officers.

However, if a resolution adopted under subsection (d) is in effect, the officers shall meet to fix the budget for the ensuing budget year before ~~September 30.~~ **November 1.**

(c) Each year, at least two (2) days before the first meeting of the county board of tax adjustment held under IC 6-1.1-29-4, the school corporation shall file with the county auditor:

(1) a statement of the tax rate and tax levy fixed by the school corporation for the ensuing budget year;

(2) two (2) copies of the budget adopted by the school corporation for the ensuing budget year; and

(3) any written notification from the department of local government finance under section 16(i) of this chapter that specifies a proposed revision, reduction, or increase in the budget adopted by the school corporation for the ensuing budget year.

Each year the county auditor shall present these items to the county board of tax adjustment at the board's first meeting under IC 6-1.1-29-4.

(d) ~~This subsection does not apply to budget years after June 30, 2011.~~ The governing body of the school corporation may adopt a resolution to cease using a school year budget year and return to using a calendar year budget year. A resolution adopted under this subsection must be adopted after January 1 and before July 1. The school corporation's initial calendar year budget year following the adoption of a resolution under this subsection begins on January 1 of the year following the year the resolution is adopted. The first six (6) months of the initial calendar year budget for the school corporation must be consistent with the last six (6) months of the final school year budget fixed by the department of local government finance before the adoption of a resolution under this subsection. ~~Notwithstanding any resolution adopted under this subsection, beginning in 2011, each school corporation shall adopt a budget under this section that applies from July 1 of the year through June 30 of the following year.~~

(e) A resolution adopted under subsection (d) may be rescinded by a subsequent resolution adopted by the governing body. If the governing body of the school corporation rescinds a resolution adopted under subsection (d) and returns to a school year budget year, the school corporation's initial school year budget year begins on July 1 following the adoption of the rescinding resolution and ends on June

30 of the following year. The first six (6) months of the initial school year budget for the school corporation must be consistent with the last six (6) months of the last calendar year budget fixed by the department of local government finance before the adoption of a rescinding resolution under this subsection.

SECTION 3. IC 20-46-5-6.1, AS ADDED BY P.L.182-2009(ss), SECTION 349, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6.1. (a) This section does not apply to a school corporation ~~located in South Bend,~~ **that elects to adopt a budget under IC 6-1.1-17-5.6,** unless a resolution adopted under IC 6-1.1-17-5.6(d) by the governing body of the school corporation is in effect.

(b) Before a governing body may collect property taxes for the fund in a particular calendar year, the governing body must, after January 1 and not later than September 20 of the immediately preceding year:

(1) conduct a public hearing on; and

(2) pass a resolution to adopt;

a plan.

~~(c) This section expires January 1, 2011.~~

SECTION 4. IC 20-46-5-7, AS AMENDED BY P.L.182-2009(ss), SECTION 350, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. (a) ~~Except as provided in subsection (b),~~ This section applies only to a school corporation ~~located in South Bend.~~ **that elects to adopt a budget under IC 6-1.1-17-5.6.**

~~(b) After December 31, 2010, this section applies to all school corporations.~~

~~(c) This subsection expires January 1, 2011.~~ **(b)** This section does not apply to the school corporation if a resolution adopted under IC 6-1.1-17-5.6(d) by the governing body of the school corporation is in effect.

~~(d)~~ **(c)** Before the governing body of the school corporation may collect property taxes for the fund in a particular calendar year, the governing body must, after January 1 and on or before February 1 of the immediately preceding year:

(1) conduct a public hearing on; and

(2) pass a resolution to adopt;

a plan.

SECTION 5. IC 20-46-6-8.1, AS ADDED BY P.L.182-2009(ss),

SECTION 353, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8.1. (a) This section does not apply to a school corporation that ~~is located in South Bend,~~ **elects to adopt a budget under IC 6-1.1-17-5.6,** unless a resolution adopted under IC 6-1.1-17-5.6(d) by the governing body of the school corporation is in effect.

(b) Before a governing body may collect property taxes for a capital projects fund in a particular year, the governing body must:

(1) after January 1; and

(2) not later than September 20;

of the immediately preceding year, hold a public hearing on a proposed or amended plan and pass a resolution to adopt the proposed or amended plan.

~~(c) This section expires January 1, 2011.~~

SECTION 6. IC 20-46-6-9, AS AMENDED BY P.L.182-2009(ss), SECTION 354, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9. (a) This section applies only to a school corporation that ~~is located in South Bend.~~ **elects to adopt a budget under IC 6-1.1-17-5.6.** However, this section does not apply to the school corporation if a resolution adopted under IC 6-1.1-17-5.6(d) by the governing body of the school corporation is in effect.

(b) Before the governing body of the school corporation may collect property taxes for a fund in a particular year, the governing body must:

(1) after January 1; and

(2) before February 2;

of the immediately preceding year, hold a public hearing on a proposed or amended plan and pass a resolution to adopt the proposed or amended plan.

SECTION 7. **An emergency is declared for this act.**

P.L.112-2010
[S.396. Approved March 25, 2010.]

AN ACT to amend the Indiana Code concerning taxation.

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

SECTION 1. IC 6-1.1-4-4.5, AS AMENDED BY P.L.136-2009, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: Sec. 4.5. (a) The department of local government finance shall adopt rules establishing a system for annually adjusting the assessed value of real property to account for changes in value in those years since a general reassessment of property last took effect.

(b) Subject to subsection (e), the system must be applied to adjust assessed values beginning with the 2006 assessment date and each year thereafter that is not a year in which a reassessment becomes effective.

(c) The rules adopted under subsection (a) must include the following characteristics in the system:

(1) Promote uniform and equal assessment of real property within and across classifications.

(2) Require that assessing officials:

(A) reevaluate the factors that affect value;

(B) express the interactions of those factors mathematically;

(C) use mass appraisal techniques to estimate updated property values within statistical measures of accuracy; and

(D) provide notice to taxpayers of an assessment increase that results from the application of annual adjustments.

(3) Prescribe procedures that permit the application of the adjustment percentages in an efficient manner by assessing officials.

(d) The department of local government finance must review and certify each annual adjustment determined under this section.

(e) In making the annual determination of the base rate to satisfy the

requirement for an annual adjustment under subsection ~~(a),~~ **(c) for current property taxes first due and payable in 2011 and thereafter,** the department of local government finance shall determine the base rate using the methodology reflected in Table 2-18 of Book 1, Chapter 2 of the department of local government finance's Real Property Assessment Guidelines (as in effect on January 1, 2005), except that the department shall adjust the methodology to:

(1) use a six (6) year rolling average **adjusted under subdivision (2)** instead of a four (4) year rolling average; **and**

(2) eliminate in the calculation of the rolling average the year among the six (6) years for which the highest market value in use of agricultural land is determined.

(f) For assessment dates after December 31, 2009, an adjustment in the assessed value of real property under this section shall be based on the estimated true tax value of the property on the assessment date that is the basis for taxes payable on that real property.

SECTION 2. **An emergency is declared for this act.**

P.L.113-2010
[H.1086. Approved March 25, 2010.]

AN ACT to amend the Indiana Code concerning state and local administration.

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

SECTION 1. IC 2-5-29-1.5 IS ADDED TO THE INDIANA CODE AS **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 1.5. As used in this chapter, "fund" refers to the youth advisory council fund established by section 7.5 of this chapter.**

SECTION 2. IC 2-5-29-1.6 IS ADDED TO THE INDIANA CODE AS **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 1.6. As used in this chapter, "office" refers to the office of the state superintendent of public instruction.**

SECTION 3. IC 2-5-29-3, AS ADDED BY P.L.69-2008, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) The council consists of the following **twenty-two (22)** members, who must be at least ~~fourteen (14)~~ **sixteen (16)** years of age and not more than ~~eighteen (18)~~ **twenty (20)** years of age at the time of appointment:

(1) Five (5) members appointed by the president pro tempore of the senate.

(2) Five (5) members appointed by the minority leader of the senate.

(3) Five (5) members appointed by the speaker of the house of representatives.

(4) Five (5) members appointed by the minority leader of the house of representatives.

(5) Two (2) members appointed by the governor.

(b) The members of the council shall be selected so as to give representation to the various geographical areas of Indiana.

(c) The members of the council shall annually elect a chairperson of the council from among the members.

(d) Members of the council shall serve for a two (2) year term and may be reappointed.

(e) The appointing authority may remove an appointed member of the council for cause. Cause includes the failure to attend at least two (2) meetings within a one (1) year period.

SECTION 4. IC 2-5-29-3.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 3.6. (a) This section applies to a student who attends either a public school or a nonpublic school.**

(b) Attending a meeting of the council as a member is a lawful excuse for a student to be absent from school, when verified by a certificate of the state superintendent of public instruction. A student excused from school attendance under this section may not be recorded as being absent on any date for which the excuse is operative and may not be penalized by the school in any manner.

SECTION 5. IC 2-5-29-6, AS ADDED BY P.L.69-2008, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) The ~~state superintendent of public instruction~~ **Indiana bar foundation's center for civic education** shall supervise the activities of the council.

(b) The ~~department of education~~ **Indiana bar foundation's center for civic education** shall staff the council.

SECTION 6. IC 2-5-29-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 7.5. (a) The youth advisory council fund is established as a dedicated fund to be administered by the office. The fund consists of:**

(1) appropriations made to the fund by the general assembly; and

(2) grants, gifts, and donations intended for deposit in the fund.

(b) Expenses of administering the fund shall be paid from money in the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(d) Money in the fund at the end of a fiscal year does not revert to the state general fund.

(e) Money in the fund is available, with the approval of the budget agency, to augment and supplement the funds appropriated to the department of education to implement this chapter.

SECTION 7. IC 4-4-11.6-30 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 30. (a) To carry out this chapter, the authority may enter into a contract to sell SNG to third parties with the net effect of the proceeds and costs of those sales to be reflected in the line item on customers' bills as required by section 19(c) of this chapter.**

(b) The following apply if the authority enters into a contract under subsection (a):

(1) The contract between the authority and a producer of SNG for the sale and purchase of SNG must be a purchase

contract and is subject to all the requirements of this chapter.

(2) Contracts for services the authority determines are necessary and appropriate to effectuate SNG sales and the related transportation and delivery of SNG, including contracts authorizing third parties to act as the authority's agent in selling the SNG, must be related contracts.

(3) Contracts between the authority and regulated energy utilities for the crediting and charging of the proceeds and costs to all retail end use customers, including the billing and collecting of any net costs, must be management contracts subject to section 22 of this chapter.

(c) The:

(1) proceeds of the sales of SNG;

(2) costs of purchasing, transporting, and delivering the SNG;

(3) authority's administrative costs;

(4) costs incurred in carrying out this section by an agent of the authority; and

(5) costs associated with supplying working capital, maintaining financial reserves, and allowing defaults by SNG purchasers or retail end use customers;

shall be allocated to the retail end use customers of each regulated energy utility based on the proportion of the amount of gas delivered by the regulated energy utility to the total amount of gas delivered by all regulated energy utilities in the immediately preceding calendar year. The commission shall determine a just and reasonable method for allocating the credits and charges to the retail end use customers. The mechanism and processes the authority uses to calculate the costs must be capable of audit and verification.

(d) The obligation of the authority to pay for SNG or for any services under a contract entered into under this chapter is limited to the funds available in the account plus any other amount recoverable by the authority through a provision included in a contract under this section. An obligation under this section is not supported by the full faith and credit of the state.

SECTION 8. IC 4-13-2-14.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 14.1. (a) A contract to which a state agency is a party must be approved by the following persons:

(1) The commissioner of the Indiana department of administration.

(2) The director of the budget agency. The director of the budget agency is not required to approve a contract:

(A) for supplies under IC 5-22, unless the budget agency is required to approve the contract under rules or written policies adopted under IC 5-22; or

(B) for public works under IC 4-13.6, if the estimated cost of the contract is less than one hundred thousand dollars ($100,000).

(3) The attorney general, as required by section 14.3 of this chapter.

(b) Each of the persons listed in subsection (a) may delegate to another person the responsibility to approve contracts under this section. The delegation must be in writing and must be filed with the Indiana department of administration.

(c) The Indiana department of administration may adopt rules under IC 4-22-2 to provide for electronic approval of contracts. **Electronic approval may include obtaining the equivalent of a signature from all contracting parties using an electronic method that does not comply with IC 5-24 (the electronic digital signature act), so long as the method allows the party to read the terms of the contract and to manifest the party's agreement to the contract by clicking on an "ok", an "agree", or a similarly labeled button or allows the party to not agree to the contract by clicking on a "cancel", "don't agree", "close window", or similarly labeled button.** Rules adopted under this subsection must provide for the following:

(1) Security to prevent unauthorized access to the approval process.

(2) The ability to convert electronic approvals into a medium allowing persons inspecting or copying contract records to know when approval has been given.

The rules adopted under this subsection may include any other provisions the department considers necessary.

(d) The Indiana department of administration shall maintain a file of information concerning contracts and leases to which a state agency is a party.

SECTION 9. IC 4-22-2-37.1, AS AMENDED BY P.L.131-2009,

SECTION 1, AS AMENDED BY P.L.160-2009, SECTION 1, AND AS AMENDED BY P.L.177-2009, SECTION 1, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 37.1. (a) This section applies to a rulemaking action resulting in any of the following rules:

(1) An order adopted by the commissioner of the Indiana department of transportation under IC 9-20-1-3(d) or IC 9-21-4-7(a) and designated by the commissioner as an emergency rule.

(2) An action taken by the director of the department of natural resources under IC 14-22-2-6(d) or IC 14-22-6-13.

(3) An emergency temporary standard adopted by the occupational safety standards commission under IC 22-8-1.1-16.1.

(4) An emergency rule adopted by the solid waste management board under IC 13-22-2-3 and classifying a waste as hazardous.

(5) A rule, other than a rule described in subdivision (6), adopted by the department of financial institutions under IC 24-4.5-6-107 and declared necessary to meet an emergency.

(6) A rule required under IC 24-4.5-1-106 that is adopted by the department of financial institutions and declared necessary to meet an emergency under IC 24-4.5-6-107.

(7) A rule adopted by the Indiana utility regulatory commission to address an emergency under IC 8-1-2-113.

(8) An emergency rule adopted by the state lottery commission under IC 4-30-3-9.

(9) A rule adopted under IC 16-19-3-5 or IC 16-41-2-1 that the executive board of the state department of health declares is necessary to meet an emergency.

(10) An emergency rule adopted by the Indiana finance authority under IC 8-21-12.

(11) An emergency rule adopted by the insurance commissioner under IC 27-1-23-7.

(12) An emergency rule adopted by the Indiana horse racing commission under IC 4-31-3-9.

(13) An emergency rule adopted by the air pollution control board, the solid waste management board, or the water pollution control board under IC 13-15-4-10(4) or to comply with a

deadline required by or other date provided by federal law, provided:

(A) the variance procedures are included in the rules; and

(B) permits or licenses granted during the period the emergency rule is in effect are reviewed after the emergency rule expires.

(14) An emergency rule adopted by the Indiana election commission under IC 3-6-4.1-14.

(15) An emergency rule adopted by the department of natural resources under IC 14-10-2-5.

(16) An emergency rule adopted by the Indiana gaming commission under IC 4-32.2-3-3(b), IC 4-33-4-2, IC 4-33-4-3, IC 4-33-4-14, **IC 4-33-22-12,** or IC 4-35-4-2.

(17) An emergency rule adopted by the alcohol and tobacco commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or IC 7.1-3-20-24.4.

(18) An emergency rule adopted by the department of financial institutions under IC 28-15-11.

(19) An emergency rule adopted by the office of the secretary of family and social services under IC 12-8-1-12.

(20) An emergency rule adopted by the office of the children's health insurance program under IC 12-17.6-2-11.

(21) An emergency rule adopted by the office of Medicaid policy and planning under IC 12-15-41-15.

(22) An emergency rule adopted by the Indiana state board of animal health under IC 15-17-10-9.

(23) An emergency rule adopted by the board of directors of the Indiana education savings authority under IC 21-9-4-7.

(24) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-34 (repealed).

(25) An emergency rule adopted by the department of local government finance under IC 6-1.1-4-33 (repealed).

(26) An emergency rule adopted by the boiler and pressure vessel rules board under IC 22-13-2-8(c).

(27) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-37(l) (repealed) or an emergency rule adopted by the department of local government finance under IC 6-1.1-4-36(j) (repealed) or IC 6-1.1-22.5-20.

(28) An emergency rule adopted by the board of the Indiana economic development corporation under IC 5-28-5-8.

(29) A rule adopted by the department of financial institutions under IC 34-55-10-2.5.

(30) A rule adopted by the Indiana finance authority:

(A) under IC 8-15.5-7 approving user fees (as defined in IC 8-15.5-2-10) provided for in a public-private agreement under IC 8-15.5;

(B) under IC 8-15-2-17.2(a)(10):

(i) establishing enforcement procedures; and

(ii) making assessments for failure to pay required tolls;

(C) under IC 8-15-2-14(a)(3) authorizing the use of and establishing procedures for the implementation of the collection of user fees by electronic or other nonmanual means; or

(D) to make other changes to existing rules related to a toll road project to accommodate the provisions of a public-private agreement under IC 8-15.5.

(31) An emergency rule adopted by the board of the Indiana health informatics corporation under IC 5-31-5-8.

~~*(32) An emergency rule adopted by the athletic commission under IC 25-9-1-4.5.*~~

(32) An emergency rule adopted by the department of child services under IC 31-25-2-21, IC 31-27-2-4, IC 31-27-4-2, or IC 31-27-4-3.

~~*(32)*~~ **(33)** *An emergency rule adopted by the Indiana real estate commission under IC 25-34.1-2-5(15).*

(b) The following do not apply to rules described in subsection (a):

(1) Sections 24 through 36 of this chapter.

(2) IC 13-14-9.

(c) After a rule described in subsection (a) has been adopted by the agency, the agency shall submit the rule to the publisher for the assignment of a document control number. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the format of the rule and other documents to be submitted under this subsection.

(d) After the document control number has been assigned, the

agency shall submit the rule to the publisher for filing. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the format of the rule and other documents to be submitted under this subsection.

(e) Subject to section 39 of this chapter, the publisher shall:

(1) accept the rule for filing; and

(2) electronically record the date and time that the rule is accepted.

(f) A rule described in subsection (a) takes effect on the latest of the following dates:

(1) The effective date of the statute delegating authority to the agency to adopt the rule.

(2) The date and time that the rule is accepted for filing under subsection (e).

(3) The effective date stated by the adopting agency in the rule.

(4) The date of compliance with every requirement established by law as a prerequisite to the adoption or effectiveness of the rule.

(g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6, IC 22-8-1.1-16.1, and IC 22-13-2-8(c), and except as provided in subsections (j), (k), and (l), a rule adopted under this section expires not later than ninety (90) days after the rule is accepted for filing under subsection (e). Except for a rule adopted under subsection (a)(13), (a)(24), (a)(25), or (a)(27), the rule may be extended by adopting another rule under this section, but only for one (1) extension period. The extension period for a rule adopted under subsection (a)(28) may not exceed the period for which the original rule was in effect. A rule adopted under subsection (a)(13) may be extended for two (2) extension periods. Subject to subsection (j), a rule adopted under subsection (a)(24), (a)(25), or (a)(27) may be extended for an unlimited number of extension periods. Except for a rule adopted under subsection (a)(13), for a rule adopted under this section to be effective after one (1) extension period, the rule must be adopted under:

(1) sections 24 through 36 of this chapter; or

(2) IC 13-14-9;

as applicable.

(h) A rule described in subsection (a)(8), (a)(12), or (a)(29) expires on the earlier of the following dates:

(1) The expiration date stated by the adopting agency in the rule.

(2) The date that the rule is amended or repealed by a later rule adopted under sections 24 through 36 of this chapter or this section.

(i) This section may not be used to readopt a rule under IC 4-22-2.5.

(j) A rule described in subsection (a)(24) or (a)(25) expires not later than January 1, 2006.

(k) A rule described in subsection (a)(28) expires on the expiration date stated by the board of the Indiana economic development corporation in the rule.

(l) A rule described in subsection (a)(30) expires on the expiration date stated by the Indiana finance authority in the rule.

(m) A rule described in subsection (a)(5) or (a)(6) expires on the date the department is next required to issue a rule under the statute authorizing or requiring the rule.

SECTION 10. IC 4-31-6-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8. (a) Applicants for a license issued by the commission shall submit their fingerprints to the commission once. ~~every five (5) years.~~ Except as provided in subsection (d), the fingerprints shall be submitted as follows:

(1) The commission shall have fingerprints taken of an applicant for a license before approving the applicant for admission to the racing premises.

(2) Persons not appearing at the racing premises shall submit their fingerprints in the manner prescribed by the commission.

(b) Except as provided in subsection (d), fingerprints required by this section must be submitted on forms prescribed by the commission.

(c) The commission may forward to the Federal Bureau of Investigation or any other agency for processing all fingerprints submitted by license applicants. The commission shall maintain a file of fingerprints.

(d) The commission may accept the results of fingerprints taken within the preceding five (5) years and accepted by a racing body in another racing jurisdiction. The commission may require that acceptance of fingerprints under this subsection be dependent on the existence of a reciprocal agreement through which the state providing the fingerprints agrees to accept fingerprints from Indiana.

(e) The commission shall coordinate with the state police

department for the storage of fingerprints submitted under this section.

SECTION 11. IC 4-33-22 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

Chapter 22. Boxing and Mixed Martial Arts

Sec. 1. As used in this chapter, "boxing" means the art of attack and defense with the fists, or feet in the case of kickboxing, practiced as a sport.

Sec. 2. As used in this chapter, "mixed martial arts" means the unarmed physical confrontation of persons involving the use, subject to limitations as established by the commission, of a combination of techniques from different disciplines of the martial arts, including grappling, kicking, and striking.

Sec. 3. As used in this chapter, "professional boxer" means a person who competes for money, teaches, pursues, or assists in the practice of boxing as a means to obtain a livelihood or pecuniary gain.

Sec. 4. As used in this chapter, "matchmaker" means a person who, under contract, agreement, or other arrangement with a boxer, acts as a booker, an agent, a booking agent, or a representative to secure:

(1) an engagement; or

(2) a contract;

for the boxer.

Sec. 5. As used in this chapter, "sparring" means combat in which participants intend to and actually:

(1) inflict kicks, punches, and blows; and

(2) apply other techniques;

that may reasonably be expected to inflict injury on an opponent in a contest, exhibition, or performance.

Sec. 6. (a) As used in this chapter, and except as provided in section 18 of this chapter, "promoter" means the person primarily responsible for organizing, promoting, and producing a professional boxing or sparring, professional unarmed combat, or professional wrestling match, contest, or exhibition.

(b) The term does not include a hotel, casino, resort, or other commercial establishment hosting or sponsoring a professional boxing or sparring, professional unarmed combat, or professional

wrestling match, contest, or exhibition, unless:

(1) the hotel, casino, resort, or other commercial establishment is primarily responsible for organizing, promoting, and producing the match, contest, or exhibition; and

(2) there is no other person primarily responsible for organizing, promoting, and producing the match, contest, or exhibition.

Sec. 7. As used in this chapter, "unarmed combat" means the practice, or any related practice, of mixed martial arts or martial arts.

Sec. 8. As used in this chapter, "unarmed competitor" means a person who engages in an unarmed combat match, contest, exhibition, or performance.

Sec. 9. (a) As used in this chapter, "fund" refers to the athletic fund created by this section.

(b) The athletic fund is created for purposes of administering this chapter. The fund shall be administered by the Indiana gaming commission.

(c) Expenses of administering the fund shall be paid from money in the fund.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the state general fund.

(e) The fund consists of:

(1) appropriations made by the general assembly;

(2) fees collected under this chapter; and

(3) penalties collected under this chapter.

(f) An amount necessary to administer this chapter is continually appropriated from the fund to the Indiana gaming commission.

(g) If the balance in the fund at the end of a particular fiscal year exceeds one hundred thousand dollars ($100,000), the amount that exceeds one hundred thousand dollars ($100,000) reverts to the state general fund.

Sec. 10. The commission shall ensure the:

(1) safety of participants in;

(2) fairness of; and

(3) integrity of;

sparring, boxing, and unarmed combat matches or exhibitions in Indiana.

Sec. 11. (a) The executive director of the commission may appoint and remove deputies for use by the commission. The commission shall, when the commission considers it advisable, direct a deputy to be present at any place where sparring, boxing, or unarmed combat matches or exhibitions are to be held under this chapter. The deputies shall ascertain the exact conditions surrounding the match or exhibition and make a written report of the conditions in the manner and form prescribed by the commission.

(b) The executive director of the commission may appoint and remove a secretary for the commission, who shall:

(1) keep a full and true record of all the commission's proceedings;

(2) preserve at its general office all the commission's books, documents, and papers; and

(3) prepare for service notices and other papers as may be required by the commission.

The executive director of the commission may employ only such clerical employees as are actually necessary and fix their salaries as provided by law.

(c) The executive director of the commission or a deputy appointed under subsection (a) may execute orders, subpoenas, continuances, and other legal documents on behalf of the commission.

(d) All expenses incurred in the administration of this chapter shall be paid from the fund upon appropriation being made for the expenses.

Sec. 12. (a) In accordance with IC 35-45-18-1(b), the commission may adopt rules under IC 4-22-2 to regulate the conduct of the following:

(1) Mixed martial arts.

(2) Martial arts, including the following:

(A) Jujutsu.

(B) Karate.

(C) Kickboxing.

(D) Kung fu.

(E) Tae kwon do.

(F) Judo.

(G) Sambo.

(H) Pankration.

(I) Shootwrestling.

(3) Professional wrestling.

(4) Boxing.

(5) Sparring.

(b) The commission may adopt emergency rules under IC 4-22-2-37.1 if the commission determines that:

(1) the need for a rule is so immediate and substantial that the ordinary rulemaking procedures under IC 4-22-2 are inadequate to address the need; and

(2) an emergency rule is likely to address the need.

Sec. 13. (a) Boxing, sparring, and unarmed combat matches or exhibitions, whether or not for prizes or purses, may be held in Indiana.

(b) The commission:

(1) has the sole direction, management, control, and jurisdiction over all boxing, sparring, and unarmed combat matches or exhibitions to be conducted, held, or given in Indiana; and

(2) may issue licenses for those matches or exhibitions.

(c) A boxing, sparring, or unarmed combat match or an exhibition that is:

(1) conducted by any school, college, or university within Indiana; or

(2) sanctioned by United States Amateur Boxing, Inc.;

is not subject to the provisions of this chapter requiring a license. The term "school, college, or university" does not include a school or other institution for the principal purpose of furnishing instruction in boxing, or other athletics.

(d) Except as provided under section 18 of this chapter, no boxing, sparring, or unarmed combat match or exhibition, except as provided in this chapter, may be held or conducted within Indiana except under a license and permit issued by the commission in accordance with this chapter and the rules adopted under this chapter.

Sec. 14. (a) The commission may:

(1) cause to be issued an annual license in writing for holding boxing, sparring, or unarmed combat matches or exhibitions to any person who is qualified under this chapter; and

(2) adopt rules to establish the qualifications of the applicants.

(b) In addition to a general license, a person must, before conducting any particular boxing, sparring, or unarmed combat match or exhibition where one (1) or more contests are to be held, obtain a permit from the commission.

(c) Annual licenses may be revoked or suspended by the commission upon hearing and proof that any holder of an annual license has violated this chapter or any rule or order of the commission.

(d) A person who knowingly, recklessly, or intentionally conducts a boxing, sparring, or unarmed combat match or exhibition without first obtaining a license or permit commits a Class B misdemeanor.

Sec. 15. (a) Applications for licenses or permits to conduct or participate in, either directly or indirectly, a boxing, sparring, or unarmed combat match or exhibition must be:

(1) made in writing upon forms prescribed by the commission and shall be addressed to and filed with the gaming commission; and

(2) verified by the applicant, if an individual, or by an officer of the club, corporation, or association in whose behalf the application is made.

(b) The application for a permit to conduct a particular boxing, sparring, or unarmed combat match or exhibition must, among other things, state:

(1) the time and exact place at which the boxing, sparring, or unarmed combat match or exhibition is proposed to be held;

(2) the names of the contestants who will participate and their seconds;

(3) the seating capacity of the buildings or the hall in which such exhibition is proposed to be held;

(4) the proposed admission charge;

(5) the amount of the compensation percentage of gate receipts that is proposed to be paid to each of the participants;

(6) the name and address of the applicant;

(7) the names and addresses of all the officers if the applicant is a club, a corporation, or an association; and

(8) the record of each contestant from a source approved by the commission.

(c) The commission shall keep records of the names and addresses of all persons receiving permits and licenses.

Sec. 16. (a) As used in this section, "applicant" means a person applying for a promoter's license or permit.

(b) The commission shall require an applicant to provide:

(1) information, including fingerprints, that is needed to facilitate access to criminal history information; and

(2) financial information, to the extent allowed by law.

(c) The state police department shall:

(1) provide assistance in obtaining criminal history information of an applicant; and

(2) forward fingerprints submitted by an applicant to the Federal Bureau of Investigation for the release of an applicant's criminal history information for the purposes of licensure under this chapter.

(d) The applicant shall pay any fees associated with the release of the criminal history information of the applicant.

Sec. 17. All promoters, either corporations or natural persons, physicians, referees, judges, timekeepers, matchmakers, professional boxers, unarmed competitors, managers of professional boxers or unarmed competitors, trainers and seconds, shall be licensed as provided in this chapter, and such a corporation or person may not be permitted to participate, either directly or indirectly, in any such boxing, sparring, or unarmed combat match or exhibition, or the holding thereof, unless the corporation and all such persons have first procured licenses. A contest conforming to the rules and requirements of this chapter is not considered to be a prizefight.

Sec. 18. (a) As used in this section, "amateur mixed martial arts" refers to mixed martial arts that is:

(1) performed for training purposes in a school or other educational facility for no:

(A) purse; or

(B) prize with a value greater than one hundred dollars ($100); or

(2) performed in a match, contest, exhibition, or performance for no:

(A) purse; or

(B) prize with a value greater than one hundred dollars ($100).

(b) As used in this section, "promoter" means the person primarily responsible for organizing, promoting, and producing an amateur mixed martial arts match or exhibition. The term does not include a hotel, casino, resort, or other commercial establishment hosting or sponsoring an amateur mixed martial arts match unless:

(1) the hotel, casino, resort, or other commercial establishment is primarily responsible for organizing, promoting, and producing the match or exhibition; and

(2) there is no other person primarily responsible for organizing, promoting, and producing the match or exhibition.

(c) For amateur mixed martial arts matches or exhibitions, only:

(1) a body sanctioning the match or exhibition; and

(2) the promoter of the match or exhibition;

must procure licenses under this chapter. The commission shall develop procedures and standards governing application for licensure and license renewal of bodies sanctioning a match or exhibition and promoters under this section. The commission shall develop procedures for inspection and enforcement with respect to licenses issued under this subsection.

(d) The commission shall adopt rules under IC 4-22-2 to license sanctioning bodies and promoters required to be licensed under this chapter.

(e) The commission shall adopt rules under IC 4-22-2 that apply to each match or exhibition covered under this section and that determine requirements for the following:

(1) The presence of a medical doctor licensed under IC 25-22.5.

(2) The presence of an ambulance.

(3) Requirements for medical and life insurance to be carried for each participant.

(4) The need for medical tests, including:

(A) tests for HIV;

(B) pregnancy tests for women participants; and

(C) screening tests for illegal drugs.

Sec. 19. A permit or license may not be issued to any person who has not complied with this chapter or who, before the applications, failed to obey a rule or order of the commission. In the case of a club, corporation, or association, a license or permit may not be issued to it if, before its application, any of its officers have violated this chapter or any rule or order of the commission. A promoter, physician, referee, judge, timekeeper, matchmaker, professional boxer, unarmed competitor, manager of a professional boxer or unarmed competitor, trainer, or second may not be licensed if the person holds a federal gambling stamp. A license or permit when issued must recite that the person to whom it is granted has complied with this chapter and that a license or permit is not transferable.

Sec. 20. The commission has full power and authority to limit the number of boxing, sparring, or unarmed combat matches or exhibitions to be held or given by any person, club, organization, or corporation in any city or town in Indiana.

Sec. 21. (a) A person to whom a permit is issued may not:

(1) hold the match or exhibition at any other time or place;

(2) permit any other contestant to participate in the match or exhibition;

(3) charge a greater rate or rates of admission; or

(4) pay a greater fee, compensation, or percentage to contestants than that specified in the application filed before the issuance of the permit.

(b) Notwithstanding subsection (a), in case of emergency the commission may, upon application, allow a person to hold a boxing, sparring, or unarmed combat match or exhibition wherever and whenever it considers fit within the city in which the person is located and substitute contestants or seconds as circumstances may require.

Sec. 22. In case the commission refuses to grant a license or permit to any applicant, the applicant, at the applicant's option, is entitled to a hearing in the manner provided by this chapter, but if the commission, before the refusal, after a hearing, makes a valid finding that the applicant has been guilty of disobeying any rule or order of the commission, or of any provision of this chapter, the applicant is not entitled to a license or permit; and in case any

boxing, sparring, or unarmed combat match, or exhibition has been conducted by any person, club, corporation, or association under this chapter, the commission on its own motion, or on the petition of any resident of Indiana, may conduct a hearing to determine whether such person, club, corporation, or association has disobeyed any rule or order of the commission or has been guilty of any violation of this chapter.

Sec. 23. Any hearing by the commission must be in accordance with IC 4-21.5-3.

Sec. 24. All buildings or structures used, or in any way to be used for the purpose of holding or giving therein boxing, sparring, or unarmed combat matches or exhibitions, must be properly ventilated and provided with fire exits and fire escapes, if necessary, and in all manner must conform to the laws, ordinances, and regulations pertaining to buildings in the city or town where situated.

Sec. 25. (a) A person shall not:

(1) permit any person less than eighteen (18) years of age to participate in any boxing or sparring match or exhibition;

(2) permit any gambling on the result of, or on any contingency in connection with, any boxing or sparring match or exhibition conducted by it; or

(3) participate in or permit any sham or collusive boxing or sparring match or exhibition.

(b) A person who violates this section, in addition to any criminal penalty:

(1) shall have the person's license or permit revoked, suspended, or restricted by the commission;

(2) shall be placed on probation by the commission;

(3) shall pay a civil penalty imposed by the commission not to exceed one thousand dollars ($1,000);

(4) is ineligible for a license or permit at any future time; or

(5) is subject to the imposition by the commission of any combination of the penalties set forth in subdivisions (1) through (4).

Sec. 26. (a) A person shall not:

(1) participate in any sham or collusive boxing or sparring match or exhibition where the match or exhibition is conducted by a licensed person; or

(2) being less than eighteen (18) years of age, participate in any boxing or sparring match or exhibition.

(b) For a first offense, in addition to the fine, a person who is a licensed contestant in Indiana and violates this section:

(1) shall have the person's license or permit revoked, suspended, or restricted by the commission;

(2) shall be placed on probation by the commission;

(3) shall pay a civil penalty imposed by the commission not to exceed one thousand dollars ($1,000);

(4) is ineligible for a license or permit at any future time; or

(5) is subject to the imposition by the commission of any combination of the penalties set forth in subdivisions (1) through (4).

For a second offense, a licensed contestant who violates this section may be forever barred from receiving any license or permit or participating in any boxing or sparring match or exhibition in Indiana.

(c) A person who gambles on the result of, or on any contingency in connection with, any boxing or sparring match or exhibition and is convicted under IC 35-45-5 shall, in addition to any criminal penalty imposed, be penalized as provided in subsection (b).

Sec. 27. (a) Each contestant for boxing, sparring, or unarmed combat shall be examined within two (2) hours before entering the ring by a competent physician licensed under IC 25-22.5 appointed by the commission. The physician shall certify in writing that each contestant is physically fit to engage in the contest if the physician so determines, and the physician's certificate shall be delivered to the commission before the contest. The physician shall mail the report of examination to the commission within twenty-four (24) hours after the contest. Blank forms of physicians' reports shall be furnished to physicians by the commission, and questions on blank forms must be answered in full. No match, contest, or exhibition shall be held unless a licensed physician is in attendance. Any boxer or unarmed competitor who, in the opinion of the physician, is physically unfit to enter the match or exhibition shall be excused by the commission or its deputy. During the conduct of the match or exhibition, the physician may observe the physical condition of the boxers or unarmed competitors and if, in the opinion of the

physician, any contestant in any match or exhibition is physically unfit to continue, the physician shall advise the referee.

(b) A boxing or sparring match or exhibition may not last more than twelve (12) rounds, and each round may not last more than three (3) minutes. There must not be less than a one (1) minute intermission between each round. The commission may for any bout or any class of contestants limit the number of rounds of the bout within the maximum of twelve (12) rounds.

(c) Any contestant in a boxing or sparring match or an exhibition must wear standard gloves, weighing at least eight (8) ounces, and the gloves worn by each of the contestants must be equal in weight.

(d) At each boxing, sparring, or unarmed combat match or exhibition there must be in attendance, at the expense of the person conducting the match or exhibition, a licensed referee who shall direct and control the match or exhibition. Before starting each contest, the referee shall ascertain from each contestant the name of the contestant's chief second, and shall hold the chief second responsible for the conduct of the chief second's assistant seconds during the contest. The referee may declare forfeited a part or all of any remuneration or purse belonging to the contestants, or one (1) of them, if, in the referee's judgment, the contestant or contestants are not honestly competing. Any forfeited amount shall be paid into the fund.

(e) There must also be in attendance at the expense of the person conducting the match or exhibition three (3) licensed judges who shall, at the termination of each boxing, sparring, or unarmed combat match or exhibition render their decisions as to the winner.

(f) A person who holds any boxing, sparring, or unarmed combat match or exhibition in violation of this section commits a Class A infraction.

(g) A physician who knowingly certifies falsely to the physical condition of any contestant commits a Class B infraction.

Sec. 28. (a) A contestant may not participate in any boxing, sparring, or unarmed combat match or exhibition unless registered and licensed with the commission, which license must be renewed biennially. The license fee and the renewal fee may not be less than five dollars ($5), paid at the time of the application for the license or renewal.

(b) Any person who desires to be registered and licensed as a contestant shall file an application in writing with the executive director of the commission stating:

(1) the correct name of the applicant;

(2) the date and place of the applicant's birth;

(3) the place of the applicant's residence; and

(4) the applicant's employment, business, or occupation, if any.

The application must be verified under oath of the applicant. An application for a renewal license must be in similar form.

(c) No assumed or ring names shall be used in any application nor in any advertisement of any contest, unless the ring or assumed name has been registered with the commission with the correct name of the applicant.

(d) Each application for license by a contestant or for a license renewal must be accompanied by the certificate of a physician residing within Indiana who is licensed as provided in this article and has practiced in Indiana for not less than five (5) years, certifying that the physician has made a thorough physical examination of the applicant, and that the applicant is physically fit and qualified to participate in boxing, sparring, or unarmed combat matches or exhibitions.

Sec. 29. (a) The commission shall, upon proper application, grant licenses to competent referees and judges whose qualifications may be tested by the commission, and the commission may revoke any such license granted to any referee or judge upon cause as the commission finds sufficient. A referee's or judge's license must be renewed biennially. No person shall be permitted to act as referee or judge in Indiana without a license.

(b) The application for license as referee, or renewal thereof, shall be accompanied by a fee established by the commission.

(c) The commission shall appoint, from among licensed officials, all officials for all contests held under this chapter.

Sec. 30. The commission may declare any person who has been convicted of an offense under IC 35-48 ineligible to participate in any boxing, sparring, or unarmed combat match or exhibition, or any other activity or event regulated by the commission, notwithstanding that the person may hold a valid license issued by the commission. The period of ineligibility shall be for not less than

six (6) months nor more than three (3) years, as determined by the commission. If a convicted person is declared ineligible, the commission shall suspend the person and declare the person ineligible to participate in any boxing, sparring, or unarmed combat match or exhibition, or any other activity or event regulated by the commission, as soon as it discovers the conviction, but the period of ineligibility shall commence from the actual date of the conviction. During the period of ineligibility, the suspended person may reapply to the commission for a license.

Sec. 31. (a) Any license under this chapter may be revoked or suspended by the commission for reasons sufficient under this chapter.

(b) If a person displays to the public credentials issued by the commission that:

(1) have been revoked or suspended under this chapter; or

(2) have expired;

the commission may declare the person ineligible for a period to be determined by the commission to participate in any boxing, sparring, or unarmed combat match, exhibition, or other activity regulated by the commission.

Sec. 32. (a) Every person, club, corporation, firm, or association that may conduct any match or exhibition under this chapter shall do the following within twenty-four (24) hours after the end of the match or exhibition:

(1) Furnish to the commission, by mail, a written report duly verified by that person or, if a club, corporation, firm, or association, by one (1) of its officers, showing the amount of the gross proceeds for the match or exhibition and other related matters as the commission may prescribe.

(2) Pay a tax of five percent (5%) of the price from the sale of each admission ticket to the match or exhibition, which price is a separate and distinct charge and may not include any tax imposed on and collected on account of the sale of the ticket. Money derived from the tax shall be deposited in the fund.

(3) Pay all fees established by the commission necessary to cover the administrative costs of its regulatory oversight function.

The commission may waive the tax on the price of admission for complimentary admissions.

(b) Before any license is granted for any boxing, sparring, or unarmed combat match or exhibition in Indiana, a bond or other instrument that provides financial recourse must be provided to the commission. The instrument must be:

(1) in an amount determined by the commission;

(2) approved as to form and sufficiency of the sureties by the commission;

(3) payable to the state; and

(4) conditioned for the payment of the tax imposed, the officials and contestants, and compliance with this chapter and the valid rules of the commission.

Sec. 33. Every promoter holding or showing any public boxing, sparring, mixed martial arts, or unarmed combat match or exhibition for viewing in Indiana on a closed circuit telecast, pay per view telecast, or subscription television that is viewed by subscribers who are not present at the venue shall furnish the executive director of the commission a written report, under oath, stating the amount of gross proceeds from the closed circuit telecast, pay per view telecast, or subscription television viewing in Indiana and any other matter as the commission may prescribe. The promoter shall, within seventy-two (72) hours after the determination of the outcome of the match or exhibition, pay a tax of three percent (3%) of the gross receipts from the viewing of the match or exhibition on a closed circuit telecast, pay per view telecast, or subscription television. However, the tax may not exceed fifty thousand dollars ($50,000) for each event. Money derived from the tax shall be placed in the state general fund. The budget agency may augment appropriations from the fund to the Indiana gaming commission to regulate boxing, sparring, unarmed combat, and any other form of mixed martial arts.

Sec. 34. Whenever a report under section 32 or 33 of this chapter is unsatisfactory to the state treasurer, the state treasurer may examine or cause to be examined the books and records of the person, club, corporation, or association and subpoena and examine, under oath, that person or officers and other persons as witnesses for the purpose of determining the total amount of the gross receipts derived from any contest, and the amount of tax due, under this chapter, which tax the state treasurer may upon examination, fix and determine. In case of default in the payment

of any tax due, together with the expenses incurred in making the examination for a period of twenty (20) days after written notice to the delinquent person, club, corporation, or association of the amount fixed by the state treasurer as delinquent, the person, club, corporation, or association shall be disqualified from receiving any new license or permit, and the attorney general shall institute suit upon the bond filed under section 32 of this chapter, to recover the tax and penalties imposed by this chapter. In addition to the tax due from the delinquent person, club, corporation, or association, a penalty in the sum of not more than one thousand dollars ($1,000) for each offense shall be recovered by the attorney general for the state.

Sec. 35. The commission may appoint official representatives, designated as inspectors, each of whom shall receive from the commission a card authorizing the official representative to act as an inspector wherever the commission may designate the official representative to act. One (1) inspector or deputy shall:

(1) be present at all boxing, sparring, or unarmed combat matches or exhibitions and ensure that the rules of the commission and this chapter are strictly observed; and

(2) be present at the counting up of the gross receipts and immediately mail to the commission the final box office statement received by the inspector or deputy from the person or officers of the club, corporation, or association conducting the match or exhibition.

Sec. 36. The commission shall determine the weights and classes of boxers and unarmed competitors and the rules and regulations of boxing and unarmed combat.

Sec. 37. All tickets of admission to any boxing, sparring, or unarmed combat match or exhibition must clearly show the purchase price. Tickets shall not be sold for more than the price printed on the tickets. It is unlawful for any person, club, corporation, or association to admit to a contest a number of people greater than the seating capacity of the place where the contest is held.

Sec. 38. A contestant shall not be paid for services before the contest, and the referee and judges must determine that if any contestant did not give an honest exhibition of the contestant's skill, the contestant's services shall not be paid for.

Sec. 39. All fees received by the executive director of the commission on behalf of the commission under this chapter shall be paid into the fund.

Sec. 40. A person who knowingly, recklessly, or intentionally violates this chapter commits a Class B misdemeanor.

Sec. 41. The commission may adopt rules under IC 4-22-2 to administer this chapter.

Sec. 42. A licensee shall comply with the standards established by the commission. A practitioner is subject to the disciplinary sanctions under section 43 of this chapter if, after a hearing, the commission finds any of the following concerning the practitioner:

(1) Failure, without just cause, to observe the terms of any contract required to be on file with the commission.

(2) Violation of any of the provisions of the statutes, rules, or orders of the commission.

(3) Interference with the official duties of other licensees, the commission, or any administrative officer or representative of the commission.

(4) Gambling that is otherwise prohibited by law on the result of any bout permitted by the commission.

(5) Noncompetitive boxing, sparring, or unarmed combat or the solicitation of noncompetitive boxers or unarmed competitors.

(6) Failure to appear at designated times and places as required by the commission.

(7) Bribery or attempted bribery of any licensee, employee, or member of the commission.

(8) Employing or knowingly cooperating in fraud or material deception in order to obtain any license or permit issued by the commission.

(9) Conviction for a crime that has a direct bearing on the applicant's or licensee's ability to perform acts that require a license or permit issued by the commission.

(10) Unlicensed or unpermitted participation in any activity in Indiana for which a license or permit issued by the commission is required.

(11) Participating, directly or indirectly, in any agreement to circumvent any rules or ruling of the commission.

(12) Any activity that undermines the integrity of boxing,

sparring, or unarmed combat.

Sec. 43. (a) The commission may impose any of the following sanctions, singly or in combination, if the commission finds that a licensee is subject to disciplinary sanctions under section 42 of this chapter:

(1) Permanently revoke a licensee's license.

(2) Suspend a licensee's license.

(3) Censure a licensee.

(4) Issue a letter of reprimand.

(5) Place a licensee on probation status and require the licensee to:

(A) report regularly to the commission upon the matters that are the basis of probation;

(B) limit the licensee's participation at boxing, sparring, or unarmed combat events to those areas prescribed by the commission; or

(C) perform any acts, including community restitution or service without compensation, or refrain from performing any acts, that the commission considers appropriate to the public interest or to the rehabilitation or treatment of the licensee.

(6) Assess a civil penalty against the licensee for not more than one thousand dollars ($1,000) for each violation listed in section 42 of this chapter.

(7) Order a licensee to pay consumer restitution to a person who suffered damages as a result of the conduct or omission that was the basis for the disciplinary sanctions under this chapter.

(b) When imposing a civil penalty under subsection (a)(6), the commission shall consider a licensee's ability to pay the amount assessed. If the licensee fails to pay the civil penalty within the time specified by the commission, the commission may suspend the licensee's license without additional proceedings. However, a suspension may not be imposed if the sole basis for the suspension is the licensee's inability to pay a civil penalty.

(c) The commission may withdraw or modify the probation under subsection (a)(5) if the commission finds after a hearing that the deficiency that required disciplinary action has been remedied or that changed circumstances warrant a modification of the order.

Sec. 44. (a) The commission may summarily suspend a licensee's license for ninety (90) days before a final adjudication or during the appeals process if the commission finds that a licensee represents a clear and immediate danger to the public's health, safety, or property if the licensee is allowed to continue to participate in boxing, sparring, or unarmed combat matches, contests, or exhibitions. The summary suspension may be renewed upon a hearing before the commission, and each renewal may be for not more than ninety (90) days.

(b) Before the commission may summarily suspend a license under this section, the commission shall make a reasonable attempt to notify the licensee of:

(1) a hearing by the commission to suspend the licensee's license; and

(2) information regarding the allegation against the licensee.

The commission shall also notify the licensee that the licensee may provide a written or an oral statement to the commission on the licensee's behalf before the commission issues an order for summary suspension. A reasonable attempt to notify the licensee is made if the commission attempts to notify the licensee by telephone or facsimile at the last telephone number or facsimile number of the licensee on file with the commission.

Sec. 45. The commission may reinstate a license that has been suspended under this chapter if, after a hearing, the commission is satisfied that the applicant is able to participate at a boxing, sparring, or unarmed combat match, contest, or exhibition in a professional manner and with reasonable skill. As a condition of reinstatement, the commission may impose disciplinary or corrective measures authorized under this chapter.

Sec. 46. The commission may not reinstate a license that has been revoked under this chapter. An individual whose license has been revoked under this chapter may not apply for a new license until seven (7) years after the date of revocation.

Sec. 47. A licensee may petition the commission to accept the surrender of the licensee's license instead of having a hearing before the commission. The licensee may not surrender the licensee's license without the written approval of the commission, and the commission may impose any conditions appropriate to the surrender or reinstatement of a surrendered license.

Sec. 48. A licensee who has been subjected to disciplinary sanctions may be required by the commission to pay the costs of the proceeding. The licensee's ability to pay shall be considered when costs are assessed. If the licensee fails to pay the costs, a suspension may not be imposed solely upon the licensee's inability to pay the amount assessed. These costs are limited to costs for the following:

(1) Court reporters.

(2) Transcripts.

(3) Certification of documents.

(4) Photo duplication.

(5) Witness attendance and mileage fees.

(6) Postage.

(7) Expert witnesses.

(8) Depositions.

(9) Notarizations.

(10) Administrative law judges.

Sec. 49. (a) The commission may refuse to issue a license or may issue a probationary license to an applicant for licensure if:

(1) the applicant has:

(A) been disciplined by a licensing entity of another state or jurisdiction; or

(B) committed an act that would have subjected the applicant to the disciplinary process if the applicant had been licensed in Indiana when the act occurred; and

(2) the violation for which the applicant was or could have been disciplined has a bearing on the applicant's ability to competently and professionally participate in a boxing, sparring, or unarmed combat match, contest, or exhibition in Indiana.

(b) The board may:

(1) refuse to issue a license; or

(2) issue a probationary license;

to an applicant for licensure if the applicant participated in a boxing, sparring, or unarmed combat match, contest, or exhibition in Indiana without a license in violation of the law.

(c) Whenever the commission issues a probationary license, the commission may require a licensee to do any of the following:

(1) Report regularly to the commission upon the matters that

are the basis of the discipline of the other state or jurisdiction.

(2) Limit participation in a boxing, sparring, or unarmed combat match, contest, or exhibition to the areas prescribed by the commission.

(3) Engage in community restitution or service without compensation for the number of hours specified by the commission.

(4) Perform or refrain from performing an act that the commission considers appropriate to the public interest or to the rehabilitation or treatment of the applicant.

(d) The commission shall remove any limitations placed on a probationary license under this section if the commission finds after a public hearing that the deficiency that required disciplinary action has been remedied.

SECTION 12. IC 6-1.1-1-8.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: **Sec. 8.8. "Mobile home community" has the meaning set forth in IC 16-41-27-5.**

SECTION 13. IC 6-1.1-4-4.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 4.4. (a) This section applies to an assessment under section 4 or 4.5 of this chapter or another law.**

(b) If the assessor changes the underlying parcel characteristics, including age, grade, or condition, of a property, from the previous year's assessment date, the assessor shall document:

(1) each change; and

(2) the reason that each change was made.

In any appeal of the assessment, the assessor has the burden of proving that each change was valid.

SECTION 14. IC 6-1.1-4-4.6, AS ADDED BY P.L.182-2009(ss), SECTION 86, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4.6. (a) If a county assessor fails before July 2 of a particular year **for which an adjustment to the assessed value of real property applies under section 4.5 of this chapter** to prepare and deliver to the county auditor a complete detailed list of all of the real property listed for taxation in the county as required by IC 6-1.1-5-14 and at least one hundred eighty (180) days have elapsed

after the July 1 deadline specified in IC 6-1.1-5-14 for delivering the list, the department of local government finance may develop annual adjustment factors under this section for that year. In developing annual adjustment factors under this section, the department of local government finance shall use data in its possession that is obtained from:

(1) the county assessor; or

(2) any of the sources listed in the rule, including county or state sales data, government studies, ratio studies, cost and depreciation tables, and other market analyses.

(b) Using the data described in subsection (a), the department of local government finance shall propose to establish annual adjustment factors for the affected tax districts for one (1) or more of the classes of real property. The proposal may provide for the equalization of annual adjustment factors in the affected township or county and in adjacent areas. The department of local government finance shall issue notice and provide opportunity for hearing in accordance with IC 6-1.1-14-4 and IC 6-1.1-14-9, as applicable, before issuing final annual adjustment factors.

(c) The annual adjustment factors finally determined by the department of local government finance after the hearing required under subsection (b) apply to the annual adjustment of real property under section 4.5 of this chapter for:

(1) the assessment date; and

(2) the real property;

specified in the final determination of the department of local government finance.

SECTION 15. IC 6-1.1-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011]: Sec. 5. (a) A petition for the reassessment of **a** real property situated within a township may be filed with the department of local government finance on or before March 31st of any year which is not a general election year and in which no general reassessment of real property is made. **A petition for reassessment of real property applies only to the most recent real property assessment date.**

(b) The petition for reassessment must be signed by not less than the following percentage of all the owners of taxable real property who reside in the township:

(1) fifteen percent (15%) for a township which does not contain an incorporated city or town;

(2) five percent (5%) for a township containing all or part of an incorporated city or town which has a population of five thousand (5,000) or less;

(3) four percent (4%) for a township containing all or part of an incorporated city which has a population of more than five thousand (5,000) but not exceeding ten thousand (10,000);

(4) three percent (3%) for a township containing all or part of an incorporated city which has a population of more than ten thousand (10,000) but not exceeding fifty thousand (50,000);

(5) two percent (2%) for a township containing all or part of an incorporated city which has a population of more than fifty thousand (50,000) but not exceeding one hundred fifty thousand (150,000); or

(6) one percent (1%) for a township containing all or part of an incorporated city which has a population of more than one hundred fifty thousand (150,000).

The signatures on the petition must be verified by the oath of one (1) or more of the signers. ~~And,~~ A certificate of the county auditor stating that the signers constitute the required number of resident owners of taxable real property of the township must accompany the petition.

(c) Upon receipt of a petition under subsection (a), the department of local government finance may order a reassessment under section 9 of this chapter or conduct a reassessment under section 31.5 of this chapter.

SECTION 16. IC 6-1.1-4-13.6, AS AMENDED BY P.L.136-2009, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011]: Sec. 13.6. (a) The ~~township assessor, or the~~ county assessor ~~if there is no township assessor for the township,~~ shall determine the values of all classes of commercial, industrial, and residential land (including farm homesites) in the ~~township or~~ county using guidelines determined by the department of local government finance. Not later than ~~November~~ **July** 1, ~~of the year preceding the year in which a general reassessment becomes effective,~~ **2011, and every fourth year thereafter,** the assessor determining the values of land shall submit the values to the county property tax assessment board of appeals. ~~Not later than March 1 of the year in which a general~~

~~reassessment becomes effective, the county property tax assessment board of appeals shall hold a public hearing in the county concerning those values. The property tax assessment board of appeals shall give notice of the hearing in accordance with IC 5-3-1.~~

(b) ~~The county property tax assessment board of appeals shall review the values submitted under subsection (a) and may make any modifications it considers necessary to provide uniformity and equality. The county property tax assessment board of appeals shall coordinate the valuation of property adjacent to the boundaries of the county with the county property tax assessment boards of appeals of the adjacent counties using the procedures adopted by rule under IC 4-22-2 by the department of local government finance.~~ If the county assessor fails to ~~submit~~ **determine** land values under subsection (a) ~~to the county property tax assessment board of appeals~~ before ~~November~~ **the July** 1 ~~of the year before the date the general reassessment under section 4 of this chapter becomes effective,~~ **deadline,** the county property tax assessment board of appeals shall determine the values. If the county property tax assessment board of appeals fails to determine the values before the ~~general reassessment becomes~~ **land values become** effective, the department of local government finance shall determine the values.

(c) The county assessor shall notify all township assessors in the county (if any) of the values. ~~as modified by the county property tax assessment board of appeals.~~ Assessing officials shall use the values determined under this section.

(d) A petition for the review of the land values determined by a county assessor under this section may be filed with the department of local government finance not later than forty-five (45) days after the county assessor makes the determination of the land values. The petition must be signed by at least the lesser of:

(1) one hundred (100) property owners in the county; or

(2) five percent (5%) of the property owners in the county.

(e) Upon receipt of a petition for review under subsection (d), the department of local government finance:

(1) shall review the land values determined by the county assessor; and

(2) after a public hearing, shall:

(A) approve;

(B) modify; or

(C) disapprove;

the land values.

SECTION 17. IC 6-1.1-4-31, AS AMENDED BY P.L.146-2008, SECTION 81, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011]: Sec. 31. (a) The department of local government finance shall periodically check the conduct of:

(1) a general reassessment of property**;**

(2) work required to be performed by local officials under 50 IAC 21; and

(3) other property assessment activities in the county, as determined by the department.

The department of local government finance may inform township assessors (if any), county assessors, and the presidents of county councils in writing if its check reveals that the general reassessment or other property assessment activities are not being properly conducted, work required to be performed by local officials under 50 IAC 21 is not being properly conducted, or property assessments are not being properly made.

(b) The failure of the department of local government finance to inform local officials under subsection (a) shall not be construed as an indication by the department that:

(1) the general reassessment or other property assessment activities are being properly conducted;

(2) work required to be performed by local officials under 50 IAC 21 is being properly conducted; or

(3) property assessments are being properly made.

(c) If the department of local government finance:

(1) determines under subsection (a) that a general reassessment or other assessment activities for a general reassessment year or any other year are not being properly conducted; and

(2) informs:

(A) the township assessor (if any) of each affected township;

(B) the county assessor; and

(C) the president of the county council;

in writing under subsection (a);

the department may order a state conducted assessment or reassessment under section 31.5 of this chapter to begin not less than sixty (60) days

after the date of the notice under subdivision (2). ~~If the department determines during the period between the date of the notice under subdivision (2) and the proposed date for beginning the state conducted assessment or reassessment that the general reassessment or other assessment activities for the general reassessment are being properly conducted, the department may rescind the order.~~

(d) If the department of local government finance:

(1) determines under subsection (a) that work required to be performed by local officials under 50 IAC 21 is not being properly conducted; and

(2) informs:

(A) the township assessor of each affected township (if any);

(B) the county assessor; and

(C) the president of the county council;

in writing under subsection (a);

the department may conduct the work or contract to have the work conducted to begin not less than sixty (60) days after the date of the notice under subdivision (2). If the department determines during the period between the date of the notice under subdivision (2) and the proposed date for beginning the work or having the work conducted that work required to be performed by local officials under 50 IAC 21 is being properly conducted, the department may rescind the order.

(e) If the department of local government finance contracts to have work conducted under subsection (d), the department shall forward the bill for the services to the county and the county shall pay the bill under the same procedures that apply to county payments of bills for assessment or reassessment services under section 31.5 of this chapter.

(f) A county council president who is informed by the department of local government finance under subsection (a) shall provide the information to the board of county commissioners. A board of county commissioners that receives information under this subsection may adopt an ordinance to do either or both of the following:

(1) Determine that:

(A) the information indicates that the county assessor has failed to perform adequately the duties of county assessor; and

(B) by that failure the county assessor forfeits the office of county assessor and is subject to removal from office by an information filed under IC 34-17-2-1(b).

(2) Determine that:

(A) the information indicates that one (1) or more township assessors in the county have failed to perform adequately the duties of township assessor; and

(B) by that failure the township assessor or township assessors forfeit the office of township assessor and are subject to removal from office by an information filed under IC 34-17-2-1(b).

(g) A city-county council that is informed by the department of local government finance under subsection (a) may adopt an ordinance making the determination or determinations referred to in subsection (f).

SECTION 18. IC 6-1.1-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. Except as provided in section 9 of this chapter, if any land is platted, the plat must be presented to the county auditor before it is recorded. **Subject to sections 5.5 and 9 of this chapter,** the county auditor shall enter the lots or parcels described in the plat on the tax lists in lieu of the land included in the plat.

SECTION 19. IC 6-1.1-5-5.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5.5. (a) Before an owner records a transfer of an ownership interest in a parcel of real property that is created after the person became owner of the real property and is created either from a larger previously existing parcel or a combination of previously existing smaller parcels, the owner must submit, except as provided in section 9 of this chapter, the instrument transferring the real property to the county auditor to be entered for taxation.

(b) The county auditor, except as provided in section 9 of this chapter, shall endorse on the instrument "duly entered for taxation subject to final acceptance for transfer" or another endorsement authorized under section 4 of this chapter.

(c) A lien for and the duty to pay property taxes that are due and owing is not released or otherwise extinguished if a county auditor endorses an instrument of transfer under this section. Property taxes that are due and owing on the affected parcel of property may be collected as if the county auditor had not endorsed the instrument of transfer.

(d) Except as provided in section 9 of this chapter, before the county auditor may **enter or** transfer real property described in subsection (a) on the last assessment list, **enter lots or parcels described in a plat under section 3 of this chapter, consolidate parcels under section 16 of this chapter,** or apportion the assessed value of the real property among the owners the owner must pay or otherwise satisfy all property taxes for which the due date has passed as of the date of transfer on each of the parcels of real property from which the **platted, consolidated, or** transferred property is derived by paying the property tax to the county treasurer of the county in which the real property is located. The county auditor, ~~except as provided in~~ **subject to** section 9 of this chapter, may not apportion delinquent taxes described in this subsection among the owners.

SECTION 20. IC 6-1.1-5-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011] Sec. 16. **(a) An action under this section is subject to section 5.5 of this chapter.**

(b) If an owner of existing contiguous parcels makes a written request that includes a legal description of the existing contiguous parcels sufficient for the assessing official to identify each parcel and the area of all contiguous parcels, the assessing official shall consolidate more than one (1) existing contiguous parcel into a single parcel to the extent that the existing contiguous parcels are in a single taxing district and the same section. For existing contiguous parcels in more than one (1) taxing district or one (1) section, the assessing official shall, upon written request by the owner, consolidate the existing contiguous parcels in each taxing district and each section into a single parcel. An assessing official shall consolidate more than one (1) existing contiguous parcel into a single parcel if the assessing official has knowledge that an improvement to the real property is located on or otherwise significantly affects the parcels.

SECTION 21. IC 6-1.1-8.7-3, AS AMENDED BY P.L.219-2007, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011]: Sec. 3. ~~(a) Before January 1, 2003, two hundred fifty (250) or more owners of real property in a township may petition the department to assess the real property of an industrial facility in the township. for the 2004 assessment date.~~

~~(b)~~ **(a)** Before January 1 of each year that a general reassessment commences under IC 6-1.1-4-4, two hundred fifty (250) or more

owners of real property in a township may petition the department to assess the real property of an industrial facility in the township for that general reassessment.

~~(c)~~ **(b)** An industrial company may at any time petition the department to assess the real property of an industrial facility owned or used by the company.

~~(d)~~ **(c)** Before January 1 of any year, the county assessor of the county in which an industrial facility is located may petition the department to assess the real property of the industrial facility for the assessment date in ~~that~~ **the following** year.

SECTION 22. IC 6-1.1-8.7-5, AS AMENDED BY P.L.219-2007, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011]: Sec. 5. (a) If the department determines to assess an industrial facility pursuant to a petition filed under section ~~3(a),~~ **3(b) or** 3(c) ~~or 3(d)~~ of this chapter, the department shall schedule the assessment not later than six (6) months after receiving the petition.

(b) If the department determines to assess an industrial facility pursuant to a petition filed under section ~~3(b)~~ **3(a)** of this chapter, the department shall schedule the assessment not later than three (3) months after the assessment date for which the petition was filed.

SECTION 23. IC 6-1.1-12-9, AS AMENDED BY SEA 222-2010, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) An individual may obtain a deduction from the assessed value of the individual's real property, or mobile home or manufactured home which is not assessed as real property, if:

(1) the individual is at least sixty-five (65) years of age on or before December 31 of the calendar year preceding the year in which the deduction is claimed;

(2) the combined adjusted gross income (as defined in Section 62 of the Internal Revenue Code) of:

(A) the individual and the individual's spouse; or

(B) the individual and all other individuals with whom:

(i) the individual shares ownership; or

(ii) the individual is purchasing the property under a contract;

as joint tenants or tenants in common;

for the calendar year preceding the year in which the deduction is claimed did not exceed twenty-five thousand dollars ($25,000);

(3) the individual has owned the real property, mobile home, or manufactured home for at least one (1) year before claiming the deduction; or the individual has been buying the real property, mobile home, or manufactured home under a contract that provides that the individual is to pay the property taxes on the real property, mobile home, or manufactured home for at least one (1) year before claiming the deduction, and the contract or a memorandum of the contract is recorded in the county recorder's office;

(4) the individual and any individuals covered by subdivision (2)(B) reside on the real property, mobile home, or manufactured home;

(5) the assessed value of the real property, mobile home, or manufactured home does not exceed one hundred eighty-two thousand four hundred thirty dollars ($182,430);

(6) the individual receives no other property tax deduction for the year in which the deduction is claimed, except the deductions provided by sections 1, 37, **(for assessment dates after February 28, 2008) 37.5,** and 38 of this chapter; and

(7) the person:

(A) owns the real property, mobile home, or manufactured home; or

(B) is buying the real property, mobile home, or manufactured home under contract;

on the date the statement required by section 10.1 of this chapter is filed.

(b) Except as provided in subsection (h), in the case of real property, an individual's deduction under this section equals the lesser of:

(1) one-half (1/2) of the assessed value of the real property; or

(2) twelve thousand four hundred eighty dollars ($12,480).

(c) Except as provided in subsection (h) and section 40.5 of this chapter, in the case of a mobile home that is not assessed as real property or a manufactured home which is not assessed as real property, an individual's deduction under this section equals the lesser of:

(1) one-half (1/2) of the assessed value of the mobile home or manufactured home; or

(2) twelve thousand four hundred eighty dollars ($12,480).

(d) An individual may not be denied the deduction provided under this section because the individual is absent from the real property, mobile home, or manufactured home while in a nursing home or hospital.

(e) For purposes of this section, if real property, a mobile home, or a manufactured home is owned by:

(1) tenants by the entirety;

(2) joint tenants; or

(3) tenants in common;

only one (1) deduction may be allowed. However, the age requirement is satisfied if any one (1) of the tenants is at least sixty-five (65) years of age.

(f) A surviving spouse is entitled to the deduction provided by this section if:

(1) the surviving spouse is at least sixty (60) years of age on or before December 31 of the calendar year preceding the year in which the deduction is claimed;

(2) the surviving spouse's deceased husband or wife was at least sixty-five (65) years of age at the time of a death;

(3) the surviving spouse has not remarried; and

(4) the surviving spouse satisfies the requirements prescribed in subsection (a)(2) through (a)(7).

(g) An individual who has sold real property to another person under a contract that provides that the contract buyer is to pay the property taxes on the real property may not claim the deduction provided under this section against that real property.

(h) In the case of tenants covered by subsection (a)(2)(B), if all of the tenants are not at least sixty-five (65) years of age, the deduction allowed under this section shall be reduced by an amount equal to the deduction multiplied by a fraction. The numerator of the fraction is the number of tenants who are not at least sixty-five (65) years of age, and the denominator is the total number of tenants.

SECTION 24. IC 6-1.1-12-24, AS AMENDED BY P.L.1-2009, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. (a) A property owner who desires to obtain the deduction provided by section 22 of this chapter must file a certified deduction application, on forms prescribed by the department of local government finance, with the auditor of the county in which the

property is located. The application may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. Except as provided in subsection (b) and subject to section 45 of this chapter, the application must be filed in the year in which the addition to assessed valuation is made.

(b) If notice of the addition to assessed valuation for any year is not given to the property owner before December ~~31~~ **1** of that year, the application required by this section may be filed not later than thirty (30) days after the date such a notice is mailed to the property owner at the address shown on the records of the township or county assessor.

(c) The application required by this section shall contain the following information:

(1) The name of the property owner.

(2) A description of the property for which a deduction is claimed in sufficient detail to afford identification.

(3) The assessed value of the improvements on the property before rehabilitation.

(4) The increase in the assessed value of improvements resulting from the rehabilitation.

(5) The amount of deduction claimed.

(d) A deduction application filed under this section is applicable for the year in which the addition to assessed value is made and in the immediate following four (4) years without any additional application being filed.

(e) On verification of the correctness of an application by the assessor of the township in which the property is located, or the county assessor if there is no township assessor for the township, the county auditor shall make the deduction.

SECTION 25. IC 6-1.1-12-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2010 (RETROACTIVE)]: Sec. 26. (a) The owner of real property, or a mobile home which is not assessed as real property, which is equipped with a solar energy heating or cooling system may have deducted annually from the assessed value of the real property or mobile home an amount which is equal to the ~~remainder of (1) the assessed value of the real property or mobile home with the solar energy heating or cooling system included, minus (2) the assessed value of the real property or mobile home without the system.~~ **out-of-pocket expenditures by the owner (or a previous owner) of**

the real property or mobile home for:

(1) the components; and

(2) the labor involved in installing the

~~(b) The department of local government finance shall promulgate rules and regulations for determining the value of a solar energy heating or cooling system. The rules and regulations must provide the method of determining the value on the basis of:~~

~~(1) the cost of the system~~ components;

that are unique to the system and that are needed to collect, store, or distribute solar energy. ~~and~~

~~(2) any other factor that is a just and proper indicator of value.~~

(b) The tangible property to which subsection (a) applies includes a solar thermal air system and any solar energy heating or cooling system used for:

(1) domestic hot water or space heat, or both, including pool heating; or

(2) preheating for an industrial process.

(c) Subsection (a) does not apply to tangible property that would not be subject to assessment and taxation under this article if this section did not apply.

(d) For purposes of subsection (a), proof of out-of-pocket expenditures may be demonstrated by invoices or other evidence of a purchase and installation, as determined under rules or guidelines prescribed by the department of local government finance.

SECTION 26. IC 6-1.1-12-27.1, AS AMENDED BY P.L.1-2009, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MARCH 1, 2010 (RETROACTIVE)]: Sec. 27.1. Except as provided in sections 36 and 44 of this chapter and subject to section 45 of this chapter, a person who desires to claim the deduction provided by section 26 of this chapter must file a certified statement in duplicate, on forms prescribed by the department of local government finance, with the auditor of the county in which the real property or mobile home is subject to assessment. With respect to real property, the person must file the statement during the year for which the person desires to obtain the deduction. **Except as provided in sections 36 and 44 of this chapter and subject to section 45 of this chapter,** with respect to a mobile home which is not assessed as real property, the person must

file the statement during the twelve (12) months before March 31 of each year for which the person desires to obtain the deduction. The person must:

(1) own the real property, mobile home, or manufactured home; or

(2) be buying the real property, mobile home, or manufactured home under contract;

on the date the statement is filed under this section. The statement may be filed in person or by mail. If mailed, the mailing must be postmarked on or before the last day for filing. On verification of the statement by the assessor of the township in which the real property or mobile home is subject to assessment, or the county assessor if there is no township assessor for the township, the county auditor shall allow the deduction.

SECTION 27. IC 6-1.1-12-37, AS AMENDED BY P.L.182-2009(ss), SECTION 110, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 37. (a) The following definitions apply throughout this section:

(1) "Dwelling" means any of the following:

(A) Residential real property improvements that an individual uses as the individual's residence, including a house or garage.

(B) A mobile home that is not assessed as real property that an individual uses as the individual's residence.

(C) A manufactured home that is not assessed as real property that an individual uses as the individual's residence.

(2) "Homestead" means an individual's principal place of residence:

(A) that is located in Indiana;

(B) that:

(i) the individual owns;

(ii) the individual is buying under a contract, recorded in the county recorder's office, that provides that the individual is to pay the property taxes on the residence;

(iii) the individual is entitled to occupy as a tenant-stockholder (as defined in 26 U.S.C. 216) of a cooperative housing corporation (as defined in 26 U.S.C. 216); or

(iv) is a residence described in section 17.9 of this chapter that is owned by a trust if the individual is an individual

described in section 17.9 of this chapter; and

(C) that consists of a dwelling and the real estate, not exceeding one (1) acre, that immediately surrounds that dwelling.

Except as provided in subsection (k), the term does not include property owned by a corporation, partnership, limited liability company, or other entity not described in this subdivision.

(b) Each year a homestead is eligible for a standard deduction from the assessed value of the homestead for an assessment date. The deduction provided by this section applies to property taxes first due and payable for an assessment date only if an individual has an interest in the homestead described in subsection (a)(2)(B) on:

(1) the assessment date; or

(2) any date in the same year after an assessment date that a statement is filed under subsection (e) or section 44 of this chapter, if the property consists of real property.

Subject to subsection (c), the auditor of the county shall record and make the deduction for the individual or entity qualifying for the deduction.

(c) Except as provided in section 40.5 of this chapter, the total amount of the deduction that a person may receive under this section for a particular year is the lesser of:

(1) sixty percent (60%) of the assessed value of the real property, mobile home not assessed as real property, or manufactured home not assessed as real property; or

(2) forty-five thousand dollars ($45,000).

(d) A person who has sold real property, a mobile home not assessed as real property, or a manufactured home not assessed as real property to another person under a contract that provides that the contract buyer is to pay the property taxes on the real property, mobile home, or manufactured home may not claim the deduction provided under this section with respect to that real property, mobile home, or manufactured home.

(e) Except as provided in sections 17.8 and 44 of this chapter and subject to section 45 of this chapter, an individual who desires to claim the deduction provided by this section must file a certified statement in duplicate, on forms prescribed by the department of local government finance, with the auditor of the county in which the homestead is

located. The statement must include:

(1) the parcel number or key number of the property and the name of the city, town, or township in which the property is located;

(2) the name of any other location in which the applicant or the applicant's spouse owns, is buying, or has a beneficial interest in residential real property;

(3) the names of:

(A) the applicant and the applicant's spouse (if any):

(i) as the names appear in the records of the United States Social Security Administration for the purposes of the issuance of a Social Security card and Social Security number; or

(ii) that they use as their legal names when they sign their names on legal documents;

if the applicant is an individual; or

(B) each individual who qualifies property as a homestead under subsection (a)(2)(B) and the individual's spouse (if any):

(i) as the names appear in the records of the United States Social Security Administration for the purposes of the issuance of a Social Security card and Social Security number; or

(ii) that they use as their legal names when they sign their names on legal documents;

if the applicant is not an individual; and

(4) either:

(A) the last five (5) digits of the applicant's Social Security number and the last five (5) digits of the Social Security number of the applicant's spouse (if any); or

(B) if the applicant or the applicant's spouse (if any) do not have a Social Security number, any of the following for that individual:

(i) The last five (5) digits of the individual's driver's license number.

(ii) The last five (5) digits of the individual's state identification card number.

(iii) If the individual does not have a driver's license or a state identification card, the last five (5) digits of a control number that is on a document issued to the individual by the

federal government and determined by the department of local government finance to be acceptable.

If a form or statement provided to the county auditor under this section, IC 6-1.1-22-8.1, or IC 6-1.1-22.5-12 includes the telephone number or part or all of the Social Security number of a party or other number described in subdivision (4)(B) of a party, the telephone number and the Social Security number or other number described in subdivision (4)(B) included are confidential. The statement may be filed in person or by mail. If the statement is mailed, the mailing must be postmarked on or before the last day for filing. The statement applies for that first year and any succeeding year for which the deduction is allowed. With respect to real property, the statement must be completed and dated in the calendar year for which the person desires to obtain the deduction and filed with the county auditor on or before January 5 of the immediately succeeding calendar year. With respect to a mobile home that is not assessed as real property, the person must file the statement during the twelve (12) months before March 31 of the year for which the person desires to obtain the deduction.

(f) If an individual who is receiving the deduction provided by this section or who otherwise qualifies property for a deduction under this section:

(1) changes the use of the individual's property so that part or all of the property no longer qualifies for the deduction under this section; or

(2) is no longer eligible for a deduction under this section on another parcel of property because:

(A) the individual would otherwise receive the benefit of more than one (1) deduction under this chapter; or

(B) the individual maintains the individual's principal place of residence with another individual who receives a deduction under this section;

the individual must file a certified statement with the auditor of the county, notifying the auditor of the change of use, not more than sixty (60) days after the date of that change. An individual who fails to file the statement required by this subsection is liable for any additional taxes that would have been due on the property if the individual had filed the statement as required by this subsection plus a civil penalty equal to ten percent (10%) of the additional taxes due. The civil penalty

imposed under this subsection is in addition to any interest and penalties for a delinquent payment that might otherwise be due. One percent (1%) of the total civil penalty collected under this subsection shall be transferred by the county to the department of local government finance for use by the department in establishing and maintaining the homestead property data base under subsection (i) and, to the extent there is money remaining, for any other purposes of the department. This amount becomes part of the property tax liability for purposes of this article.

(g) The department of local government finance shall adopt rules or guidelines concerning the application for a deduction under this section.

(h) This subsection does not apply to property in the first year for which a deduction is claimed under this section if the sole reason that a deduction is claimed on other property is that the individual or married couple maintained a principal residence at the other property on March 1 in the same year in which an application for a deduction is filed under this section or, if the application is for a homestead that is assessed as personal property, on March 1 in the immediately preceding year and the individual or married couple is moving the individual's or married couple's principal residence to the property that is the subject of the application. The county auditor may not grant an individual or a married couple a deduction under this section if:

(1) the individual or married couple, for the same year, claims the deduction on two (2) or more different applications for the deduction; and

(2) the applications claim the deduction for different property.

(i) The department of local government finance shall provide secure access to county auditors to a homestead property data base that includes access to the homestead owner's name and the numbers required from the homestead owner under subsection (e)(4) for the sole purpose of verifying whether an owner is wrongly claiming a deduction under this chapter or a credit under IC 6-1.1-20.4, IC 6-1.1-20.6, or IC 6-3.5.

(j) The department of local government finance shall work with county auditors to develop procedures to determine whether a property owner that is claiming a standard deduction or homestead credit is not eligible for the standard deduction or homestead credit because the

property owner's principal place of residence is outside Indiana.

(k) As used in this section, "homestead" includes property that satisfies each of the following requirements:

(1) The property is located in Indiana and consists of a dwelling and the real estate, not exceeding one (1) acre, that immediately surrounds that dwelling.

(2) The property is the principal place of residence of an individual.

(3) The property is owned by an entity that is not described in subsection (a)(2)(B).

(4) The individual residing on the property is a shareholder, partner, or member of the entity that owns the property.

(5) The property was eligible for the standard deduction under this section on March 1, 2009.

(l) If a county auditor terminates a deduction for property described in subsection (k) with respect to property taxes that are:

(1) imposed for an assessment date in 2009; and

(2) first due and payable in 2010;

on the grounds that the property is not owned by an entity described in subsection (a)(2)(B), the county auditor shall reinstate the deduction if the taxpayer provides proof that the property is eligible for the deduction in accordance with subsection (k) and that the individual residing on the property is not claiming the deduction for any other property.

(m) For assessments dates after 2009, the term "homestead" includes:

(1) a deck or patio;

(2) a gazebo; or

(3) another residential yard structure, as defined in rules adopted by the department of local government finance (other than a swimming pool);

that is assessed as real property and attached to the dwelling.

SECTION 28. IC 6-1.1-12.7 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

Chapter 12.7. Deduction for Personal Property Within a Certified Technology Park

Sec. 1. As used in this chapter, "certified technology park"

refers to a certified technology park that is:

(1) established under IC 36-7-32; and

(2) certified as of the assessment date for which the deduction under this chapter is claimed.

Sec. 2. As used in this chapter, "high technology activity" has the meaning set forth in IC 36-7-32-7.

Sec. 3. As used in this chapter, "qualified personal property" means personal property that is:

(1) assessed for the first time after December 31, 2010;

(2) located within a certified technology park;

(3) primarily used to conduct high technology activity; and

(4) not part of the assessed value for which a personal property tax allocation has been made for the payment of the principal of and interest on bonds or lease rentals under IC 5-28-26, IC 6-1.1-39, IC 8-22-3.5, IC 36-7-14, IC 36-7-14.5, IC 36-7-15.1, IC 36-7-30, IC 36-7-30.5, or IC 36-7-32.

The term does not include personal property that is used primarily for routine administrative purposes such as office communications, accounting, record keeping, and human resources.

Sec. 4. (a) A county fiscal body may adopt an ordinance providing that a deduction applies to the assessed value of qualified personal property located in the county. The deduction is equal to one hundred percent (100%) of the assessed value of qualified personal property located in the county for each calendar year specified in the ordinance. An ordinance adopted under this section must be adopted before January 1 of the first assessment year for which a taxpayer may claim a deduction under the ordinance.

(b) An ordinance adopted under subsection (a) must specify the number of assessment years that a deduction is allowed under this chapter. However, a deduction may not be allowed for:

(1) less than two (2) assessment years; or

(2) more than ten (10) assessment years.

(c) The fiscal body shall send a certified copy of the ordinance adopted under subsection (a) to the county assessor, the county auditor, and the Indiana economic development corporation. Subject to this chapter, the fiscal body's determination of the number of years the deduction is allowed is final and may not be changed.

(d) An ordinance adopted under subsection (a) may not allow a

deduction for qualified personal property installed after March 1, 2015.

Sec. 5. The Indiana economic development corporation shall review an ordinance adopted under this chapter and determine whether it is in the best interest of the development of the certified technology park to permit the deduction. The Indiana economic development corporation, after conducting a hearing, may approve the ordinance, approve the ordinance with modifications, or disapprove the ordinance. An owner of qualified personal property is eligible for a deduction under this chapter only to the extent permitted under an ordinance (as modified by the Indiana economic development corporation) that is approved under this section.

Sec. 6. (a) To obtain the deduction under this chapter, an owner of qualified personal property must file a certified deduction schedule with the county assessor in which the qualified personal property is located. The department of local government finance shall prescribe the form of the schedule. A schedule must be filed for each year the deduction is being claimed.

(b) The schedule must be filed with:

(1) a timely personal property return under IC 6-1.1-3-7(a) or IC 6-1.1-3-7(b); or

(2) a timely amended personal property return under IC 6-1.1-3-7.5.

The county assessor shall forward to the county auditor a copy of each schedule filed.

(c) The schedule must contain at least the following information:

(1) The name of the owner of the qualified personal property.

(2) A description of the qualified personal property and the address of the real estate on which it is located.

(3) Documentation that the qualified personal property is located within a certified technology park.

(4) Documentation that the qualified personal property is primarily used to conduct high technology activity.

(d) The deduction applies to the qualified personal property claimed in a schedule. However, the county assessor may:

(1) review the schedule; and

(2) before the March 1 that next succeeds the assessment date for which the deduction is claimed, deny or alter the amount

of the deduction.

If the county assessor does not deny the deduction, the county auditor shall apply the deduction in the amount claimed in the schedule or in the amount as altered by the county assessor. A county assessor who denies a deduction under this subsection or alters the amount of the deduction shall notify the person that claimed the deduction and the county auditor of the assessor's determination.

(e) A person may appeal a determination by the county assessor to deny or alter the amount of the deduction by requesting in writing, not more than forty-five (45) days after the county assessor gives the person notice of the determination, a meeting with the county assessor. An appeal initiated under this subsection must be processed and determined in the same manner that an appeal is processed and determined under IC 6-1.1-15. However, the county assessor may not participate in any action the county property tax assessment board of appeals takes with respect to an appeal of a determination by the county assessor.

SECTION 29. IC 6-1.1-17-20, AS AMENDED BY P.L.182-2009(ss), SECTION 124, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. (a) This section applies to each governing body of a taxing unit that:

(1) is not comprised of a majority of officials who are elected to serve on the governing body; and

(2) either:

(A) is:

(i) a conservancy district subject to IC 14-33-9;

(ii) a solid waste management district subject to IC 13-21; or

(iii) a fire protection district subject to IC 36-8-11-18; or

(B) has a percentage increase in the proposed budget for the taxing unit for the ensuing calendar year that is more than the result of:

(i) the assessed value growth quotient determined under IC 6-1.1-18.5-2 for the ensuing calendar year; minus

(ii) one (1).

For purposes of this section, an individual who qualifies to be appointed to a governing body or serves on a governing body because

of the individual's status as an elected official of another taxing unit shall be treated as an official who was not elected to serve on the governing body.

(b) As used in this section, "taxing unit" has the meaning set forth in IC 6-1.1-1-21, except that the term does not include:

(1) a school corporation; or

(2) an entity whose tax levies are subject to review and modification by a city-county legislative body under IC 36-3-6-9.

(c) If:

(1) the assessed valuation of a taxing unit is entirely contained within a city or town; or

(2) the assessed valuation of a taxing unit is not entirely contained within a city or town but the taxing unit was originally established by the city or town;

the governing body shall submit its proposed budget and property tax levy to the city or town fiscal body. The proposed budget and levy shall be submitted at least thirty (30) days before the city or town fiscal body is required to hold budget approval hearings under this chapter. **However, in the case of a public library that is subject to this section and is described in subdivision (2), the public library shall submit its proposed budget and property tax levy to the county fiscal body in the manner provided in subsection (d), rather than to the city or town fiscal body, if more than fifty percent (50%) of the parcels of real property within the jurisdiction of the public library are located outside the city or town.**

(d) If subsection (c) does not apply, the governing body of the taxing unit shall submit its proposed budget and property tax levy to the county fiscal body in the county where the taxing unit has the most assessed valuation. The proposed budget and levy shall be submitted at least thirty (30) days before the county fiscal body is required to hold budget approval hearings under this chapter.

(e) The fiscal body of the city, town, or county (whichever applies) shall review each budget and proposed tax levy and adopt a final budget and tax levy for the taxing unit. The fiscal body may reduce or modify but not increase the proposed budget or tax levy.

(f) If a taxing unit fails to file the information required in subsection (c) or (d), whichever applies, with the appropriate fiscal body by the time prescribed by this section, the most recent annual appropriations

and annual tax levy of that taxing unit are continued for the ensuing budget year.

(g) If the appropriate fiscal body fails to complete the requirements of subsection (e) before the adoption deadline in section 5 of this chapter for any taxing unit subject to this section, the most recent annual appropriations and annual tax levy of the city, town, or county, whichever applies, are continued for the ensuing budget year.

SECTION 30. IC 6-1.1-17-20.5, AS AMENDED BY P.L.182-2009(ss), SECTION 125, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20.5. (a) This section applies to the governing body of a taxing unit unless a majority of the governing body is comprised of officials who are elected to serve on the governing body. For purposes of this section, an individual who qualifies to be appointed to a governing body or serves on a governing body because of the individual's status as an elected official of another taxing unit shall be treated as an official who was not elected to serve on the governing body.

(b) As used in this section, "taxing unit" has the meaning set forth in IC 6-1.1-1-21, except that the term does not include:

(1) a school corporation; or

(2) an entity whose tax levies are subject to review and modification by a city-county legislative body under IC 36-3-6-9.

(c) If:

(1) the assessed valuation of a taxing unit is entirely contained within a city or town; or

(2) the assessed valuation of a taxing unit is not entirely contained within a city or town but the taxing unit was originally established by the city or town;

the governing body of the taxing unit may not issue bonds or enter into a lease payable in whole or in part from property taxes unless it obtains the approval of the city or town fiscal body.

(d) However, in the case of a public library that is subject to this section and is described in subsection (c), the public library may not issue bonds or enter into a lease payable in whole or in part from property taxes unless it obtains the approval of the county fiscal body, rather than the city or town fiscal body, if more than fifty percent (50%) of the parcels of real property within the jurisdiction of the public library are located outside the city or

town. The requirement that the public library must obtain the approval of the county fiscal body (rather than the city or town fiscal body) if more than fifty percent (50%) of the parcels of real property within the jurisdiction of the public library are located outside the city or town does not apply to the issuance of bonds or the execution of a lease:

(1) for which a decision or preliminary determination was made under IC 6-1.1-20 before December 31, 2010; or

(2) that is approved by the city or town fiscal body or the county fiscal body before December 31, 2010.

~~(d)~~ **(e)** This subsection applies to a taxing unit not described in subsection (c) **or (d).** The governing body of the taxing unit may not issue bonds or enter into a lease payable in whole or in part from property taxes unless it obtains the approval of the county fiscal body in the county where the taxing unit has the most net assessed valuation.

SECTION 31. IC 6-1.1-18.5-1, AS AMENDED BY SEA 222-2010, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. As used in this chapter:

"Ad valorem property tax levy for an ensuing calendar year" means the total property taxes imposed by a civil taxing unit for current property taxes collectible in that ensuing calendar year.

"Adopting county" means any county in which the county adjusted gross income tax is in effect.

"Civil taxing unit" means any taxing unit except a school corporation.

"Maximum permissible ad valorem property tax levy for the preceding calendar year" means the greater of:

(1) the remainder of:

(A) the civil taxing unit's maximum permissible ad valorem property tax levy for the calendar year immediately preceding the ensuing calendar year, as that levy was determined under section 3 of this chapter; minus

(B) one-half (1/2) of the remainder of:

(i) the civil taxing unit's maximum permissible ad valorem property tax levy referred to in clause (A); minus

(ii) the civil taxing unit's ad valorem property tax levy for the calendar year immediately preceding the ensuing calendar year referred to in subdivision (2); or

(2) the civil taxing unit's ad valorem property tax levy for the calendar year immediately preceding the ensuing calendar year, as that levy was determined by the department of local government finance in fixing the civil taxing unit's budget, levy, and rate for that preceding calendar year under IC 6-1.1-17, and after eliminating the effects of temporary excessive levy appeals and temporary adjustments made to the working maximum levy for the calendar year immediately preceding the ensuing calendar year, as determined by the department of local government finance.

However, for the determination of the maximum permissible property tax levy for property taxes first due and payable after December 31, 2010, upon request by a civil taxing unit, the department of local government finance may make an adjustment to the civil taxing unit's maximum permissible ad valorem property tax levy for the ensuing calendar year if the civil taxing unit's actual levy was lower than the civil taxing unit's maximum permissible ad valorem property tax levy for the calendar year immediately preceding the ensuing calendar year because of the civil taxing unit's use of cash balances.

"Taxable property" means all tangible property that is subject to the tax imposed by this article and is not exempt from the tax under IC 6-1.1-10 or any other law. For purposes of sections 2 and 3 of this chapter, the term "taxable property" is further defined in section 6 of this chapter.

SECTION 32. IC 6-1.1-18.5-10.5, AS AMENDED BY P.L.182-2009(ss), SECTION 129, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10.5. (a) The ad valorem property tax levy limits imposed by section 3 of this chapter do not apply to ad valorem property taxes imposed by a civil taxing unit for fire protection services within a fire protection territory under IC 36-8-19, if the civil taxing unit is a participating unit in a fire protection territory established before August 1, 2001. For purposes of computing the ad valorem property tax levy limits imposed on a civil taxing unit by section 3 of this chapter on a civil taxing unit that is a participating unit in a fire protection territory, established before August 1, 2001, the civil taxing unit's ad valorem property tax levy for a particular calendar year does not include that part of the levy imposed

under IC 36-8-19.

~~(b) This subsection applies to a participating unit in a fire protection territory established under IC 36-8-19 after July 31, 2001. The ad valorem property tax levy limits imposed by section 3 of this chapter do not apply to ad valorem property taxes imposed by a civil taxing unit for fire protection services within a fire protection territory under IC 36-8-19 for the three (3) calendar years in which the participating unit levies a tax to support the territory. For purposes of computing the ad valorem property tax levy limits imposed on a civil taxing unit by section 3 of this chapter for the three (3) calendar years for which the participating unit levies a tax to support the territory, the civil taxing unit's ad valorem property tax levy for a particular calendar year does not include that part of the levy imposed under IC 36-8-19.~~

~~(c) This subsection applies to property taxes first due and payable after December 31, 2008. Except as provided in subsection (d), notwithstanding subsections (a) and (b) or any other law,~~ Any property taxes imposed by a civil taxing unit that are exempted by this ~~section~~ **subsection** from the ad valorem property tax levy limits imposed by section 3 of this chapter **and first due and payable after December 31, 2008,** may not increase annually by a percentage greater than the result of:

(1) the assessed value growth quotient determined under section 2 of this chapter; minus

(2) one (1).

~~(d) The limits specified in subsection (c) do not apply to a civil taxing unit in the first year in which the civil taxing unit becomes a participating unit in a fire protection territory established under IC 36-8-19. In the first year in which A civil taxing unit becomes a participating unit in a fire protection territory, the civil taxing unit shall submit its proposed budget, proposed ad valorem property tax levy, and proposed property tax rate for the fire protection territory to the department of local government finance.~~ **(b) The department of local government finance may, under this subsection, increase the maximum permissible ad valorem property tax levy that would otherwise apply to a civil taxing unit under section 3 of this chapter to meet the civil taxing unit's obligations to a fire protection territory established under IC 36-8-19. To obtain an increase in the civil taxing unit's maximum permissible ad valorem property tax**

levy, a civil taxing unit shall submit a petition to the department of local government finance in the year immediately preceding the first year in which the civil taxing unit levies a tax to support the fire protection territory. The petition must be filed before the date specified in section 12(a)(1) of this chapter of that year. The department of local government finance shall make a final determination of the civil taxing unit's budget, ad valorem property tax levy, and property tax rate for the fire protection territory for ~~that~~ **the ensuing** calendar year. In making its determination under this subsection, the department of local government finance shall consider the amount that the civil taxing unit is obligated to provide to meet the expenses of operation and maintenance of the fire protection services within the territory, ~~plus a~~ **including the participating unit's** reasonable **share of an** operating balance ~~not to exceed twenty percent (20%) of the budgeted expenses~~ **for the fire protection territory. The department of local government finance shall determine the entire amount of the allowable adjustment in the final determination. The department shall order the adjustment implemented in the amounts and over the number of years, not exceeding three (3), requested by the petitioning civil taxing unit.** However, the department of local government finance may not approve under this subsection a property tax levy greater than zero (0) if the civil taxing unit did not exist as of the March 1 assessment date for which the tax levy will be imposed. For purposes of applying **this** subsection ~~(c)~~ to the civil taxing unit's **maximum permissible ad valorem** property tax levy ~~for the fire protection territory~~ in subsequent calendar years, the department of local government finance may determine not to consider part or all of the part of the ~~first year~~ property tax levy imposed to establish ~~an~~ **the** operating balance **of the fire protection territory.**

SECTION 33. IC 6-1.1-20-3.1, AS AMENDED BY P.L.182-2009(ss), SECTION 143, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3.1. (a) This section applies only to the following:

(1) A controlled project (as defined in section 1.1 of this chapter as in effect June 30, 2008) for which the proper officers of a political subdivision make a preliminary determination in the manner described in subsection (b) before July 1, 2008.

(2) An elementary school building, middle school building, or

other school building for academic instruction that:

(A) is a controlled project;

(B) will be used for any combination of kindergarten through grade 8;

(C) will not be used for any combination of grade 9 through grade 12; and

(D) will not cost more than ten million dollars ($10,000,000).

(3) A high school building or other school building for academic instruction that:

(A) is a controlled project;

(B) will be used for any combination of grade 9 through grade 12;

(C) will not be used for any combination of kindergarten through grade 8; and

(D) will not cost more than twenty million dollars ($20,000,000).

(4) Any other controlled project that:

(A) is not a controlled project described in subdivision (1), (2), or (3); and

(B) will not cost the political subdivision more than the lesser of the following:

(i) Twelve million dollars ($12,000,000).

(ii) An amount equal to one percent (1%) of the total gross assessed value of property within the political subdivision on the last assessment date, if that amount is at least one million dollars ($1,000,000).

(b) A political subdivision may not impose property taxes to pay debt service on bonds or lease rentals on a lease for a controlled project without completing the following procedures:

(1) The proper officers of a political subdivision shall:

(A) publish notice in accordance with IC 5-3-1; and

(B) send notice by first class mail to **the circuit court clerk and to** any organization that delivers to the officers, before January 1 of that year, an annual written request for such notices;

of any meeting to consider adoption of a resolution or an ordinance making a preliminary determination to issue bonds or enter into a lease and shall conduct a public hearing on a

preliminary determination before adoption of the resolution or ordinance.

(2) When the proper officers of a political subdivision make a preliminary determination to issue bonds or enter into a lease for a controlled project, the officers shall give notice of the preliminary determination by:

(A) publication in accordance with IC 5-3-1; and

(B) first class mail to **the circuit court clerk and to** the organizations described in subdivision (1)(B).

(3) A notice under subdivision (2) of the preliminary determination of the political subdivision to issue bonds or enter into a lease for a controlled project must include the following information:

(A) The maximum term of the bonds or lease.

(B) The maximum principal amount of the bonds or the maximum lease rental for the lease.

(C) The estimated interest rates that will be paid and the total interest costs associated with the bonds or lease.

(D) The purpose of the bonds or lease.

(E) A statement that any owners of real property within the political subdivision or registered voters residing within the political subdivision who want to initiate a petition and remonstrance process against the proposed debt service or lease payments must file a petition that complies with subdivisions (4) and (5) not later than thirty (30) days after publication in accordance with IC 5-3-1.

(F) With respect to bonds issued or a lease entered into to open:

(i) a new school facility; or

(ii) an existing facility that has not been used for at least three (3) years and that is being reopened to provide additional classroom space;

the estimated costs the school corporation expects to incur annually to operate the facility.

(G) A statement of whether the school corporation expects to appeal for a new facility adjustment (as defined in IC 20-45-1-16 before January 1, 2009) for an increased maximum permissible tuition support levy to pay the estimated

costs described in clause (F).

(H) The political subdivision's current debt service levy and rate and the estimated increase to the political subdivision's debt service levy and rate that will result if the political subdivision issues the bonds or enters into the lease.

(4) After notice is given, a petition requesting the application of a petition and remonstrance process may be filed by the lesser of:

(A) one hundred (100) persons who are either owners of real property within the political subdivision or registered voters residing within the political subdivision; or

(B) five percent (5%) of the registered voters residing within the political subdivision.

(5) The state board of accounts shall design and, upon request by the county voter registration office, deliver to the county voter registration office or the county voter registration office's designated printer the petition forms to be used solely in the petition process described in this section. The county voter registration office shall issue to an owner or owners of real property within the political subdivision or a registered voter residing within the political subdivision the number of petition forms requested by the owner or owners or the registered voter. Each form must be accompanied by instructions detailing the requirements that:

(A) the carrier and signers must be owners of real property or registered voters;

(B) the carrier must be a signatory on at least one (1) petition;

(C) after the signatures have been collected, the carrier must swear or affirm before a notary public that the carrier witnessed each signature; and

(D) govern the closing date for the petition period.

Persons requesting forms may be required to identify themselves as owners of real property or registered voters and may be allowed to pick up additional copies to distribute to other property owners or registered voters. Each person signing a petition must indicate whether the person is signing the petition as a registered voter within the political subdivision or is signing the petition as the owner of real property within the political subdivision. A person who signs a petition as a registered voter must indicate the

address at which the person is registered to vote. A person who signs a petition as a real property owner must indicate the address of the real property owned by the person in the political subdivision.

(6) Each petition must be verified under oath by at least one (1) qualified petitioner in a manner prescribed by the state board of accounts before the petition is filed with the county voter registration office under subdivision (7).

(7) Each petition must be filed with the county voter registration office not more than thirty (30) days after publication under subdivision (2) of the notice of the preliminary determination.

(8) The county voter registration office shall determine whether each person who signed the petition is a registered voter. The county voter registration office shall not more than fifteen (15) business days after receiving a petition forward a copy of the petition to the county auditor. Not more than ten (10) business days after receiving the copy of the petition, the county auditor shall provide to the county voter registration office a statement verifying:

(A) whether a person who signed the petition as a registered voter but is not a registered voter, as determined by the county voter registration office, is the owner of real property in the political subdivision; and

(B) whether a person who signed the petition as an owner of real property within the political subdivision does in fact own real property within the political subdivision.

(9) The county voter registration office shall not more than ten (10) business days after receiving the statement from the county auditor under subdivision (8) make the final determination of the number of petitioners that are registered voters in the political subdivision and, based on the statement provided by the county auditor, the number of petitioners that own real property within the political subdivision. Whenever the name of an individual who signs a petition form as a registered voter contains a minor variation from the name of the registered voter as set forth in the records of the county voter registration office, the signature is presumed to be valid, and there is a presumption that the individual is entitled to sign the petition under this section. Except

as otherwise provided in this chapter, in determining whether an individual is a registered voter, the county voter registration office shall apply the requirements and procedures used under IC 3 to determine whether a person is a registered voter for purposes of voting in an election governed by IC 3. However, an individual is not required to comply with the provisions concerning providing proof of identification to be considered a registered voter for purposes of this chapter. A person is entitled to sign a petition only one (1) time in a particular petition and remonstrance process under this chapter, regardless of whether the person owns more than one (1) parcel of real property within the subdivision and regardless of whether the person is both a registered voter in the political subdivision and the owner of real property within the political subdivision. Notwithstanding any other provision of this section, if a petition is presented to the county voter registration office within forty-five (45) days before an election, the county voter registration office may defer acting on the petition, and the time requirements under this section for action by the county voter registration office do not begin to run until five (5) days after the date of the election.

(10) The county voter registration office must file a certificate and each petition with:

(A) the township trustee, if the political subdivision is a township, who shall present the petition or petitions to the township board; or

(B) the body that has the authority to authorize the issuance of the bonds or the execution of a lease, if the political subdivision is not a township;

within thirty-five (35) business days of the filing of the petition requesting a petition and remonstrance process. The certificate must state the number of petitioners that are owners of real property within the political subdivision and the number of petitioners who are registered voters residing within the political subdivision.

If a sufficient petition requesting a petition and remonstrance process is not filed by owners of real property or registered voters as set forth in this section, the political subdivision may issue bonds or enter into a lease by following the provisions of law relating to the bonds to be

issued or lease to be entered into.

SECTION 34. IC 6-1.1-20-3.2, AS AMENDED BY P.L.182-2009(ss), SECTION 144, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3.2. (a) This section applies only to controlled projects described in section 3.1(a) of this chapter.

(b) If a sufficient petition requesting the application of a petition and remonstrance process has been filed as set forth in section 3.1 of this chapter, a political subdivision may not impose property taxes to pay debt service on bonds or lease rentals on a lease for a controlled project without completing the following procedures:

(1) The proper officers of the political subdivision shall give notice of the applicability of the petition and remonstrance process by:

(A) publication in accordance with IC 5-3-1; and

(B) first class mail to **the circuit court clerk and to** the organizations described in section 3.1(b)(1)(B) of this chapter.

A notice under this subdivision must include a statement that any owners of real property within the political subdivision or registered voters residing within the political subdivision who want to petition in favor of or remonstrate against the proposed debt service or lease payments must file petitions and remonstrances in compliance with subdivisions (2) through (4) not earlier than thirty (30) days or later than sixty (60) days after publication in accordance with IC 5-3-1.

(2) Not earlier than thirty (30) days or later than sixty (60) days after the notice under subdivision (1) is given:

(A) petitions (described in subdivision (3)) in favor of the bonds or lease; and

(B) remonstrances (described in subdivision (3)) against the bonds or lease;

may be filed by an owner or owners of real property within the political subdivision or a registered voter residing within the political subdivision. Each signature on a petition must be dated, and the date of signature may not be before the date on which the petition and remonstrance forms may be issued under subdivision (3). A petition described in clause (A) or a remonstrance described in clause (B) must be verified in compliance with

subdivision (4) before the petition or remonstrance is filed with the county voter registration office under subdivision (4).

(3) The state board of accounts shall design and, upon request by the county voter registration office, deliver to the county voter registration office or the county voter registration office's designated printer the petition and remonstrance forms to be used solely in the petition and remonstrance process described in this section. The county voter registration office shall issue to an owner or owners of real property within the political subdivision or a registered voter residing within the political subdivision the number of petition or remonstrance forms requested by the owner or owners or the registered voter. Each form must be accompanied by instructions detailing the requirements that:

(A) the carrier and signers must be owners of real property or registered voters;

(B) the carrier must be a signatory on at least one (1) petition;

(C) after the signatures have been collected, the carrier must swear or affirm before a notary public that the carrier witnessed each signature;

(D) govern the closing date for the petition and remonstrance period; and

(E) apply to the carrier under section 10 of this chapter.

Persons requesting forms may be required to identify themselves as owners of real property or registered voters and may be allowed to pick up additional copies to distribute to other property owners or registered voters. Each person signing a petition or remonstrance must indicate whether the person is signing the petition or remonstrance as a registered voter within the political subdivision or is signing the petition or remonstrance as the owner of real property within the political subdivision. A person who signs a petition or remonstrance as a registered voter must indicate the address at which the person is registered to vote. A person who signs a petition or remonstrance as a real property owner must indicate the address of the real property owned by the person in the political subdivision. The county voter registration office may not issue a petition or remonstrance form earlier than twenty-nine (29) days after the notice is given under subdivision (1). The county voter registration office shall certify the date of

issuance on each petition or remonstrance form that is distributed under this subdivision.

(4) The petitions and remonstrances must be verified in the manner prescribed by the state board of accounts and filed with the county voter registration office within the sixty (60) day period described in subdivision (2) in the manner set forth in section 3.1 of this chapter relating to requests for a petition and remonstrance process.

(5) The county voter registration office shall determine whether each person who signed the petition or remonstrance is a registered voter. The county voter registration office shall not more than fifteen (15) business days after receiving a petition or remonstrance forward a copy of the petition or remonstrance to the county auditor. Not more than ten (10) business days after receiving the copy of the petition or remonstrance, the county auditor shall provide to the county voter registration office a statement verifying:

(A) whether a person who signed the petition or remonstrance as a registered voter but is not a registered voter, as determined by the county voter registration office, is the owner of real property in the political subdivision; and

(B) whether a person who signed the petition or remonstrance as an owner of real property within the political subdivision does in fact own real property within the political subdivision.

(6) The county voter registration office shall not more than ten (10) business days after receiving the statement from the county auditor under subdivision (5) make the final determination of:

(A) the number of registered voters in the political subdivision that signed a petition and, based on the statement provided by the county auditor, the number of owners of real property within the political subdivision that signed a petition; and

(B) the number of registered voters in the political subdivision that signed a remonstrance and, based on the statement provided by the county auditor, the number of owners of real property within the political subdivision that signed a remonstrance.

Whenever the name of an individual who signs a petition or remonstrance as a registered voter contains a minor variation from

the name of the registered voter as set forth in the records of the county voter registration office, the signature is presumed to be valid, and there is a presumption that the individual is entitled to sign the petition or remonstrance under this section. Except as otherwise provided in this chapter, in determining whether an individual is a registered voter, the county voter registration office shall apply the requirements and procedures used under IC 3 to determine whether a person is a registered voter for purposes of voting in an election governed by IC 3. However, an individual is not required to comply with the provisions concerning providing proof of identification to be considered a registered voter for purposes of this chapter. A person is entitled to sign a petition or remonstrance only one (1) time in a particular petition and remonstrance process under this chapter, regardless of whether the person owns more than one (1) parcel of real property within the subdivision and regardless of whether the person is both a registered voter in the political subdivision and the owner of real property within the political subdivision. Notwithstanding any other provision of this section, if a petition or remonstrance is presented to the county voter registration office within forty-five (45) days before an election, the county voter registration office may defer acting on the petition or remonstrance, and the time requirements under this section for action by the county voter registration office do not begin to run until five (5) days after the date of the election.

(7) The county voter registration office must file a certificate and the petition or remonstrance with the body of the political subdivision charged with issuing bonds or entering into leases within thirty-five (35) business days of the filing of a petition or remonstrance under subdivision (4), whichever applies, containing ten thousand (10,000) signatures or less. The county voter registration office may take an additional five (5) days to review and certify the petition or remonstrance for each additional five thousand (5,000) signatures up to a maximum of sixty (60) days. The certificate must state the number of petitioners and remonstrators that are owners of real property within the political subdivision and the number of petitioners who are registered voters residing within the political subdivision.

(8) If a greater number of persons who are either owners of real property within the political subdivision or registered voters residing within the political subdivision sign a remonstrance than the number that signed a petition, the bonds petitioned for may not be issued or the lease petitioned for may not be entered into. The proper officers of the political subdivision may not make a preliminary determination to issue bonds or enter into a lease for the controlled project defeated by the petition and remonstrance process under this section or any other controlled project that is not substantially different within one (1) year after the date of the county voter registration office's certificate under subdivision (7). Withdrawal of a petition carries the same consequences as a defeat of the petition.

(9) After a political subdivision has gone through the petition and remonstrance process set forth in this section, the political subdivision is not required to follow any other remonstrance or objection procedures under any other law (including section 5 of this chapter) relating to bonds or leases designed to protect owners of real property within the political subdivision from the imposition of property taxes to pay debt service or lease rentals. However, the political subdivision must still receive the approval of the department of local government finance if required by:

(A) IC 6-1.1-18.5-8; or

(B) IC 20-46-7-8, IC 20-46-7-9, and IC 20-46-7-10.

SECTION 35. IC 6-1.1-20-3.5, AS AMENDED BY SEA 401-2010, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3.5. (a) This section applies only to a controlled project that meets the following conditions:

(1) The controlled project is described in one (1) of the following categories:

(A) An elementary school building, middle school building, or other school building for academic instruction that:

(i) will be used for any combination of kindergarten through grade 8;

(ii) will not be used for any combination of grade 9 through grade 12; and

(iii) will cost more than ten million dollars ($10,000,000).

(B) A high school building or other school building for

academic instruction that:

(i) will be used for any combination of grade 9 through grade 12;

(ii) will not be used for any combination of kindergarten through grade 8; and

(iii) will cost more than twenty million dollars ($20,000,000).

(C) Any other controlled project that:

(i) is not a controlled project described in clause (A) or (B); and

(ii) will cost the political subdivision more than the lesser of twelve million dollars ($12,000,000) or an amount equal to one percent (1%) of the total gross assessed value of property within the political subdivision on the last assessment date (if that amount is at least one million dollars ($1,000,000)).

(2) The proper officers of the political subdivision make a preliminary determination after June 30, 2008, in the manner described in subsection (b) to issue bonds or enter into a lease for the controlled project.

(b) A political subdivision may not impose property taxes to pay debt service on bonds or lease rentals on a lease for a controlled project without completing the following procedures:

(1) The proper officers of a political subdivision shall publish notice in accordance with IC 5-3-1 and send notice by first class mail to **the circuit court clerk and to** any organization that delivers to the officers, before January 1 of that year, an annual written request for notices of any meeting to consider the adoption of an ordinance or a resolution making a preliminary determination to issue bonds or enter into a lease and shall conduct a public hearing on the preliminary determination before adoption of the ordinance or resolution. The political subdivision must make the following information available to the public at the public hearing on the preliminary determination, in addition to any other information required by law:

(A) The result of the political subdivision's current and projected annual debt service payments divided by the net assessed value of taxable property within the political

subdivision.

(B) The result of:

(i) the sum of the political subdivision's outstanding long term debt plus the outstanding long term debt of other taxing units that include any of the territory of the political subdivision; divided by

(ii) the net assessed value of taxable property within the political subdivision.

(C) The information specified in subdivision (3)(A) through (3)(G).

(2) If the proper officers of a political subdivision make a preliminary determination to issue bonds or enter into a lease, the officers shall give notice of the preliminary determination by:

(A) publication in accordance with IC 5-3-1; and

(B) first class mail to **the circuit court clerk and to** the organizations described in subdivision (1).

(3) A notice under subdivision (2) of the preliminary determination of the political subdivision to issue bonds or enter into a lease must include the following information:

(A) The maximum term of the bonds or lease.

(B) The maximum principal amount of the bonds or the maximum lease rental for the lease.

(C) The estimated interest rates that will be paid and the total interest costs associated with the bonds or lease.

(D) The purpose of the bonds or lease.

(E) A statement that the proposed debt service or lease payments must be approved in an election on a local public question held under section 3.6 of this chapter.

(F) With respect to bonds issued or a lease entered into to open:

(i) a new school facility; or

(ii) an existing facility that has not been used for at least three (3) years and that is being reopened to provide additional classroom space;

the estimated costs the school corporation expects to annually incur to operate the facility.

(G) The political subdivision's current debt service levy and rate and the estimated increase to the political subdivision's

debt service levy and rate that will result if the political subdivision issues the bonds or enters into the lease.

(H) The information specified in subdivision (1)(A) through (1)(B).

(4) After notice is given, a petition requesting the application of the local public question process under section 3.6 of this chapter may be filed by the lesser of:

(A) one hundred (100) persons who are either owners of property within the political subdivision or registered voters residing within the political subdivision; or

(B) five percent (5%) of the registered voters residing within the political subdivision.

(5) The state board of accounts shall design and, upon request by the county voter registration office, deliver to the county voter registration office or the county voter registration office's designated printer the petition forms to be used solely in the petition process described in this section. The county voter registration office shall issue to an owner or owners of property within the political subdivision or a registered voter residing within the political subdivision the number of petition forms requested by the owner or owners or the registered voter. Each form must be accompanied by instructions detailing the requirements that:

(A) the carrier and signers must be owners of property or registered voters;

(B) the carrier must be a signatory on at least one (1) petition;

(C) after the signatures have been collected, the carrier must swear or affirm before a notary public that the carrier witnessed each signature; and

(D) govern the closing date for the petition period.

Persons requesting forms may be required to identify themselves as owners of property or registered voters and may be allowed to pick up additional copies to distribute to other owners of property or registered voters. Each person signing a petition must indicate whether the person is signing the petition as a registered voter within the political subdivision or is signing the petition as the owner of property within the political subdivision. A person who signs a petition as a registered voter must indicate the address at

which the person is registered to vote. A person who signs a petition as an owner of property must indicate the address of the property owned by the person in the political subdivision.

(6) Each petition must be verified under oath by at least one (1) qualified petitioner in a manner prescribed by the state board of accounts before the petition is filed with the county voter registration office under subdivision (7).

(7) Each petition must be filed with the county voter registration office not more than thirty (30) days after publication under subdivision (2) of the notice of the preliminary determination.

(8) The county voter registration office shall determine whether each person who signed the petition is a registered voter. However, after the county voter registration office has determined that at least one hundred twenty-five (125) persons who signed the petition are registered voters within the political subdivision, the county voter registration office is not required to verify whether the remaining persons who signed the petition are registered voters. If the county voter registration office does not determine that at least one hundred twenty-five (125) persons who signed the petition are registered voters, the county voter registration office, not more than fifteen (15) business days after receiving a petition, shall forward a copy of the petition to the county auditor. Not more than ten (10) business days after receiving the copy of the petition, the county auditor shall provide to the county voter registration office a statement verifying:

(A) whether a person who signed the petition as a registered voter but is not a registered voter, as determined by the county voter registration office, is the owner of property in the political subdivision; and

(B) whether a person who signed the petition as an owner of property within the political subdivision does in fact own property within the political subdivision.

(9) The county voter registration office, not more than ten (10) business days after determining that at least one hundred twenty-five (125) persons who signed the petition are registered voters or after receiving the statement from the county auditor under subdivision (8) (as applicable), shall make the final determination of whether a sufficient number of persons have

signed the petition. Whenever the name of an individual who signs a petition form as a registered voter contains a minor variation from the name of the registered voter as set forth in the records of the county voter registration office, the signature is presumed to be valid, and there is a presumption that the individual is entitled to sign the petition under this section. Except as otherwise provided in this chapter, in determining whether an individual is a registered voter, the county voter registration office shall apply the requirements and procedures used under IC 3 to determine whether a person is a registered voter for purposes of voting in an election governed by IC 3. However, an individual is not required to comply with the provisions concerning providing proof of identification to be considered a registered voter for purposes of this chapter. A person is entitled to sign a petition only one (1) time in a particular referendum process under this chapter, regardless of whether the person owns more than one (1) parcel of real property, mobile home assessed as personal property, or manufactured home assessed as personal property or a combination of those types of property within the political subdivision and regardless of whether the person is both a registered voter in the political subdivision and the owner of property within the political subdivision. Notwithstanding any other provision of this section, if a petition is presented to the county voter registration office within forty-five (45) days before an election, the county voter registration office may defer acting on the petition, and the time requirements under this section for action by the county voter registration office do not begin to run until five (5) days after the date of the election.

(10) The county voter registration office must file a certificate and each petition with:

(A) the township trustee, if the political subdivision is a township, who shall present the petition or petitions to the township board; or

(B) the body that has the authority to authorize the issuance of the bonds or the execution of a lease, if the political subdivision is not a township;

within thirty-five (35) business days of the filing of the petition requesting the referendum process. The certificate must state the

number of petitioners who are owners of property within the political subdivision and the number of petitioners who are registered voters residing within the political subdivision.

(11) If a sufficient petition requesting the local public question process is not filed by owners of property or registered voters as set forth in this section, the political subdivision may issue bonds or enter into a lease by following the provisions of law relating to the bonds to be issued or lease to be entered into.

(c) If the proper officers of a political subdivision make a preliminary determination to issue bonds or enter into a lease, the officers shall provide to the county auditor:

(1) a copy of the notice required by subsection (b)(2); and

(2) any other information the county auditor requires to fulfill the county auditor's duties under section 3.6 of this chapter.

SECTION 36. IC 6-1.1-20-3.6, AS AMENDED BY P.L.182-2009(ss), SECTION 146, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.6. (a) Except as provided in ~~section~~ **sections** 3.7 **and 3.8** of this chapter, this section applies only to a controlled project described in section 3.5(a) of this chapter.

(b) If a sufficient petition requesting the application of the local public question process has been filed as set forth in section 3.5 of this chapter, a political subdivision may not impose property taxes to pay debt service on bonds or lease rentals on a lease for a controlled project unless the political subdivision's proposed debt service or lease rental is approved in an election on a local public question held under this section.

(c) Except as provided in subsection (j), the following question shall be submitted to the eligible voters at the election conducted under this section:

"Shall _____ (insert the name of the political subdivision) issue bonds or enter into a lease to finance _____ (insert a brief description of the controlled project), which is estimated to cost not more than _____ (insert the total cost of the project) and is estimated to increase the property tax rate for debt service by _____ (insert increase in tax rate as determined by the department of local government finance)?".

The public question must appear on the ballot in the form approved by

the county election board. If the political subdivision proposing to issue bonds or enter into a lease is located in more than one (1) county, the county election board of each county shall jointly approve the form of the public question that will appear on the ballot in each county. The form approved by the county election board may differ from the language certified to the county election board by the county auditor. **If the county election board approves the language of a public question under this subsection after June 30, 2010, the county election board shall submit the language to the department of local government finance for review. The department of local government finance shall review the language of the public question to evaluate whether the description of the controlled project is accurate and is not biased against either a vote in favor of the controlled project or a vote against the controlled project. The department of local government finance may recommend that the ballot language be used as submitted or recommend modifications to the ballot language as necessary to ensure that the description of the controlled project is accurate and is not biased. The department of local government finance shall send its recommendations to the county election board not more than ten (10) days after the language of the public question is submitted to the department for review. After reviewing the recommendations of the department of local government finance under this subsection, the county election board shall take final action to approve ballot language. The finally adopted ballot language may differ from the recommendations made by the department of local government finance.**

(d) The county auditor shall certify the **finally approved** public question described in subsection (c) under IC 3-10-9-3 to the county election board of each county in which the political subdivision is located. The certification must occur not later than noon:

(1) sixty (60) days before a primary election if the public question is to be placed on the primary or municipal primary election ballot; or

(2) August 1 if the public question is to be placed on the general or municipal election ballot.

Subject to the certification requirements and deadlines under this subsection and except as provided in subsection (j), the public question

shall be placed on the ballot at the next primary election, general election, or municipal election in which all voters of the political subdivision are entitled to vote. However, if a primary election, general election, or municipal election will not be held during the first year in which the public question is eligible to be placed on the ballot under this section and if the political subdivision requests the public question to be placed on the ballot at a special election, the public question shall be placed on the ballot at a special election to be held on the first Tuesday after the first Monday in May or November of the year. The certification must occur not later than noon sixty (60) days before a special election to be held in May (if the special election is to be held in May) or noon on August 1 (if the special election is to be held in November). However, in 2009, a political subdivision may hold a special election under this section on any date scheduled for the special election if notice of the special election was given before July 1, 2009, to the election division of the secretary of state's office as provided in IC 3-10-8-4. The fiscal body of the political subdivision that requests the special election shall pay the costs of holding the special election. The county election board shall give notice under IC 5-3-1 of a special election conducted under this subsection. A special election conducted under this subsection is under the direction of the county election board. The county election board shall take all steps necessary to carry out the special election.

(e) The circuit court clerk shall certify the results of the public question to the following:

(1) The county auditor of each county in which the political subdivision is located.

(2) The department of local government finance.

(f) Subject to the requirements of IC 6-1.1-18.5-8, the political subdivision may issue the proposed bonds or enter into the proposed lease rental if a majority of the eligible voters voting on the public question vote in favor of the public question.

(g) If a majority of the eligible voters voting on the public question vote in opposition to the public question, both of the following apply:

(1) The political subdivision may not issue the proposed bonds or enter into the proposed lease rental.

(2) Another public question under this section on the same or a substantially similar project may not be submitted to the voters

earlier than one (1) year after the date of the election.

(h) IC 3, to the extent not inconsistent with this section, applies to an election held under this section.

(i) A political subdivision may not artificially divide a capital project into multiple capital projects in order to avoid the requirements of this section and section 3.5 of this chapter.

(j) This subsection applies to a political subdivision for which a petition requesting a public question has been submitted under section 3.5 of this chapter. The legislative body (as defined in IC 36-1-2-9) of the political subdivision may adopt a resolution to withdraw a controlled project from consideration in a public question. If the legislative body provides a certified copy of the resolution to the county auditor and the county election board not later than forty-nine (49) days before the election at which the public question would be on the ballot, the public question on the controlled project shall not be placed on the ballot and the public question on the controlled project shall not be held, regardless of whether the county auditor has certified the public question to the county election board. If the withdrawal of a public question under this subsection requires the county election board to reprint ballots, the political subdivision withdrawing the public question shall pay the costs of reprinting the ballots. If a political subdivision withdraws a public question under this subsection that would have been held at a special election and the county election board has printed the ballots before the legislative body of the political subdivision provides a certified copy of the withdrawal resolution to the county auditor and the county election board, the political subdivision withdrawing the public question shall pay the costs incurred by the county in printing the ballots. If a public question on a controlled project is withdrawn under this subsection, a public question under this section on the same controlled project or a substantially similar controlled project may not be submitted to the voters earlier than one (1) year after the date the resolution withdrawing the public question is adopted.

(k) If a public question regarding a controlled project is placed on the ballot to be voted on at a public question under this section, the political subdivision shall submit to the department of local government finance, at least thirty (30) days before the election, the following information regarding the proposed controlled project for

posting on the department's Internet web site:

(1) The cost per square foot of any buildings being constructed as part of the controlled project.

(2) The effect that approval of the controlled project would have on the political subdivision's property tax rate.

(3) The maximum term of the bonds or lease.

(4) The maximum principal amount of the bonds or the maximum lease rental for the lease.

(5) The estimated interest rates that will be paid and the total interest costs associated with the bonds or lease.

(6) The purpose of the bonds or lease.

(7) In the case of a controlled project proposed by a school corporation:

(A) the current and proposed square footage of school building space per student;

(B) enrollment patterns within the school corporation; and

(C) the age and condition of the current school facilities.

SECTION 37. IC 6-1.1-20-3.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.8. (a) This section applies to the issuance of bonds or the entering into a lease for a controlled project to which section 3.1 of this chapter applies.**

(b) If the proper officers of a political subdivision make a preliminary determination to issue bonds or enter into a lease described in subsection (a), the fiscal body of the political subdivision may adopt a resolution specifying that the local public question process specified in section 3.6 of this chapter applies to the issuance of the bonds or the execution of the lease instead of the petition and remonstrance process under section 3.2 of this chapter.

(c) The fiscal body must adopt a resolution under subsection (b) not later than the date on which the political subdivision makes a preliminary determination to issue bonds or enter into a lease as described in subsection (a).

(d) The fiscal body must certify the resolution to the county election board of each county in which the political subdivision is located, and the county election board shall place the public question on the ballot as provided in section 3.6 of this chapter.

(e) Except to the extent it is inconsistent with this section, section 3.6 of this chapter applies to a local public question placed on the ballot under this section.

SECTION 38. IC 6-1.1-20.6-8.5, AS AMENDED BY P.L.182-2009(ss), SECTION 152, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 8.5. (a) This section applies to an individual who:

(1) qualified for a standard deduction granted under IC 6-1.1-12-37 for the individual's homestead property in the immediately preceding calendar year (or was married at the time of death to a deceased spouse who qualified for a standard deduction granted under IC 6-1.1-12-37 for the individual's homestead property in the immediately preceding calendar year);

(2) qualifies for a standard deduction granted under IC 6-1.1-12-37 for the same homestead property in the current calendar year;

(3) is or will be at least sixty-five (65) years of age on or before December 31 of the calendar year immediately preceding the current calendar year; and

(4) had:

(A) in the case of an individual who filed a single return, adjusted gross income (as defined in Section 62 of the Internal Revenue Code) not exceeding thirty thousand dollars ($30,000); or

(B) in the case of an individual who filed a joint income tax return with the individual's spouse, combined adjusted gross income (as defined in Section 62 of the Internal Revenue Code) not exceeding forty thousand dollars ($40,000);

for the calendar year preceding by two (2) years the calendar year in which property taxes are first due and payable.

(b) This section does not apply if the gross assessed value of the homestead on the assessment date for which property taxes are imposed is at least one hundred sixty thousand dollars ($160,000).

(c) An individual is entitled to an additional credit under this section for property taxes first due and payable for a calendar year on a homestead if:

(1) the individual and the homestead qualify for the credit under subsection (a) for the calendar year;

(2) the homestead is not disqualified for the credit under subsection (b) for the calendar year; and

(3) the filing requirements under subsection (e) are met.

(d) The amount of the credit is equal to the greater of zero (0) or the result of:

(1) the property tax liability first due and payable on the homestead property for the calendar year; minus

(2) the result of:

(A) the property tax liability first due and payable on the qualified homestead property for the immediately preceding year **after the application of the credit granted under this section for that year;** multiplied by

(B) one and two hundredths (1.02).

However, property tax liability imposed on any improvements to or expansion of the homestead property after the assessment date for which property tax liability described in subdivision (2) was imposed shall not be considered in determining the credit granted under this section in the current calendar year.

(e) Applications for a credit under this section shall be filed in the manner provided for an application for a deduction under IC 6-1.1-12-9. However, an individual who remains eligible for the credit in the following year is not required to file a statement to apply for the credit in the following year. An individual who receives a credit under this section in a particular year and who becomes ineligible for the credit in the following year shall notify the auditor of the county in which the homestead is located of the individual's ineligibility not later than sixty (60) days after the individual becomes ineligible.

(f) The auditor of each county shall, in a particular year, apply a credit provided under this section to each individual who received the credit in the preceding year unless the auditor determines that the individual is no longer eligible for the credit.

SECTION 39. IC 6-1.1-24-1, AS AMENDED BY HEA 1183-2010, SECTION 1, IS AMEND TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) On or after January 1 of each calendar year in which a tax sale will be held in a county and not later than fifty-one (51) days after the first tax payment due date in that calendar year, the county treasurer (or county executive, in the case of property described in subdivision (2)) shall certify to the county auditor a list of real

property on which any of the following exist:

(1) In the case of real property other than real property described in subdivision (2), any property taxes or special assessments certified to the county auditor for collection by the county treasurer from the prior year's spring installment or before are delinquent as determined under IC 6-1.1-37-10.

(2) In the case of real property for which a county executive has certified to the county auditor that the real property is:

(A) vacant; or

(B) abandoned;

any property taxes or special assessments from the prior year's fall installment or before that are delinquent as determined under IC 6-1.1-37-10. The county executive must make a certification under this subdivision not later than sixty-one (61) days before the earliest date on which application for judgment and order for sale may be made.

(3) Any unpaid costs are due under section 2(b) of this chapter from a prior tax sale.

(b) The county auditor shall maintain a list of all real property eligible for sale.~~Unless the taxpayer pays to the county treasurer the amounts in subsection (a),~~ **Except as provided in section 1.2 or another provision of this chapter,** the taxpayer's property shall remain on the list. The list must:

(1) describe the real property by parcel number and common address, if any;

(2) for a tract or item of real property with a single owner, indicate the name of the owner; and

(3) for a tract or item with multiple owners, indicate the name of at least one (1) of the owners.

(c) Except as otherwise provided in this chapter, the real property so listed is eligible for sale in the manner prescribed in this chapter.

(d) Not later than fifteen (15) days after the date of the county treasurer's certification under subsection (a), the county auditor shall mail by certified mail a copy of the list described in subsection (b) to each mortgagee who requests from the county auditor by certified mail a copy of the list. Failure of the county auditor to mail the list under this subsection does not invalidate an otherwise valid sale.

SECTION 40. IC 6-1.1-24-1.2 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1.2. (a) Except as provided in subsection (c), a tract or an item of real property may not be removed from the list certified under section 1 of this chapter before the tax sale unless all:

(1) delinquent taxes **and** special assessments **due before the date the list on which the property appears was certified under section 1 of this chapter; and**

(2) penalties due on the delinquency, interest, and costs directly attributable to the tax sale;

have been paid in full.

(b) A county treasurer may accept partial payments of delinquent property taxes, assessments, penalties, interest, or costs under subsection (a) after the list of real property is certified under section 1 of this chapter. **However a partial payment does not remove a tract or an item from the list certified under section 1 of this chapter unless the taxpayer complies with subsection (a) or (c) before the date of the tax sale.**

(c) The county auditor in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) may remove a tract or an item of real property from the list certified under section 1 of this chapter before the tax sale if the county treasurer and the taxpayer agree to a mutually satisfactory arrangement for the payment of the delinquent taxes.

(d) The county treasurer may remove the tract or item from the list certified under section 1 of this chapter if the arrangement described in subsection (c):

(1) is in writing;

(2) is signed by the taxpayer; and

(3) requires the taxpayer to pay the delinquent taxes in full within one (1) year of the date the agreement is signed.

(e) If the taxpayer fails to make a payment under the arrangement described in subsection (c), the county auditor shall immediately place the tract or item of real property on the list of real property eligible for sale at a tax sale.

(f) If the tract or item of real property subject to a payment arrangement is within the jurisdiction of a:

(1) city having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000);

(2) city having a population of more than thirty-two thousand (32,000) but less than thirty-two thousand eight hundred (32,800); or

(3) city having a population of more than seventy-five thousand (75,000) but less than ninety thousand (90,000);

the county auditor shall notify the mayor of the city of the arrangement.

SECTION 41. IC 6-1.5-3-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 4. (a) As used in this section, "county board" means a county property tax assessment board of appeals.**

(b) Upon request by a county assessor, an employee of the Indiana board may assist taxpayers and local officials in their attempts to voluntarily resolve disputes in which:

(1) a taxpayer has filed written notice to obtain a county board's review of an action by a township or county official; and

(2) the county board has not given written notice of its decision on the issues under review.

(c) If an Indiana board employee assists in attempts to voluntarily resolve a dispute as authorized in subsection (b), the employee may not:

(1) act as an administrative law judge on; or

(2) participate in a decision relating to;

a petition for review of the county board's action on that same dispute.

(d) Notwithstanding any other law, including IC 5-14-1.5, a conference attended by an Indiana board employee acting in the capacity described in subsection (b) is not required to be open to the public. Such a conference may be open to the public only if both the taxpayer and the township or county official from whose action the taxpayer sought review agree to open the conference to the public.

(e) Notwithstanding any other law, a conference attended by an Indiana board employee acting in the capacity described in subsection (b) is not a proceeding of the Indiana board, and the Indiana board is not required to keep a record of the conference.

SECTION 42. IC 6-1.5-6-3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

1, 2010]: **Sec. 3. (a) As used in this section, "county board" means a county property tax assessment board of appeals.**

(b) The Indiana board may adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, to establish procedures for its employees to assist taxpayers and local officials in their attempts to informally resolve disputes in which:

(1) a taxpayer has filed written notice to obtain a county board's review of an action by a township or county official; and

(2) the county board has not given written notice of its decision on the issues under review.

SECTION 43. IC 6-2.5-1-5, AS AMENDED BY P.L.182-2009(ss), SECTION 174, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) Except as provided in subsection (b), "gross retail income" means the total amount of consideration, including cash, credit, property, and services, for which tangible personal property is sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for:

(1) the seller's cost of the property sold;

(2) the cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;

(3) charges by the seller for any services necessary to complete the sale, other than delivery and installation charges;

(4) delivery charges; or

(5) consideration received by the seller from a third party if:

(A) the seller actually receives consideration from a party other than the purchaser and the consideration is directly related to a price reduction or discount on the sale;

(B) the seller has an obligation to pass the price reduction or discount through to the purchaser;

(C) the amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and

(D) the price reduction or discount is identified as a third party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate, or other documentation presented by the purchaser.

For purposes of subdivision (4), delivery charges are charges by the seller for preparation and delivery of the property to a location designated by the purchaser of property, including but not limited to transportation, shipping, postage, handling, crating, and packing.

(b) "Gross retail income" does not include that part of the gross receipts attributable to:

(1) the value of any tangible personal property received in a like kind exchange in the retail transaction, if the value of the property given in exchange is separately stated on the invoice, bill of sale, or similar document given to the purchaser;

(2) the receipts received in a retail transaction which constitute interest, finance charges, or insurance premiums on either a promissory note or an installment sales contract;

(3) discounts, including cash, terms, or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale;

(4) interest, financing, and carrying charges from credit extended on the sale of personal property if the amount is separately stated on the invoice, bill of sale, or similar document given to the purchaser;

(5) any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale, or similar document given to the purchaser; ~~or~~

(6) installation charges that are separately stated on the invoice, bill of sale, or similar document given to the purchaser; **or**

(7) telecommunications nonrecurring charges.

(c) A public utility's or a power subsidiary's gross retail income includes all gross retail income received by the public utility or power subsidiary, including any minimum charge, flat charge, membership fee, or any other form of charge or billing.

SECTION 44. IC 6-2.5-1-14.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 14.5. "Computer software maintenance contract" means a contract that obligates a person to provide a customer with future updates or upgrades of computer software.**

SECTION 45. IC 6-2.5-1-27.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2010]: **Sec. 27.2. "Telecommunications nonrecurring charges" means an amount billed for installation, connection, change, or initiation of a telecommunications service received by a customer.**

SECTION 46. IC 6-2.5-1-28.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 28.5. "Transferred electronically" means obtained by a purchaser by means other than tangible storage media.**

SECTION 47. IC 6-2.5-2-2, AS AMENDED BY P.L.146-2008, SECTION 310, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) The state gross retail tax is measured by the gross retail income received by a retail merchant in a retail unitary transaction and is imposed at ~~the following rates:~~

~~STATE GROSS RETAIL TAX~~	~~GROSS RETAIL INCOME FROM THE RETAIL UNITARY TRANSACTION~~		
~~$ 0~~		~~less than~~	~~$0.08~~
~~$ 0.01~~	~~at least $ 0.08~~	~~but less than~~	~~$0.21~~
~~$ 0.02~~	~~at least $ 0.21~~	~~but less than~~	~~$0.36~~
~~$ 0.03~~	~~at least $ 0.36~~	~~but less than~~	~~$0.51~~
~~$ 0.04~~	~~at least $ 0.51~~	~~but less than~~	~~$0.64~~
~~$ 0.05~~	~~at least $ 0.64~~	~~but less than~~	~~$0.79~~
~~$ 0.06~~	~~at least $ 0.79~~	~~but less than~~	~~$0.93~~
~~$ 0.07~~	~~at least $ 0.93~~	~~but less than~~	~~$1.07~~

~~On a retail unitary transaction in which the gross retail income received by the retail merchant is one dollar and seven cents ($1.07) or more, the state gross retail tax is~~ seven percent (7%) of that gross retail income.

(b) If the tax computed under subsection (a) **carried to the third decimal place** results in ~~a fraction of one-half cent ($0.005) or more,~~ **the numeral in the third decimal place being greater than four (4),** the amount of the tax shall be rounded to the next additional cent.

SECTION 48. IC 6-2.5-4-16.4, AS ADDED BY P.L.1-2009, SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 16.4. (a) As used in this section, "end user" does not include a person who receives by contract a product transferred

electronically for further commercial broadcast, rebroadcast, transmission, retransmission, licensing, relicensing, distribution, redistribution, or exhibition of the product, in whole or in part, to another person or persons.

(b) A person is a retail merchant making a retail transaction when the person:

(1) electronically transfers specified digital products to an end user; and

(2) grants to the end user the right of permanent use of the specified digital products that is not conditioned upon continued payment by the purchaser.

(c) The sale of a digital code that may be used to obtain a product transferred electronically shall be taxed in the same manner as the product transferred electronically. As used in this subsection, a digital code means a method that permits a purchaser to obtain at a later date a product transferred electronically.

SECTION 49. IC 6-2.5-4-17 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 17. A person is a retail merchant making a retail transaction when the person enters into a computer software maintenance contract to provide future updates or upgrades to computer software.**

SECTION 50. IC 6-2.5-5-18, AS AMENDED BY P.L.182-2009(ss), SECTION 178, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 18. (a) Sales of durable medical equipment, **mobility enhancing equipment,** prosthetic devices, artificial limbs, orthopedic devices, dental prosthetic devices, eyeglasses, contact lenses, and other medical supplies and devices are exempt from the state gross retail tax, if the sales are prescribed by a person licensed to issue the prescription.

(b) Rentals of durable medical equipment, **mobility enhancing equipment,** and other medical supplies and devices are exempt from the state gross retail tax, if the rentals are prescribed by a person licensed to issue the prescription.

(c) Sales of hearing aids are exempt from the state gross retail tax if the hearing aids are fitted or dispensed by a person licensed or registered for that purpose. In addition, sales of hearing aid parts, attachments, or accessories are exempt from the state gross retail tax.

For purposes of this subsection, a hearing aid is a device which is worn on the body and which is designed to aid, improve, or correct defective human hearing.

(d) Sales of colostomy bags, ileostomy bags, and the medical equipment, supplies, and devices used in conjunction with those bags are exempt from the state gross retail tax.

(e) Sales of equipment and devices used to administer insulin are exempt from the state gross retail tax.

(f) Sales of equipment and devices used to monitor blood glucose level, including blood glucose meters and measuring strips, lancets, and other similar diabetic supplies, are exempt from the state gross retail tax, regardless of whether the equipment and devices are prescribed.

SECTION 51. IC 6-2.5-5-20, AS AMENDED BY P.L.195-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 20. (a) Sales of food and food ingredients for human consumption are exempt from the state gross retail tax.

(b) For purposes of this section, the term "food and food ingredients for human consumption" includes the following items if sold without eating utensils provided by the seller:

(1) Food sold by a seller whose proper primary NAICS classification is manufacturing in sector 311, except subsector 3118 (bakeries).

(2) Food sold in an unheated state by weight or volume as a single item.

(3) Bakery items, including bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, danish, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas.

(c) Except as otherwise provided by subsection (b), for purposes of this section, the term "food and food ingredients for human consumption" does not include:

(1) candy;

(2) alcoholic beverages;

(3) soft drinks;

(4) food sold through a vending machine;

(5) food sold in a heated state or heated by the seller;

(6) two (2) or more food ingredients mixed or combined by the seller for sale as a single item (other than food that is only cut,

repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the federal Food and Drug Administration in chapter 3, subpart 3-401.11 of its Food Code so as to prevent food borne illnesses);

(7) food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws (for purposes of this subdivision, a plate does not include a container or packaging used to transport the food); ~~or~~

(8) tobacco; **or**

(9) dietary supplements.

SECTION 52. IC 6-2.5-5-44 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007 (RETROACTIVE)]: **Sec. 44. Transactions involving tangible personal property are exempt from the state gross retail tax if the property is acquired by a city or town for use in the operation of a municipal golf course.**

SECTION 53. IC 6-2.5-11-10, AS AMENDED BY P.L.182-2009(ss), SECTION 183, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10. (a) A certified service provider is the agent of a seller, with whom the certified service provider has contracted, for the collection and remittance of sales and use taxes. As the seller's agent, the certified service provider is liable for sales and use tax due each member state on all sales transactions it processes for the seller except as set out in this section. A seller that contracts with a certified service provider is not liable to the state for sales or use tax due on transactions processed by the certified service provider unless the seller misrepresented the type of items it sells or committed fraud. In the absence of probable cause to believe that the seller has committed fraud or made a material misrepresentation, the seller is not subject to audit on the transactions processed by the certified service provider. A seller is subject to audit for transactions not processed by the certified service provider. The member states acting jointly may perform a system check of the seller and review the seller's procedures to determine if the certified service provider's system is functioning properly and the extent to which the seller's transactions are being processed by the certified service provider.

(b) A person that provides a certified automated system is

responsible for the proper functioning of that system and is liable to the state for underpayments of tax attributable to errors in the functioning of the certified automated system. A seller that uses a certified automated system remains responsible and is liable to the state for reporting and remitting tax.

(c) A seller that has a proprietary system for determining the amount of tax due on transactions and has signed an agreement establishing a performance standard for that system is liable for the failure of the system to meet the performance standard.

(d) A certified service provider or a seller using a certified automated system that obtains a certification **or taxability matrix** from the department is not liable for sales or use tax collection errors that result from reliance on the department's certification **or taxability matrix.** If the department determines that an item or transaction is incorrectly classified as to the taxability of the item or transaction, the department shall notify the certified service provider or the seller using a certified automated system of the incorrect classification. The certified service provider or the seller using a certified automated system must revise the incorrect classification within ten (10) days after receiving notice of the determination from the department. If the classification error is not corrected within ten (10) days after receiving the department's notice, the certified service provider or the seller using a certified automated system is liable for failure to collect the correct amount of sales or use tax due and owing.

(e) If at least thirty (30) days are not provided between the enactment of a statute changing the rate set forth in IC 6-2.5-2-2 and the effective date of the rate change, the department shall relieve the seller of liability for failing to collect tax at the new rate if:

(1) the seller collected the tax at the immediately preceding effective rate; and

(2) the seller's failure to collect at the current rate does not extend beyond thirty (30) days after the effective date of the rate change.

A seller is not eligible for the relief provided for in this subsection if the seller fraudulently fails to collect at the current rate or solicits purchases based on the immediately preceding effective rate.

(f) The department shall allow any monetary allowances that are provided by the member states to sellers or certified service providers in exchange for collecting the sales and use taxes as provided in article

VI of the agreement.

SECTION 54. IC 6-3-1-11, AS AMENDED BY P.L.182-2009(ss), SECTION 188, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: Sec. 11. (a) The term "Internal Revenue Code" means the Internal Revenue Code of 1986 of the United States as amended and in effect on ~~February 17, 2009.~~ **January 1, 2010.**

(b) Whenever the Internal Revenue Code is mentioned in this article, the particular provisions that are referred to, together with all the other provisions of the Internal Revenue Code in effect on ~~February 17, 2009,~~ **January 1, 2010,** that pertain to the provisions specifically mentioned, shall be regarded as incorporated in this article by reference and have the same force and effect as though fully set forth in this article. To the extent the provisions apply to this article, regulations adopted under Section 7805(a) of the Internal Revenue Code and in effect on ~~February 17, 2009,~~ **January 1, 2010,** shall be regarded as rules adopted by the department under this article, unless the department adopts specific rules that supersede the regulation.

(c) An amendment to the Internal Revenue Code made by an act passed by Congress before ~~February 17, 2009,~~ **January 1, 2010,** that is effective for any taxable year that began before January 1, ~~2009,~~ **2010,** and that affects:

(1) individual adjusted gross income (as defined in Section 62 of the Internal Revenue Code);

(2) corporate taxable income (as defined in Section 63 of the Internal Revenue Code);

(3) trust and estate taxable income (as defined in Section 641(b) of the Internal Revenue Code);

(4) life insurance company taxable income (as defined in Section 801(b) of the Internal Revenue Code);

(5) mutual insurance company taxable income (as defined in Section 821(b) of the Internal Revenue Code); or

(6) taxable income (as defined in Section 832 of the Internal Revenue Code);

is also effective for that same taxable year for purposes of determining adjusted gross income under section 3.5 of this chapter.

SECTION 55. IC 6-3-2-2.5, AS AMENDED BY P.L.182-2009(ss), SECTION 192, IS AMENDED TO READ AS FOLLOWS

[EFFECTIVE NOVEMBER 6, 2009 (RETROACTIVE)]: Sec. 2.5. (a) This section applies to a resident person.

(b) Resident persons are entitled to a net operating loss deduction. The amount of the deduction taken in a taxable year may not exceed the taxpayer's unused Indiana net operating losses carried back or carried over to that year.

(c) An Indiana net operating loss equals the taxpayer's federal net operating loss for a taxable year as calculated under Section 172 of the Internal Revenue Code, adjusted for the modifications required by IC 6-3-1-3.5.

(d) The following provisions apply for purposes of subsection (c):

(1) The modifications that are to be applied are those modifications required under IC 6-3-1-3.5 for the same taxable year in which each net operating loss was incurred.

(2) An Indiana net operating loss includes a net operating loss that arises when the modifications required by IC 6-3-1-3.5 exceed the taxpayer's federal adjusted gross income (as defined in Section 62 of the Internal Revenue Code) for the taxable year in which the Indiana net operating loss is determined.

(e) Subject to the limitations contained in subsection (g), an Indiana net operating loss carryback or carryover shall be available as a deduction from the taxpayer's adjusted gross income (as defined in IC 6-3-1-3.5) in the carryback or carryover year provided in subsection (f).

(f) Carrybacks and carryovers shall be determined under this subsection as follows:

(1) An Indiana net operating loss shall be an Indiana net operating loss carryback to each of the carryback years preceding the taxable year of the loss.

(2) An Indiana net operating loss shall be an Indiana net operating loss carryover to each of the carryover years following the taxable year of the loss.

(3) Carryback years shall be determined by reference to the number of years allowed for carrying back a net operating loss under Section 172(b) of the Internal Revenue Code. However, with respect to the carryback period for a net operating loss:

(A) for which ~~an eligible small business, as defined in Section 172(b)(1)(H)(iv) of the Internal Revenue Code,~~ **a taxpayer**

made an election to use five (5) years instead of two (2) years under Section 172(b)(1)(H) of the Internal Revenue Code, two (2) years shall be used instead of five (5) years; or

(B) that is a qualified disaster loss for which the taxpayer elected to have the net operating loss carryback period with respect to the loss year determined without regard to Section 172(b)(1)(J) of the Internal Revenue Code, five (5) years shall be used.

(4) Carryover years shall be determined by reference to the number of years allowed for carrying over net operating losses under Section 172(b) of the Internal Revenue Code.

(5) A taxpayer who makes an election under Section 172(b)(3) of the Internal Revenue Code to relinquish the carryback period with respect to a net operating loss for any taxable year shall be considered to have also relinquished the carryback of the Indiana net operating loss for purposes of this section.

(g) The entire amount of the Indiana net operating loss for any taxable year shall be carried to the earliest of the taxable years to which (as determined under subsection (f)) the loss may be carried. The amount of the Indiana net operating loss remaining after the deduction is taken under this section in a taxable year may be carried back or carried over as provided in subsection (f). The amount of the Indiana net operating loss carried back or carried over from year to year shall be reduced to the extent that the Indiana net operating loss carryback or carryover is used by the taxpayer to obtain a deduction in a taxable year until the occurrence of the earlier of the following:

(1) The entire amount of the Indiana net operating loss has been used as a deduction.

(2) The Indiana net operating loss has been carried over to each of the carryover years provided by subsection (f).

SECTION 56. IC 6-3-2-2.6, AS AMENDED BY P.L.182-2009(ss), SECTION 193, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE NOVEMBER 6, 2009 (RETROACTIVE)]: Sec. 2.6. (a) This section applies to a corporation or a nonresident person.

(b) Corporations and nonresident persons are entitled to a net operating loss deduction. The amount of the deduction taken in a taxable year may not exceed the taxpayer's unused Indiana net operating losses carried back or carried over to that year.

(c) An Indiana net operating loss equals the taxpayer's federal net operating loss for a taxable year as calculated under Section 172 of the Internal Revenue Code, derived from sources within Indiana and adjusted for the modifications required by IC 6-3-1-3.5.

(d) The following provisions apply for purposes of subsection (c):

(1) The modifications that are to be applied are those modifications required under IC 6-3-1-3.5 for the same taxable year in which each net operating loss was incurred.

(2) The amount of the taxpayer's net operating loss that is derived from sources within Indiana shall be determined in the same manner that the amount of the taxpayer's adjusted income derived from sources within Indiana is determined under section 2 of this chapter for the same taxable year during which each loss was incurred.

(3) An Indiana net operating loss includes a net operating loss that arises when the modifications required by IC 6-3-1-3.5 exceed the taxpayer's federal taxable income (as defined in Section 63 of the Internal Revenue Code), if the taxpayer is a corporation, or when the modifications required by IC 6-3-1-3.5 exceed the taxpayer's federal adjusted gross income (as defined by Section 62 of the Internal Revenue Code), if the taxpayer is a nonresident person, for the taxable year in which the Indiana net operating loss is determined.

(e) Subject to the limitations contained in subsection (g), an Indiana net operating loss carryback or carryover shall be available as a deduction from the taxpayer's adjusted gross income derived from sources within Indiana (as defined in section 2 of this chapter) in the carryback or carryover year provided in subsection (f).

(f) Carrybacks and carryovers shall be determined under this subsection as follows:

(1) An Indiana net operating loss shall be an Indiana net operating loss carryback to each of the carryback years preceding the taxable year of the loss.

(2) An Indiana net operating loss shall be an Indiana net operating loss carryover to each of the carryover years following the taxable year of the loss.

(3) Carryback years shall be determined by reference to the number of years allowed for carrying back a net operating loss

under Section 172(b) of the Internal Revenue Code. However, with respect to the carryback period for a net operating loss:

(A) for which ~~an eligible small business, as defined in Section 172(b)(1)(H)(iv) of the Internal Revenue Code,~~ **a taxpayer** made an election to use five (5) years instead of two (2) years under Section 172(b)(1)(H) of the Internal Revenue Code, two (2) years shall be used instead of five (5) years; or

(B) that is a qualified disaster loss for which the taxpayer elected to have the net operating loss carryback period with respect to the loss year determined without regard to Section 172(b)(1)(J) of the Internal Revenue Code, five (5) years shall be used.

(4) Carryover years shall be determined by reference to the number of years allowed for carrying over net operating losses under Section 172(b) of the Internal Revenue Code.

(5) A taxpayer who makes an election under Section 172(b)(3) of the Internal Revenue Code to relinquish the carryback period with respect to a net operating loss for any taxable year shall be considered to have also relinquished the carryback of the Indiana net operating loss for purposes of this section.

(g) The entire amount of the Indiana net operating loss for any taxable year shall be carried to the earliest of the taxable years to which (as determined under subsection (f)) the loss may be carried. The amount of the Indiana net operating loss remaining after the deduction is taken under this section in a taxable year may be carried back or carried over as provided in subsection (f). The amount of the Indiana net operating loss carried back or carried over from year to year shall be reduced to the extent that the Indiana net operating loss carryback or carryover is used by the taxpayer to obtain a deduction in a taxable year until the occurrence of the earlier of the following:

(1) The entire amount of the Indiana net operating loss has been used as a deduction.

(2) The Indiana net operating loss has been carried over to each of the carryover years provided by subsection (f).

(h) An Indiana net operating loss deduction determined under this section shall be allowed notwithstanding the fact that in the year the taxpayer incurred the net operating loss the taxpayer was not subject to the tax imposed under section 1 of this chapter because the taxpayer

was:

(1) a life insurance company (as defined in Section 816(a) of the Internal Revenue Code); or

(2) an insurance company subject to tax under Section 831 of the Internal Revenue Code.

(i) In the case of a life insurance company that claims an operations loss deduction under Section 810 of the Internal Revenue Code, this section shall be applied by:

(1) substituting the corresponding provisions of Section 810 of the Internal Revenue Code in place of references to Section 172 of the Internal Revenue Code; and

(2) substituting life insurance company taxable income (as defined in Section 801 the Internal Revenue Code) in place of references to taxable income (as defined in Section 63 of the Internal Revenue Code).

(j) For purposes of an amended return filed to carry back an Indiana net operating loss:

(1) the term "due date of the return", as used in IC 6-8.1-9-1(a)(1), means the due date of the return for the taxable year in which the net operating loss was incurred; and

(2) the term "date the payment was due", as used in IC 6-8.1-9-2(c), means the due date of the return for the taxable year in which the net operating loss was incurred.

SECTION 57. IC 6-3-4-16.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 16.5. (a) This section applies to:**

(1) Form W-2 federal income tax withholding statements; and

(2) Form WH-3 annual withholding tax reports;

filed with the department after December 31, 2010.

(b) If an employer or any person or entity acting on behalf of an employer files more than twenty-five (25) Form W-2 federal income tax withholding statements with the department in a calendar year, all Form W-2 federal income tax withholding statements and Form WH-3 annual withholding tax reports filed with the department in that calendar year by the employer or the person or entity acting on behalf of the employer must be filed in an electronic format specified by the department.

SECTION 58. IC 6-3.1-13-10 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: Sec. 10. As used in this chapter, "taxpayer" means a person, corporation, partnership, or other entity that has any state tax liability **or that submits incremental income tax withholdings under IC 6-3-4-8.**

SECTION 59. IC 6-3.1-19-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) ~~Subject to~~ **Except as provided in** section 5 **or 5.5** of this chapter, a taxpayer is entitled to a credit against the taxpayer's state and local tax liability for a taxable year if the taxpayer makes a qualified investment in that year.

(b) The amount of the credit to which a taxpayer is entitled is the qualified investment made by the taxpayer during the taxable year multiplied by twenty-five percent (25%).

(c) A taxpayer may assign any part of the credit to which the taxpayer is entitled under this chapter to a lessee of property redeveloped or rehabilitated under section 2 of this chapter. A credit that is assigned under this subsection remains subject to this chapter.

(d) An assignment under subsection (c) must be in writing and both the taxpayer and the lessee must report the assignment on their state tax return for the year in which the assignment is made, in the manner prescribed by the department. The taxpayer may not receive value in connection with the assignment under subsection (c) that exceeds the value of the part of the credit assigned.

(e) If a pass through entity is entitled to a credit under this chapter but does not have state and local tax liability against which the tax credit may be applied, a shareholder, partner, or member of the pass through entity is entitled to a tax credit equal to:

(1) the tax credit determined for the pass through entity for the taxable year; multiplied by

(2) the percentage of the pass through entity's distributive income to which the shareholder, partner, or member is entitled.

The credit provided under this subsection is in addition to a tax credit to which a shareholder, partner, or member of a pass through entity is otherwise entitled under this chapter. However, a pass through entity and an individual who is a shareholder, partner, or member of the pass through entity may not claim more than one (1) credit for the same investment.

(f) A taxpayer that is otherwise entitled to a credit under this chapter

for a taxable year may claim the credit regardless of whether any income tax incremental amount or gross retail incremental amount has been:

(1) deposited in the incremental tax financing fund established for the community revitalization enhancement district; or

(2) allocated to the district.

SECTION 60. IC 6-3.1-19-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5.5. (a) This section applies only to investments made in a district designated for an area described in:**

(1) IC 36-7-13-12(c)(1)(A); or

(2) IC 36-7-13-12(c)(1)(C).

(b) As used in this section, "advisory commission" means the advisory commission on industrial development that designated the districts described in subsection (a).

(c) A taxpayer is not entitled to a credit under this chapter for an expenditure made in the district unless the advisory commission selects the area to receive an allocation of the income tax incremental amount and the gross retail incremental amount under IC 36-7-13.

(d) After receiving notice of the advisory commission's selection under IC 36-7-13-23, the budget agency shall inform the Indiana economic development corporation and the department of which district was selected by the advisory commission.

(e) The Indiana economic development corporation may not approve a taxpayer's expenditures until after receiving notice of the advisory commission's selection.

SECTION 61. IC 6-3.5-1.1-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1.5. (a) Notwithstanding any other provision of this chapter, a power granted by this chapter to adopt an ordinance to:**

(1) impose, increase, decrease, or rescind a tax or tax rate; or

(2) grant, increase, decrease, rescind, or change a homestead credit or property tax replacement credit authorized under this chapter;

may be exercised at any time in a year before November 1 of that

year.

(b) Notwithstanding any other provision of this chapter, an ordinance authorized by this chapter that imposes or increases a tax or a tax rate takes effect as follows:

(1) An ordinance adopted after December 31 of the immediately preceding year and before October 1 of the current year takes effect October 1 of the current year.

(2) An ordinance adopted after September 30 and before October 16 of the current year takes effect November 1 of the current year.

(3) An ordinance adopted after October 15 and before November 1 of the current year takes effect December 1 of the current year.

(c) Notwithstanding any other provision of this chapter, an ordinance authorized by this chapter that decreases or rescinds a tax or a tax rate takes effect as follows:

(1) An ordinance adopted after December 31 of the immediately preceding year and before October 1 of the current year takes effect on the later of October 1 of the current year or the first day of the month in the current year as the month in which the last increase in the tax or tax rate occurred.

(2) An ordinance adopted after September 30 and before October 16 of the current year takes effect on the later of November 1 of the current year or the first day of the month in the current year as the month in which the last increase in the tax or tax rate occurred.

(3) An ordinance adopted after October 15 and before November 1 of the current year takes effect December 1 of the current year.

(d) Notwithstanding any other provision of this chapter, an ordinance authorized by this chapter that grants, increases, decreases, rescinds, or changes a homestead credit or property tax replacement credit authorized under this chapter takes effect for and applies to property taxes first due and payable in the year immediately following the year in which the ordinance is adopted.

SECTION 62. IC 6-3.5-1.1-9, AS AMENDED BY P.L.182-2009(ss), SECTION 210, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) Revenue

derived from the imposition of the county adjusted gross income tax shall, in the manner prescribed by this section, be distributed to the county that imposed it. The amount to be distributed to a county during an ensuing calendar year equals the amount of county adjusted gross income tax revenue that the budget agency determines has been:

(1) received from that county for a taxable year ending before the calendar year in which the determination is made; and

(2) reported on an annual return or amended return processed by the department in the state fiscal year ending before July 1 of the calendar year in which the determination is made;

as adjusted for refunds of county adjusted gross income tax made in the state fiscal year.

(b) Before August 2 of each calendar year, the budget agency shall certify to the county auditor of each adopting county the amount determined under subsection (a) plus the amount of interest in the county's account that has accrued and has not been included in a certification made in a preceding year. The amount certified is the county's "certified distribution" for the immediately succeeding calendar year. The amount certified shall be adjusted under subsections (c), (d), (e), (f), (g), and (h). The budget agency shall provide the county council with an informative summary of the calculations used to determine the certified distribution. The summary of calculations must include:

(1) the amount reported on individual income tax returns processed by the department during the previous fiscal year;

(2) adjustments for over distributions in prior years;

(3) adjustments for clerical or mathematical errors in prior years;

(4) adjustments for tax rate changes; and

(5) the amount of excess account balances to be distributed under IC 6-3.5-1.1-21.1.

The budget agency shall also certify information concerning the part of the certified distribution that is attributable to a tax rate under section 24, 25, or 26 of this chapter. This information must be certified to the county auditor, the department, and the department of local government finance not later than September 1 of each calendar year. The part of the certified distribution that is attributable to a tax rate under section 24, 25, or 26 of this chapter may be used only as specified in those provisions.

(c) The budget agency shall certify an amount less than the amount determined under subsection (b) if the budget agency determines that the reduced distribution is necessary to offset overpayments made in a calendar year before the calendar year of the distribution. The budget agency may reduce the amount of the certified distribution over several calendar years so that any overpayments are offset over several years rather than in one (1) lump sum.

(d) The budget agency shall adjust the certified distribution of a county to correct for any clerical or mathematical errors made in any previous certification under this section. The budget agency may reduce the amount of the certified distribution over several calendar years so that any adjustment under this subsection is offset over several years rather than in one (1) lump sum.

(e) The budget agency shall adjust the certified distribution of a county to provide the county with the distribution required under section 10(b) of this chapter.

(f) This subsection applies to a county that

~~(1)~~ initially imposes, ~~the county adjusted gross income~~ **increases, decreases, or rescinds a** tax **or tax rate** ~~or~~

~~(2) increases the county adjusted income tax rate;~~

under this chapter **before November 1** in the same calendar year in which the budget agency makes a certification under this section. The budget agency shall adjust the certified distribution of a county to provide for a distribution in the immediately following calendar year and in each calendar year thereafter. The budget agency shall provide for a full transition to certification of distributions as provided in subsection (a)(1) through (a)(2) in the manner provided in subsection (c). **If the county imposes, increases, decreases, or rescinds a tax or tax rate under this chapter after the date for which a certification under subsection (b) is based, the budget agency shall adjust the certified distribution of the county after August 1 of the calendar year. The adjustment shall reflect any other adjustment required under subsections (c), (d), (e), (g), and (h). The adjusted certification shall be treated as the county's "certified distribution" for the immediately succeeding calendar year. The budget agency shall certify the adjusted certified distribution to the county auditor for the county and provide the county council with an informative summary of the calculations that revises the**

informative summary provided in subsection (b) and reflects the changes made in the adjustment.

(g) The budget agency shall adjust the certified distribution of a county to provide the county with the distribution required under section 3.3 of this chapter beginning not later than the tenth month after the month in which additional revenue from the tax authorized under section 3.3 of this chapter is initially collected.

(h) This subsection applies in the year in which a county initially imposes a tax rate under section 24 of this chapter. Notwithstanding any other provision, the budget agency shall adjust the part of the county's certified distribution that is attributable to the tax rate under section 24 of this chapter to provide for a distribution in the immediately following calendar year equal to the result of:

(1) the sum of the amounts determined under STEP ONE through STEP FOUR of IC 6-3.5-1.5-1(a) in the year in which the county initially imposes a tax rate under section 24 of this chapter; multiplied by

(2) two (2).

SECTION 63. IC 6-3.5-6-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1.5. (a) Notwithstanding any other provision of this chapter, a power granted by this chapter to adopt an ordinance to:**

(1) impose, increase, decrease, or rescind a tax or tax rate; or

(2) grant, increase, decrease, rescind, or change a homestead credit or property tax replacement credit authorized under this chapter;

may be exercised at any time in a year before November 1 of that year.

(b) Notwithstanding any other provision of this chapter, an ordinance authorized by this chapter that imposes or increases a tax or a tax rate takes effect as follows:

(1) An ordinance adopted after December 31 of the immediately preceding year and before October 1 of the current year takes effect October 1 of the current year.

(2) An ordinance adopted after September 30 and before October 16 of the current year takes effect November 1 of the current year.

(3) An ordinance adopted after October 15 and before November 1 of the current year takes effect December 1 of the current year.

(c) Notwithstanding any other provision of this chapter, an ordinance authorized by this chapter that decreases or rescinds a tax or a tax rate takes effect as follows:

(1) An ordinance adopted after December 31 of the immediately preceding year and before October 1 of the current year takes effect on the later of October 1 of the current year or the first day of the month in the current year as the month in which the last increase in the tax or tax rate occurred.

(2) An ordinance adopted after September 30 and before October 16 of the current year takes effect on the later of November 1 of the current year or the first day of the month in the current year as the month in which the last increase in the tax or tax rate occurred.

(3) An ordinance adopted after October 15 and before November 1 of the current year takes effect December 1 of the current year.

(d) Notwithstanding any other provision of this chapter, an ordinance authorized by this chapter that grants, increases, decreases, rescinds, or changes a homestead credit or property tax replacement credit authorized under this chapter takes effect for and applies to property taxes first due and payable in the year immediately following the year in which the ordinance is adopted.

SECTION 64. IC 6-3.5-6-17, AS AMENDED BY P.L.182-2009(ss), SECTION 219, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) Revenue derived from the imposition of the county option income tax shall, in the manner prescribed by this section, be distributed to the county that imposed it. The amount that is to be distributed to a county during an ensuing calendar year equals the amount of county option income tax revenue that the budget agency determines has been:

(1) received from that county for a taxable year ending in a calendar year preceding the calendar year in which the determination is made; and

(2) reported on an annual return or amended return processed by

the department in the state fiscal year ending before July 1 of the calendar year in which the determination is made;

as adjusted (as determined after review of the recommendation of the budget agency) for refunds of county option income tax made in the state fiscal year.

(b) Before August 2 of each calendar year, the budget agency shall certify to the county auditor of each adopting county the amount determined under subsection (a) plus the amount of interest in the county's account that has accrued and has not been included in a certification made in a preceding year. The amount certified is the county's "certified distribution" for the immediately succeeding calendar year. The amount certified shall be adjusted, as necessary, under subsections (c), (d), (e), and (f). The budget agency shall provide the county council with an informative summary of the calculations used to determine the certified distribution. The summary of calculations must include:

(1) the amount reported on individual income tax returns processed by the department during the previous fiscal year;

(2) adjustments for over distributions in prior years;

(3) adjustments for clerical or mathematical errors in prior years;

(4) adjustments for tax rate changes; and

(5) the amount of excess account balances to be distributed under IC 6-3.5-6-17.3.

The budget agency shall also certify information concerning the part of the certified distribution that is attributable to a tax rate under section 30, 31, or 32 of this chapter. This information must be certified to the county auditor and to the department of local government finance not later than September 1 of each calendar year. The part of the certified distribution that is attributable to a tax rate under section 30, 31, or 32 of this chapter may be used only as specified in those provisions.

(c) The budget agency shall certify an amount less than the amount determined under subsection (b) if the budget agency determines that the reduced distribution is necessary to offset overpayments made in a calendar year before the calendar year of the distribution. The budget agency may reduce the amount of the certified distribution over several calendar years so that any overpayments are offset over several years rather than in one (1) lump sum.

(d) The budget agency shall adjust the certified distribution of a

county to correct for any clerical or mathematical errors made in any previous certification under this section. The budget agency may reduce the amount of the certified distribution over several calendar years so that any adjustment under this subsection is offset over several years rather than in one (1) lump sum.

(e) This subsection applies to a county that

~~(1) initially imposed the county option income~~ **imposes, increases, decreases, or rescinds a** tax **or tax rate** ~~or~~

~~(2) increases the county option income tax rate;~~

under this chapter **before November 1** in the same calendar year in which the budget agency makes a certification under this section. The budget agency shall adjust the certified distribution of a county to provide for a distribution in the immediately following calendar year and in each calendar year thereafter. The budget agency shall provide for a full transition to certification of distributions as provided in subsection (a)(1) through (a)(2) in the manner provided in subsection (c). **If the county imposes, increases, decreases, or rescinds a tax or tax rate under this chapter after the date for which a certification under subsection (b) is based, the budget agency shall adjust the certified distribution of the county after August 1 of the calendar year. The adjustment shall reflect any other adjustment required under subsections (c), (d), and (f). The adjusted certification shall be treated as the county's "certified distribution" for the immediately succeeding calendar year. The budget agency shall certify the adjusted certified distribution to the county auditor for the county and provide the county council with an informative summary of the calculations that revises the informative summary provided in subsection (b) and reflects the changes made in the adjustment.**

(f) This subsection applies in the year a county initially imposes a tax rate under section 30 of this chapter. Notwithstanding any other provision, the budget agency shall adjust the part of the county's certified distribution that is attributable to the tax rate under section 30 of this chapter to provide for a distribution in the immediately following calendar year equal to the result of:

(1) the sum of the amounts determined under STEP ONE through STEP FOUR of IC 6-3.5-1.5-1(a) in the year in which the county initially imposes a tax rate under section 30 of this chapter;

multiplied by

(2) the following:

(A) In a county containing a consolidated city, one and five-tenths (1.5).

(B) In a county other than a county containing a consolidated city, two (2).

(g) One-twelfth (1/12) of each adopting county's certified distribution for a calendar year shall be distributed from its account established under section 16 of this chapter to the appropriate county treasurer on the first day of each month of that calendar year.

(h) Upon receipt, each monthly payment of a county's certified distribution shall be allocated among, distributed to, and used by the civil taxing units of the county as provided in sections 18 and 19 of this chapter.

(i) All distributions from an account established under section 16 of this chapter shall be made by warrants issued by the auditor of state to the treasurer of state ordering the appropriate payments.

SECTION 65. IC 6-3.5-6-32, AS AMENDED BY P.L.146-2008, SECTION 343, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009 (RETROACTIVE)]: Sec. 32. (a) A county income tax council may impose a tax rate under this section to provide property tax relief to ~~political subdivisions~~ **taxpayers** in the county. A county income tax council is not required to impose any other tax before imposing a tax rate under this section.

(b) A tax rate under this section may be imposed in increments of five-hundredths of one percent (0.05%) determined by the county income tax council. A tax rate under this section may not exceed one percent (1%).

(c) A tax rate under this section is in addition to any other tax rates imposed under this chapter and does not affect the purposes for which other tax revenue under this chapter may be used.

(d) If a county income tax council adopts an ordinance to impose or increase a tax rate under this section, the county auditor shall send a certified copy of the ordinance to the department and the department of local government finance by certified mail.

(e) A tax rate under this section may be imposed, increased, decreased, or rescinded at the same time and in the same manner that the county income tax council may impose or increase a tax rate under

section 30 of this chapter.

(f) Tax revenue attributable to a tax rate under this section may be used for any combination of the following purposes, as specified by ordinance of the county income tax council:

(1) The tax revenue may be used to provide local property tax replacement credits at a uniform rate to all taxpayers in the county. The local property tax replacement credits shall be treated for all purposes as property tax levies. The county auditor shall determine the local property tax replacement credit percentage for a particular year based on the amount of tax revenue that will be used under this subdivision to provide local property tax replacement credits in that year. A county income tax council may not adopt an ordinance determining that tax revenue shall be used under this subdivision to provide local property tax replacement credits at a uniform rate to all taxpayers in the county unless the county council has done the following:

(A) Made available to the public the county council's best estimate of the amount of property tax replacement credits to be provided under this subdivision to homesteads, other residential property, commercial property, industrial property, and agricultural property.

(B) Adopted a resolution or other statement acknowledging that some taxpayers in the county that do not pay the tax rate under this section will receive a property tax replacement credit that is funded with tax revenue from the tax rate under this section.

(2) The tax revenue may be used to uniformly increase (before January 1, ~~2009)~~ **2011)** or uniformly provide (after December 31, ~~2008)~~ **2010)** the homestead credit percentage in the county. The homestead credits shall be treated for all purposes as property tax levies. The homestead credits do not reduce the basis for determining ~~the~~ **any** state homestead credit. ~~under IC 6-1.1-20.9 (before its repeal).~~ The homestead credits shall be applied to the net property taxes due on the homestead after the application of all other assessed value deductions or property tax deductions and credits that apply to the amount owed under IC 6-1.1. The ~~department of local government finance~~ **county auditor** shall determine the homestead credit percentage for a particular year

based on the amount of tax revenue that will be used under this subdivision to provide homestead credits in that year.

(3) The tax revenue may be used to provide local property tax replacement credits at a uniform rate for all qualified residential property (as defined in IC 6-1.1-20.6-4 before January 1, 2009, and as defined in section 1 of this chapter after December 31, 2008) in the county. The local property tax replacement credits shall be treated for all purposes as property tax levies. The county auditor shall determine the local property tax replacement credit percentage for a particular year based on the amount of tax revenue that will be used under this subdivision to provide local property tax replacement credits in that year.

(4) This subdivision applies only to Lake County. The Lake County council may adopt an ordinance providing that the tax revenue from the tax rate under this section is used for any of the following:

(A) To reduce all property tax levies imposed by the county by the granting of property tax replacement credits against those property tax levies.

(B) To provide local property tax replacement credits in Lake County in the following manner:

(i) The tax revenue under this section that is collected from taxpayers within a particular municipality in Lake County (as determined by the department based on the department's best estimate) shall be used only to provide a local property tax credit against property taxes imposed by that municipality.

(ii) The tax revenue under this section that is collected from taxpayers within the unincorporated area of Lake County (as determined by the department) shall be used only to provide a local property tax credit against property taxes imposed by the county. The local property tax credit for the unincorporated area of Lake County shall be available only to those taxpayers within the unincorporated area of the county.

(C) To provide property tax credits in the following manner:

(i) Sixty percent (60%) of the tax revenue under this section shall be used as provided in clause (B).

(ii) Forty percent (40%) of the tax revenue under this section shall be used to provide property tax replacement credits against property tax levies of the county and each township and municipality in the county. The percentage of the tax revenue distributed under this item that shall be used as credits against the county's levies or against a particular township's or municipality's levies is equal to the percentage determined by dividing the population of the county, township, or municipality by the sum of the total population of the county, each township in the county, and each municipality in the county.

The Lake County council shall determine whether the credits under clause (A), (B), or (C) shall be provided to homesteads, to all qualified residential property, or to all taxpayers. The department of local government finance, with the assistance of the budget agency, shall certify to the county auditor and the fiscal body of the county and each township and municipality in the county the amount of property tax credits under this subdivision. Except as provided in subsection (g), the tax revenue under this section that is used to provide credits under this subdivision shall be treated for all purposes as property tax levies.

The county income tax council may ~~before October 1 of a year~~ adopt an ordinance changing the purposes for which tax revenue attributable to a tax rate under this section shall be used in the following year.

(g) The tax rate under this section shall not be considered for purposes of computing:

(1) the maximum income tax rate that may be imposed in a county under section 8 or 9 of this chapter or any other provision of this chapter;

(2) the maximum permissible property tax levy under STEP EIGHT of IC 6-1.1-18.5-3(b); or

(3) the credit under IC 6-1.1-20.6.

(h) Tax revenue under this section shall be treated as a part of the receiving civil taxing unit's or school corporation's property tax levy for that year for purposes of fixing the budget of the civil taxing unit or school corporation and for determining the distribution of taxes that are distributed on the basis of property tax levies. **To the extent the county auditor determines that there is income tax revenue**

remaining from the tax under this section after providing the property tax replacement, the excess shall be credited to a dedicated county account and may be used only for property tax replacement under this section in subsequent years.

(i) The department of local government finance and the department of state revenue may take any actions necessary to carry out the purposes of this section.

(j) Notwithstanding any other provision, in Lake County the county council (and not the county income tax council) is the entity authorized to take actions concerning the tax rate under this section.

SECTION 66. IC 6-3.5-7-4.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 4.9. (a) Notwithstanding any other provision of this chapter, a power granted by this chapter to adopt an ordinance to:**

(1) impose, increase, decrease, or rescind a tax or tax rate; or

(2) grant, increase, decrease, rescind, or change a homestead credit or property tax replacement credit authorized under this chapter;

may be exercised at any time in a year before November 1 of that year.

(b) Notwithstanding any other provision of this chapter, an ordinance authorized by this chapter that imposes or increases a tax or a tax rate takes effect as follows:

(1) An ordinance adopted after December 31 of the immediately preceding year and before October 1 of the current year takes effect October 1 of the current year.

(2) An ordinance adopted after September 30 and before October 16 of the current year takes effect November 1 of the current year.

(3) An ordinance adopted after October 15 and before November 1 of the current year takes effect December 1 of the current year.

(c) Notwithstanding any other provision of this chapter, an ordinance authorized by this chapter that decreases or rescinds a tax or a tax rate takes effect as follows:

(1) An ordinance adopted after December 31 of the immediately preceding year and before October 1 of the

current year takes effect on the later of October 1 of the current year or the first day of the month in the current year as the month in which the last increase in the tax or tax rate occurred.

(2) An ordinance adopted after September 30 and before October 16 of the current year takes effect on the later of November 1 of the current year or the first day of the month in the current year as the month in which the last increase in the tax or tax rate occurred.

(3) An ordinance adopted after October 15 and before November 1 of the current year takes effect December 1 of the current year.

(d) Notwithstanding any other provision of this chapter, an ordinance authorized by this chapter that grants, increases, decreases, rescinds, or changes a homestead credit or property tax replacement credit authorized under this chapter takes effect for and applies to property taxes first due and payable in the year immediately following the year in which the ordinance is adopted.

SECTION 67. IC 6-3.5-7-11, AS AMENDED BY P.L.182-2009(ss), SECTION 228, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) Revenue derived from the imposition of the county economic development income tax shall, in the manner prescribed by this section, be distributed to the county that imposed it.

(b) Before August 2 of each calendar year, the budget agency, shall certify to the county auditor of each adopting county the sum of the amount of county economic development income tax revenue that the budget agency determines has been:

(1) received from that county for a taxable year ending before the calendar year in which the determination is made; and

(2) reported on an annual return or amended return processed by the department in the state fiscal year ending before July 1 of the calendar year in which the determination is made;

as adjusted for refunds of county economic development income tax made in the state fiscal year plus the amount of interest in the county's account that has been accrued and has not been included in a certification made in a preceding year. The amount certified is the county's certified distribution, which shall be distributed on the dates

specified in section 16 of this chapter for the following calendar year.

(c) The amount certified under subsection (b) shall be adjusted under subsections (d), (e), (f), (g), and (h). The budget agency shall provide the county council with an informative summary of the calculations used to determine the certified distribution. The summary of calculations must include:

(1) the amount reported on individual income tax returns processed by the department during the previous fiscal year;

(2) adjustments for over distributions in prior years;

(3) adjustments for clerical or mathematical errors in prior years;

(4) adjustments for tax rate changes; and

(5) the amount of excess account balances to be distributed under IC 6-3.5-7-17.3.

(d) The budget agency shall certify an amount less than the amount determined under subsection (b) if the budget agency determines that the reduced distribution is necessary to offset overpayments made in a calendar year before the calendar year of the distribution. The budget agency may reduce the amount of the certified distribution over several calendar years so that any overpayments are offset over several years rather than in one (1) lump sum.

(e) The budget agency shall adjust the certified distribution of a county to correct for any clerical or mathematical errors made in any previous certification under this section. The budget agency may reduce the amount of the certified distribution over several calendar years so that any adjustment under this subsection is offset over several years rather than in one (1) lump sum.

(f) The budget agency shall adjust the certified distribution of a county to provide the county with the distribution required under section 16(b) of this chapter.

(g) The budget agency shall adjust the certified distribution of a county to provide the county with the amount of any tax increase imposed under section 25 or 26 of this chapter to provide additional homestead credits as provided in those provisions.

(h) This subsection applies to a county that

~~(1) initially imposed the county economic development income~~ **imposes, increases, decreases, or rescinds a** tax **or tax rate** ~~or~~

~~(2) increases the county economic development income rate;~~

under this chapter **before November 1** in the same calendar year in

which the budget agency makes a certification under this section. The budget agency shall adjust the certified distribution of a county to provide for a distribution in the immediately following calendar year and in each calendar year thereafter. The budget agency shall provide for a full transition to certification of distributions as provided in subsection (b)(1) through (b)(2) in the manner provided in subsection (d). **If the county imposes, increases, decreases, or rescinds a tax or tax rate under this chapter after the date for which a certification under subsection (b) is based, the budget agency shall adjust the certified distribution of the county after August 1 of the calendar year. The adjustment shall reflect any other adjustment authorized under subsections (c), (d), (e), (f), and (g). The adjusted certification shall be treated as the county's certified distribution for the immediately succeeding calendar year. The budget agency shall certify the adjusted certified distribution to the county auditor for the county and provide the county council with an informative summary of the calculations that revises the informative summary provided in subsection (c) and reflects the changes made in the adjustment.**

SECTION 68. IC 6-6-6.5-25 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 25. An aircraft may be registered under this chapter without the payment of the state use tax under IC 6-2.5-3 if:**

(1) the aircraft was registered in another state as of January 1, 2010, and any sales or use tax due in the registration state was paid and ownership of the aircraft has not changed after December 31, 2009;

(2) there is no outstanding tax liability in the registration state that directly relates to the aircraft; and

(3) an application for the registration of the aircraft under this chapter is filed after June 30, 2010, and before September 30, 2010, and the registration fee under section 3 of this chapter and the aircraft excise tax under section 13 of this chapter are paid.

SECTION 69. IC 6-7-1-31.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 31.1. (a) The fiscal body of each city and the fiscal body of each town shall, by ordinance or resolution, establish a cumulative capital improvement fund for the

city or town. Except as otherwise provided in subsection (c), the city or town may only use money in its cumulative capital improvement fund: ~~to:~~

(1) **to** purchase land, easements, or rights-of-way;

(2) **to** purchase buildings;

(3) **to** construct or improve city owned property;

(4) **to** design, develop, purchase, lease, upgrade, maintain, or repair:

(A) computer hardware;

(B) computer software;

(C) wiring and computer networks; and

(D) communications access systems used to connect with computer networks or electronic gateways;

(5) **to** pay for the services of full-time or part-time computer maintenance employees;

(6) **to** conduct nonrecurring in-service technology training of unit employees;

(7) **to** undertake Internet application development; ~~or~~

(8) **to** retire general obligation bonds issued by the city or town for one (1) of the purposes stated in subdivision (1), (2), (3), (4), (5), or (6); **or**

(9) for any other governmental purpose for which money is appropriated by the fiscal body of the city or town.

(b) The money in the city's or town's cumulative capital improvement fund does not revert to its general fund.

(c) A city or town may at any time, by ordinance or resolution, transfer to:

(1) its general fund; or

(2) an authority established under IC 36-7-23;

money derived under this chapter that has been deposited in the city's or town's cumulative capital improvement fund.

SECTION 70. IC 6-9-2-2, AS AMENDED BY P.L.223-2007, SECTION 6, AND AS AMENDED BY P.L.211-2007, SECTION 45, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) The revenue received by the county treasurer under this chapter shall be allocated to the Lake County convention and visitor bureau, Indiana University-Northwest, Purdue University-Calumet, municipal public safety departments,

municipal physical and economic development divisions, and the cities and towns in the county as provided in this section. Subsections (b) through (g) do not apply to the distribution of revenue received under section 1 of this chapter from hotels, motels, inns, tourist camps, tourist cabins, and other lodgings or accommodations built or refurbished after June 30, 1993, that are located in the largest city of the county.

(b) The Lake County convention and visitor bureau shall establish a convention, tourism, and visitor promotion fund (referred to in this chapter as the "promotion fund"). The county treasurer shall transfer to the Lake County convention and visitor bureau for deposit in the promotion fund *thirty-five* ~~thirty-six~~ percent *(35%)* ~~(36%)~~ of the first one million two hundred ~~fifty~~ thousand dollars *($1,200,000)* ~~($1,250,000)~~ of revenue received from the tax imposed under this chapter in each year. The promotion fund consists of:

(1) money in the promotion fund on June 30, 2005;

(2) revenue deposited in the promotion fund under this subsection after June 30, 2005; and

(3) investment income earned on the promotion fund's assets.

Money in the ~~promotion fund~~ *bureau's funds* may be expended ~~only~~ to promote and encourage conventions, trade shows, special events, recreation, and visitors. ~~within the county.~~ Money may be paid from the promotion fund by claim in the same manner as municipalities may pay claims under IC 5-11-10-1.6.

(c) This subsection applies to the first one million two hundred ~~fifty~~ thousand dollars *($1,200,000)* ~~($1,250,000)~~ of revenue received from the tax imposed under this chapter in each year. During each year, the county treasurer shall transfer to Indiana University-Northwest *forty-four* ~~forty-two~~ and *thirty-three* ~~seventy-seven~~ hundredths percent *(44.33%)* ~~(42.77%)~~ of the revenue received under this chapter for that year to be used as follows:

(1) Seventy-five percent (75%) of the revenue received under this subsection may be used only for the university's medical education programs.

(2) Twenty-five percent (25%) of the revenue received under this subsection may be used only for the university's allied health education programs.

~~The amount for each year shall be transferred in four (4) approximately equal quarterly installments.~~

(d) This subsection applies to the first one million two hundred ~~fifty~~ thousand dollars *($1,200,000)* ~~($1,250,000)~~ of revenue received from the tax imposed under this chapter in each year. During each year, the county treasurer shall allocate among the cities and towns throughout the county nine ~~and sixty-eight hundredths~~ percent *(9%)* ~~(9.68%)~~ of the revenue received under this chapter for that year ~~The amount of each city's or town's allocation is~~ as follows:

(1) *Ten* ~~Nine~~ percent *(10%)* ~~(9%)~~ of the revenue covered by this subsection shall be ~~transferred~~ *distributed* to cities having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000).

(2) *Ten* ~~Nine~~ percent *(10%)* ~~(9%)~~ of the revenue covered by this subsection shall be ~~transferred~~ *distributed* to cities having a population of more than seventy-five thousand (75,000) but less than ninety thousand (90,000).

(3) *Ten* ~~Nine~~ percent *(10%)* ~~(9%)~~ of the revenue covered by this subsection shall be ~~transferred~~ *distributed* to cities having a population of more than thirty-two thousand (32,000) but less than thirty-two thousand eight hundred (32,800).

(4) *Seventy percent (70%) of* the ~~remaining~~ revenue *covered by* ~~that must be allocated among the cities and towns located in the county under~~ this subsection shall be ~~transferred~~ *distributed* in equal amounts to each town and each city not receiving a ~~transfer~~ *distribution* under subdivisions (1) through (3).

The money ~~transferred~~ *distributed* under this subsection may be used only for *tourism and* economic development projects. The county treasurer shall make the ~~transfers~~ *distributions* on or before December 1 of each year.

(e) This subsection applies to the first one million two hundred ~~fifty~~ thousand dollars *($1,200,000)* ~~($1,250,000)~~ of revenue received from the tax imposed under this chapter in each year. During each year, the county treasurer shall transfer to Purdue University-Calumet *nine* ~~eight and eighty-eight hundredths~~ percent *(9%)* ~~(8.88%)~~ of the revenue received under this chapter for that year. The money received by Purdue University-Calumet may be used by the university only for nursing education programs.

(f) This subsection applies to the first one million two hundred ~~fifty~~ thousand dollars *($1,200,000)* ~~($1,250,000)~~ of revenue received from

the tax imposed under this chapter in each year. During each year, the county treasurer shall transfer two and sixty-seven hundredths percent (2.67%) of the revenue received under this chapter for that year to the following cities:

(1) Fifty percent (50%) of the revenue covered by this subsection shall be transferred to cities having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000).

(2) Fifty percent (50%) of the revenue covered by this subsection shall be transferred to cities having a population of more than seventy-five thousand (75,000) but less than ninety thousand (90,000).

Money transferred under this subsection may be used only for convention facilities located within the city. In addition, the money may be used only for facility marketing, sales, and public relations programs. Money transferred under this subsection may not be used for salaries, facility operating costs, or capital expenditures related to the convention facilities. The county treasurer shall make the transfers on or before December 1 of each year.

(g) This subsection applies to the revenue received from the tax imposed under this chapter in each year that exceeds one million two hundred ~~*fifty*~~ thousand dollars *($1,200,000).* ~~*($1,250,000).*~~ During each year, the county treasurer shall distribute money in the promotion fund as follows:

(1) Eighty-five percent (85%) of the revenue covered by this subsection shall be deposited in the convention, tourism, and visitor promotion fund. The money deposited in the fund under this subdivision may be used only for the purposes for which other money in the fund may be used.

(2) Five percent (5%) of the revenue covered by this subsection shall be transferred to Purdue University-Calumet. The money received by Purdue University-Calumet under this subdivision may be used by the university only for nursing education programs.

(3) Five percent (5%) of the revenue covered by this subsection shall be transferred to Indiana University-Northwest. The money received by Indiana University-Northwest under this subdivision may be used only for the university's medical education programs.

(4) Five percent (5%) of the revenue covered by this subsection shall be transferred to Indiana University-Northwest. The money received by Indiana University-Northwest under this subdivision may be used only for the university's allied health education programs.

~~*(h) The county treasurer may estimate the amount that will be received under this chapter for the year to determine the amount to be transferred under this section.*~~

~~*(i)*~~ *(h)* This subsection applies only to the distribution of revenue received from the tax imposed under section 1 of this chapter from hotels, motels, inns, tourist camps, tourist cabins, and other lodgings or accommodations built or refurbished after June 30, 1993, that are located in the largest city of the county. During each year, the county treasurer shall transfer:

(1) seventy-five percent (75%) of the revenues under this subsection to the department of public safety; and

(2) twenty-five percent (25%) of the revenues under this subsection to the division of physical and economic development;

of the largest city of the county.

~~*(j)*~~ *(i)* The Lake County convention and visitor bureau shall assist the county treasurer, as needed, with the calculation of the amounts that must be deposited and transferred under this section.

SECTION 71. IC 10-13-3-38.5, AS AMENDED BY P.L.160-2009, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 38.5. (a) Under federal P.L.92-544 (86 Stat. 1115), the department may use an individual's fingerprints submitted by the individual for the following purposes:

(1) Determining the individual's suitability for employment with the state, or as an employee of a contractor of the state, in a position:

(A) that has a job description that includes contact with, care of, or supervision over a person less than eighteen (18) years of age;

(B) that has a job description that includes contact with, care of, or supervision over an endangered adult (as defined in IC 12-10-3-2), except the individual is not required to meet the standard for harmed or threatened with harm set forth in IC 12-10-3-2(a)(3);

(C) at a state institution managed by the office of the secretary of family and social services or state department of health;

(D) at the Indiana School for the Deaf established by IC 20-22-2-1;

(E) at the Indiana School for the Blind and Visually Impaired established by IC 20-21-2-1;

(F) at a juvenile detention facility;

(G) with the Indiana gaming commission under IC 4-33-3-16;

(H) with the department of financial institutions under IC 28-11-2-3; or

(I) that has a job description that includes access to or supervision over state financial or personnel data, including state warrants, banking codes, or payroll information pertaining to state employees.

(2) Identification in a request related to an application for a teacher's license submitted to the department of education established by IC 20-19-3-1.

(3) Use by the ~~state athletic~~ **gaming** commission established under ~~IC 25-9-1-1~~ **IC 4-33-3-1** for licensure of a promoter (as defined in ~~IC 25-9-1-0.7~~ **IC 4-33-22-6)** under ~~IC 25-9-1.~~ **IC 4-33-22.**

(4) Use by the Indiana board of pharmacy in determining the individual's suitability for a position or employment with a wholesale drug distributor, as specified in IC 25-26-14-16(b), IC 25-26-14-16.5(b), IC 25-26-14-17.8(c), and IC 25-26-14-20.

An applicant shall submit the fingerprints in an appropriate format or on forms provided for the employment or license application. The department shall charge each applicant the fee established under section 28 of this chapter and by federal authorities to defray the costs associated with a search for and classification of the applicant's fingerprints. The department may forward fingerprints submitted by an applicant to the Federal Bureau of Investigation or any other agency for processing. The state personnel department or the agency to which the applicant is applying for employment or a license may receive the results of all fingerprint investigations.

(b) An applicant who is an employee of the state may not be charged under subsection (a).

(c) Subsection (a)(1) does not apply to an employee of a contractor

of the state if the contract involves the construction or repair of a capital project or other public works project of the state.

SECTION 72. IC 10-17-1-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 1.5. As used in this chapter, "commission" refers to the Indiana veterans' affairs commission established by IC 10-17-13-4.**

SECTION 73. IC 10-17-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) The Indiana department of veterans' affairs is established. The:

(1) department;

(2) commission; ~~of veterans' affairs;~~

(3) director of veterans' affairs;

(4) county and city officers; and

(5) assistants and employees of persons described in subdivisions (1) through (4);

acting under the supervision of and under the rules of the department may act at the request of any veteran of the armed forces or a veteran's spouse, surviving spouse, or dependent as necessary or reasonably incident to obtaining or attempting to obtain for the person making the request any advantage, benefit, or compensation accruing, due, or believed to be accruing or due to the person under any law of the United States, Indiana, or any other state or government by reason of the service of the veteran in the armed forces of the United States.

(b) The:

(1) ~~veterans' affairs~~ commission shall supervise and control the department; and

(2) director of veterans' affairs shall administer the department under the commission's supervision and control;

as provided in this article.

(c) The domicile of the department is in Indianapolis. Suitable offices and quarters shall be provided in Indianapolis.

SECTION 74. IC 10-17-9-7, AS AMENDED BY P.L.21-2008, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. ~~(a) The following persons who are legal residents of Indiana for at least three (3) years immediately preceding application for admission and who have a disability or are destitute are eligible for admission to the home:~~

~~(1) An honorably discharged member of the armed forces who has served with the United States in any of its wars.~~

~~(2) An honorably discharged member of the armed forces who has served in an authorized campaign of the United States and who has a service connected disability, as evidenced by a pension certificate or the award of compensation.~~

~~(3) The spouse of an honorably discharged member of the armed forces described in subdivision (1) or (2).~~

~~(4) The surviving spouse of an honorably discharged member of the armed forces described in subdivision (1) or (2).~~

(a) As used in this section, "eligible person" refers to either of the following:

(1) An honorably discharged member of the armed forces.

(2) The spouse or surviving spouse of an honorably discharged member of the armed forces.

(b) An eligible person who has a disability or is destitute is eligible for admission to the home if:

(1) the eligible person has been a resident of Indiana for at least one (1) year immediately preceding application for admission to the home; or

(2) in the case of an eligible person referred to in subsection (a)(1), the eligible person was a resident of Indiana when the eligible person enlisted in the armed forces.

~~(b)~~ **(c)** The **Indiana** department of veterans' affairs shall adopt rules concerning admission to the home.

~~(c)~~ **(d)** In adopting rules governing the admission, maintenance, and discharge of members of the home, the **Indiana** department of veterans' affairs may establish a fund called the veterans' home comfort and welfare fund. The director shall deposit all money collected from the members for the cost of their care and maintenance in the fund. The director shall expend this money in any manner that adds to the comfort and welfare of the members of the institutions.

~~(d)~~ **(e)** A part of the veterans' home comfort and welfare fund may be withdrawn and deposited in a special fund called the veterans' home building fund. The veterans' home building fund shall be used for the construction, maintenance, remodeling, or repair of buildings of the ~~Indiana Veterans'~~ home.

~~(e)~~ **(f)** Preference under this section may be given to a person who

served in an Indiana military organization. Except in cases where the surviving spouse of a veteran marries another veteran, the benefits of this chapter extend only to a surviving spouse and the spouse of a veteran if the contract of marriage was entered into more than five (5) years before the date of death of the veteran. Except as otherwise provided by law, upon the death of a person in the home, money paid to the person or due to the person from a bank, a trust company, a corporation, or an individual becomes an asset of the person's estate and shall be distributed in the manner prescribed by the probate law of the state.

SECTION 75. IC 10-17-11-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. As used in this chapter, "commission" refers to the **Indiana** veterans' affairs commission established by ~~IC 10-17-1-3.~~ **IC 10-17-13-4.**

SECTION 76. IC 10-17-12-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 3.5. As used in this chapter, "commission" refers to the Indiana veterans' affairs commission established by IC 10-17-13-4.**

SECTION 77. IC 10-17-12-8, AS AMENDED BY P.L.50-2009, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8. (a) The military family relief fund is established to provide assistance with food, housing, utilities, medical services, basic transportation, child care, education, employment or workforce, and other essential family support expenses that have become difficult to afford for qualified service members or dependents of qualified service members.

(b) Except as provided in section 9 of this chapter, the ~~board~~ **commission** shall expend the money in the fund exclusively to provide grants for assistance as described in subsection (a).

(c) A qualified service member or the qualified service member's dependent may be eligible to receive assistance from the fund for up to one (1) year after the earlier of the following:

(1) The date the qualified service member's active duty service ends.

(2) The date, as established by presidential proclamation or by law, of the cessation of the national conflict or war with respect to which the qualified service member is eligible to receive

assistance under section 7.5(3)(B) of this chapter.

(d) The ~~board~~ **commission** shall administer the fund.

SECTION 78. IC 10-17-12-9, AS AMENDED BY P.L.50-2009, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9. (a) The fund consists of the following:

(1) Appropriations made by the general assembly.

(2) Donations to the fund.

(3) Interest.

(4) Money transferred to the fund from other funds.

(5) Annual supplemental fees collected under IC 9-29-5-38.5.

(6) Money from any other source authorized or appropriated for the fund.

(b) The ~~board~~ **commission** shall transfer the money in the fund not currently needed to provide assistance or meet the obligations of the fund to the veterans' affairs trust fund established by IC 10-17-13-3.

(c) Money in the fund at the end of a state fiscal year does not revert to the state general fund or to any other fund.

(d) There is annually appropriated to the ~~board~~ **commission** for the purposes of this chapter all money in the fund not otherwise appropriated to the ~~board~~ **commission** for the purposes of this chapter.

SECTION 79. IC 10-17-12-10, AS AMENDED BY P.L.144-2007, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10. The ~~board~~ **commission** may adopt rules under IC 4-22-2 for the provision of grants under this chapter. The rules adopted under this section must address the following:

(1) Uniform need determination procedures.

(2) Eligibility criteria.

(3) Application procedures.

(4) Selection procedures.

(5) Coordination with other assistance programs.

(6) Other areas in which the department determines that rules are necessary to ensure the uniform administration of the grant program under this chapter.

SECTION 80. IC 10-17-12-11, AS AMENDED BY P.L.144-2007, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 11. The director or a member of the ~~board~~ **commission** may make a request to the general assembly for an appropriation to the fund.

SECTION 81. IC 10-17-13-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 1.5. As used in this chapter, "commission" refers to the Indiana veterans' affairs commission established by section 4 of this chapter.**

SECTION 82. IC 10-17-13-4, AS ADDED BY P.L.144-2007, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. The ~~military and veterans' benefits board~~ **Indiana veterans' affairs commission** is established.

SECTION 83. IC 10-17-13-5, AS ADDED BY P.L.144-2007, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. The ~~board~~ **commission** consists of the following members:

(1) Seven (7) members appointed by the governor. The governor shall consider the following when making appointments under this subdivision:

(A) Membership in:

(i) a veterans association established under IC 10-18-6; or

(ii) a veterans organization listed in IC 10-18-8-1.

(B) Service in the armed forces of the United States (as defined in IC 5-9-4-3) or the national guard (as defined in IC 5-9-4-4).

(C) Experience in education, including higher education, vocational education, or adult education.

(D) Experience in investment banking or finance.

The governor shall designate one (1) member appointed under this subdivision to serve as chairperson of the ~~board~~ **commission.**

(2) The director of veterans' affairs appointed under IC 10-17-1-5 or the director's designee.

(3) The adjutant general of the military department of the state appointed under IC 10-16-2-6 or the adjutant general's designee.

(4) Four (4) members of the general assembly appointed as follows:

(A) Two (2) members of the senate, one (1) from each political party, appointed by the president pro tempore of the senate with advice from the minority leader of the senate.

(B) Two (2) members of the house of representatives, one (1) from each political party, appointed by the speaker of the

house of representatives with advice from the minority leader of the house of representatives.

Members appointed under this subdivision are nonvoting, advisory members and must serve on a standing committee of the senate or house of representatives that has subject matter jurisdiction over military and veterans affairs.

SECTION 84. IC 10-17-13-6, AS ADDED BY P.L.144-2007, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. The ~~board~~ **commission** shall meet at least quarterly at the call of the chairperson of the ~~board.~~ **commission.**

SECTION 85. IC 10-17-13-7, AS ADDED BY P.L.144-2007, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. Five (5) voting members of the ~~board~~ **commission** constitute a quorum. The affirmative vote of five (5) members of the ~~board~~ **commission** is necessary for the ~~board~~ **commission** to take action.

SECTION 86. IC 10-17-13-8, AS ADDED BY P.L.144-2007, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8. (a) The term of a ~~board~~ **commission** member begins on the later of the following:

(1) The day the term of the member whom the individual is appointed to succeed expires.

(2) The day the member is appointed.

(b) The term of a member expires on the later of the following:

(1) The day a successor is appointed.

(2) July 1 of the year following the year in which the member is appointed.

However, a member serves at the pleasure of the appointing authority.

(c) An appointing authority may reappoint a member for a new term.

(d) An appointing authority shall appoint an individual to fill a vacancy on the ~~board.~~ **commission.**

SECTION 87. IC 10-17-13-9, AS ADDED BY P.L.144-2007, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9. (a) Each member of the ~~board~~ **commission** who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's

duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the ~~board~~ **commission** who is a state employee but who is not a member of the general assembly is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(c) Each member of the ~~board~~ **commission** who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to legislative members of interim study committees established by the legislative council. Per diem, mileage, and travel allowances paid under this subsection shall be paid from appropriations made to the legislative council or the legislative services agency.

(d) The director of veterans' affairs appointed under IC 10-17-1-5 shall act as secretary of the commission and carry out the duties set forth in IC 10-17-1-6.

SECTION 88. IC 10-17-13-10, AS AMENDED BY P.L.50-2009, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10. (a) The ~~board~~ **commission** shall manage and develop the fund and the assets of the fund.

(b) The ~~board~~ **commission** shall do the following:

(1) Carry out the duties of the commission set forth in IC 10-17-1.

~~(1)~~ **(2)** Establish a policy for the investment of the assets of the fund. In establishing a policy under this subdivision, the ~~board~~ **commission** shall:

(A) establish adequate long term financial goals for the fund; and

(B) provide adequate funding for the military family relief fund established by IC 10-17-12-8 during a time of war or national conflict.

~~(2)~~ **(3)** Acquire money for the fund through the solicitation of private or public donations and other revenue producing activities.

~~(3)~~ **(4)** Perform other tasks consistent with prudent management and development of the fund.

SECTION 89. IC 10-17-13-11, AS ADDED BY P.L.144-2007, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 11. (a) Subject to the investment policy of the ~~board~~ **commission** established under section 10 of this chapter, the treasurer of state shall administer the fund and invest the money in the fund.

(b) The expenses of administering the fund and this chapter shall be paid from the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public trust funds are invested. Interest that accrues from these investments shall be deposited in the fund.

SECTION 90. IC 10-17-13-13, AS ADDED BY P.L.144-2007, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 13. Before October 1 of each year, the ~~board~~ **commission** shall report in an electronic format under IC 5-14-6 to the general assembly concerning the fund.

SECTION 91. IC 10-17-13-14, AS AMENDED BY P.L.50-2009, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 14. The ~~board~~ **commission** shall adopt rules under IC 4-22-2 to implement this chapter.

SECTION 92. IC 12-20-25-45 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 45. (a) Notwithstanding IC 6-3.5-6, after the termination of the controlled status of all townships located in a county as provided in section 41 of this chapter and if the county option income tax is imposed under this chapter, the county fiscal body may adopt an ordinance to:

(1) ~~increase the percentage~~ **grant a** credit ~~allowed~~ for homesteads **that are eligible for a standard deduction under IC 6-1.1-12-37** in the county; ~~under IC 6-1.1-20.9-2;~~ or

(2) reduce the county option income tax rate for resident county taxpayers to a rate not less than the greater of:

(A) the minimum rate necessary to satisfy the requirements of section 43 of this chapter; or

(B) the minimum rate necessary to satisfy the requirements of sections 43 and 46(2) of this chapter if an ordinance is adopted

under subdivision (1).

(b) A county fiscal body may not ~~increase the percentage~~ **grant a** credit ~~allowed~~ for homesteads ~~in such a manner~~ that ~~more than eight percent (8%) is added to~~ **exceeds** the percentage ~~established~~ **permitted** under ~~IC 6-1.1-20.9-2(d).~~ **IC 6-3.5-6-13 for a county option income tax imposed under IC 6-3.5-6.**

(c) The increase in the homestead credit percentage must be uniform for all homesteads in a county.

(d) In an ordinance that increases the homestead credit percentage, the county fiscal body may provide for a series of increases or decreases to take place for each of a group of succeeding calendar years.

(e) An ordinance may be adopted under this section after January 1 but before June 1 of a calendar year.

(f) An ordinance adopted under this section takes effect January 1 of the next calendar year.

(g) An ordinance adopted under this section for a county is not applicable for a year if on January 1 of that year the county option income tax is not in effect.

SECTION 93. IC 12-20-25-46 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 46. After the termination of the controlled status of all townships located in a county as provided in section 41 of this chapter, if the county adjusted gross income tax or the county option income tax is imposed under this chapter, any revenues from the county adjusted gross income tax or the county option income tax imposed under this chapter shall be distributed in the following priority:

(1) To satisfy the requirements of section 43 of this chapter.

(2) If the county option income tax imposed under this chapter is in effect, to replace the amount, if any, of property tax revenue lost due to the allowance of ~~an increased~~ **a** homestead credit within the county **under an ordinance adopted under section 45 of this chapter.**

(3) To be used as a certified distribution as provided in IC 6-3.5-1.1 or IC 6-3.5-6, whichever applies.

SECTION 94. IC 13-21-3-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. **(a)** Notwithstanding this chapter, IC 13-21-5, and IC 13-21-13, **and except**

as provided in subsection (b), unless the legislative body of a county having a consolidated city elects by ordinance to participate in the rules, ordinances, and governmental structures enacted or created under this article, the management of solid waste activities and the collection of fees on the disposal of solid waste in a final disposal facility located in that county are exempt ~~until December 2, 2008,~~ from regulation or control under this article.

(b) The exemption under subsection (a) does not apply to IC 13-20-22-1.

SECTION 95. IC 14-8-2-67, AS AMENDED BY P.L.120-2008, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 67. (a) "Department", except for purposes of **IC 14-20-7 and** IC 14-32, refers to the department of natural resources.

(b) "Department", for purposes of IC 14-20-7, refers to the Indiana department of veterans' affairs established by IC 10-17-1-2.

~~(b)~~ **(c)** "Department", for purposes of IC 14-32, refers to the Indiana state department of agriculture established by IC 15-11-2-1.

SECTION 96. IC 14-33-10-3, AS AMENDED BY P.L.67-2006, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) An assessment not paid in full shall be paid in annual installments over the time commensurate with the term of the bond issue or other financing determined by resolution adopted by the board. Interest shall be charged on the unpaid balance at the same rate per year as the ~~penalty~~ **interest** charged on delinquent property tax payments under ~~IC 6-1.1-37-10(a).~~ **IC 6-1.1-37-9(b).** All payments of installments, interest, and penalties shall be entered on the assessment roll in the office of the district.

(b) Upon payment in full of the assessment, including interest and penalties, the board shall have the lien released and satisfied on the records in the office of the recorder of the county in which the real property assessed is located.

(c) The procedure for collecting assessments for maintenance and operation is the same as for the original assessment, except that the assessments may not be paid in installments.

SECTION 97. IC 20-46-1-10, AS ADDED BY P.L.2-2006, SECTION 169, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. The question to be

submitted to the voters in the referendum must read as follows:

"For the __ (insert number) calendar year or years immediately following the holding of the referendum, shall the school corporation impose a property tax rate that does not exceed _____ (insert amount) cents ($0.__) (insert amount) on each one hundred dollars ($100) of assessed valuation and that is in addition to **all other property tax levies imposed by** the school ~~corporation's normal tuition support tax rate?".~~ **corporation?".**

SECTION 98. IC 20-46-1-14, AS AMENDED BY P.L.146-2008, SECTION 499, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) The referendum shall be held in the next primary ~~or~~ **election,** general election, **or municipal election** in which all the registered voters who are residents of the appellant school corporation are entitled to vote after certification of the question under IC 3-10-9-3. **The certification of the question must occur not later than noon:**

(1) sixty (60) days before a primary election if the question is to be placed on the primary or municipal primary election ballot; or

(2) August 1 if the question is to be placed on the general or municipal election ballot.

However, if ~~the referendum would be held at a primary or general election more than six (6) months after certification by the county fiscal body, the referendum shall be held at a special election to be conducted not less than ninety (90) days after the question is certified to the circuit court clerk or clerks by the county fiscal body.~~ **a primary election, general election, or municipal election will not be held during the first year in which the public question is eligible to be placed on the ballot under this chapter and if the appellant school corporation requests the public question to be placed on the ballot at a special election, the public question shall be placed on the ballot at a special election to be held on the first Tuesday after the first Monday in May or November of the year. The certification must occur not later than noon sixty (60) days before a special election to be held in May (if the special election is to be held in May) or noon on August 1 (if the special election is to be held in November).**

~~(b) The school corporation shall advise each affected county election board of the date on which the school corporation desires that the referendum be held, and, if practicable, the referendum shall be held on the day specified by the school corporation.~~

~~(c) The referendum shall be held under the direction of the county election board, which shall take all steps necessary to carry out the referendum.~~

~~(d) If a primary election, general election, or special election is held during the sixty (60) days preceding or following the special election described in this section and is held in an election district that includes some, but not all, of the school corporation, the county election board may also adopt orders to specify when the registration period for the elections cease and resume under IC 3-7-13-10.~~

~~(e) Not less than ten (10) days before the date on which the referendum is to be held, the county election board shall cause notice of the question that is to be voted upon at the referendum to be published in accordance with IC 5-3-1.~~

~~(f)~~ **(b)** If the referendum is not conducted at a primary ~~or~~ **election,** general election, **or municipal election,** the appellant school corporation in which the referendum is to be held shall pay all the costs of holding the referendum.

SECTION 99. IC 20-49-4-7, AS ADDED BY P.L.2-2006, SECTION 172, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. As used in this chapter, "school building construction program" means the purchase, lease, or financing of land, the construction and equipping of school buildings, and the remodeling, repairing, or improving of school buildings by a school corporation:

(1) that sustained a loss from a disaster;

(2) whose adjusted assessed valuation (as determined under IC 6-1.1-34-8) per ADM is within the lowest forty percent (40%) of the assessed valuation per ADM when compared with all school corporation adjusted assessed valuation (as ~~determined~~ **adjusted (if applicable)** under IC 6-1.1-34-8) per ADM; or

(3) with an advance under this chapter outstanding on July 1, 1993, that bears interest of at least seven and one-half percent (7.5%).

The term does not include facilities used or to be used primarily for

interscholastic or extracurricular activities.

SECTION 100. IC 25-1-2-6, AS AMENDED BY P.L.122-2009, SECTION 1, AND AS AMENDED BY P.L.160-2009, SECTION 4, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) As used in this section, "license" includes all occupational and professional licenses, registrations, permits, and certificates issued under the Indiana Code, and "licensee" includes all occupational and professional licensees, registrants, permittees, and certificate holders regulated under the Indiana Code.

(b) This section applies to the following entities that regulate occupations or professions under the Indiana Code:

(1) Indiana board of accountancy.
(2) Indiana grain buyers and warehouse licensing agency.
(3) Indiana auctioneer commission.
(4) Board of registration for architects and landscape architects.
(5) State board of barber examiners.
(6) State board of cosmetology examiners.
(7) Medical licensing board of Indiana.
(8) Secretary of state.
(9) State board of dentistry.
(10) State board of funeral and cemetery service.
(11) Worker's compensation board of Indiana.
(12) Indiana state board of health facility administrators.
(13) Committee of hearing aid dealer examiners.
(14) Indiana state board of nursing.
(15) Indiana optometry board.
(16) Indiana board of pharmacy.
(17) Indiana plumbing commission.
(18) Board of podiatric medicine.
(19) Private investigator and security guard licensing board.
(20) State board of registration for professional engineers.
(21) Board of environmental health specialists.
(22) State psychology board.
(23) Indiana real estate commission.
(24) Speech-language pathology and audiology board.
(25) Department of natural resources.
~~(26) State *boxing athletic* commission.~~

~~(27)~~ **(26)** Board of chiropractic examiners.

~~(28)~~ **(27)** Mining board.

~~(29)~~ **(28)** Indiana board of veterinary medical examiners.

~~(30)~~ **(29)** State department of health.

~~(31)~~ **(30)** Indiana physical therapy committee.

~~(32)~~ **(31)** Respiratory care committee.

~~(33)~~ **(32)** Occupational therapy committee.

~~(34)~~ **(33)** ~~*Social worker, marriage and family therapist, and mental health counselor*~~ *Behavioral health and human services licensing* board.

~~(35)~~ **(34)** Real estate appraiser licensure and certification board.

~~(36)~~ **(35)** State board of registration for land surveyors.

~~(37)~~ **(36)** Physician assistant committee.

~~(38)~~ **(37)** Indiana dietitians certification board.

~~(39)~~ **(38)** Indiana hypnotist committee.

~~(40)~~ **(39)** Attorney general (only for the regulation of athlete agents).

~~(41)~~ **(40)** Manufactured home installer licensing board.

~~(42)~~ **(41)** Home inspectors licensing board.

~~(43)~~ **(42)** State board of massage therapy.

~~(44)~~ **(43)** Any other occupational or professional agency created after June 30, 1981.

(c) Notwithstanding any other law, the entities included in subsection (b) shall send a notice of the upcoming expiration of a license to each licensee at least sixty (60) days prior to the expiration of the license. The notice must inform the licensee of the need to renew and the requirement of payment of the renewal fee. If this notice of expiration is not sent by the entity, the licensee is not subject to a sanction for failure to renew if, once notice is received from the entity, the license is renewed within forty-five (45) days of the receipt of the notice.

SECTION 101. IC 25-1-7-1, AS AMENDED BY P.L.1-2009, SECTION 138, AS AMENDED BY P.L.122-2009, SECTION 5, AND AS AMENDED BY P.L.160-2009, SECTION 7, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. As used in this chapter:

"Board" means the appropriate agency listed in the definition of regulated occupation in this section.

"Director" refers to the director of the division of consumer protection.

"Division" refers to the division of consumer protection, office of the attorney general.

"Licensee" means a person who is:

(1) licensed, certified, or registered by a board listed in this section; and

(2) the subject of a complaint filed with the division.

"Person" means an individual, a partnership, a limited liability company, or a corporation.

"Regulated occupation" means an occupation in which a person is licensed, certified, or registered by one (1) of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).

(2) Board of registration for architects and landscape architects (IC 25-4-1-2).

(3) Indiana auctioneer commission (IC 25-6.1-2-1).

(4) State board of barber examiners (IC 25-7-5-1).

~~(5) State *boxing athletic* commission (IC 25-9-1).~~

~~(6)~~ **(5)** Board of chiropractic examiners (IC 25-10-1).

~~(7)~~ **(6)** State board of cosmetology examiners (IC 25-8-3-1).

~~(8)~~ **(7)** State board of dentistry (IC 25-14-1).

~~(9)~~ **(8)** State board of funeral and cemetery service (IC 25-15-9).

~~(10)~~ **(9)** State board of registration for professional engineers (IC 25-31-1-3).

~~(11)~~ **(10)** Indiana state board of health facility administrators (IC 25-19-1).

~~(12)~~ **(11)** Medical licensing board of Indiana (IC 25-22.5-2).

~~(13)~~ **(12)** Indiana state board of nursing (IC 25-23-1).

~~(14)~~ **(13)** Indiana optometry board (IC 25-24).

~~(15)~~ **(14)** Indiana board of pharmacy (IC 25-26).

~~(16)~~ **(15)** Indiana plumbing commission (IC 25-28.5-1-3).

~~(17)~~ **(16)** Board of podiatric medicine (IC 25-29-2-1).

~~(18)~~ **(17)** Board of environmental health specialists (IC 25-32-1).

~~(19)~~ **(18)** State psychology board (IC 25-33).

~~(20)~~ **(19)** Speech-language pathology and audiology board (IC 25-35.6-2).

~~(21)~~ **(20)** Indiana real estate commission (IC 25-34.1-2).

~~(22)~~ **(21)** Indiana board of veterinary medical examiners

(IC 25-38.1).

~~(23)~~ **(22)** Department of natural resources for purposes of licensing water well drillers under IC 25-39-3.

~~(24)~~ **(23)** Respiratory care committee (IC 25-34.5).

~~(25)~~ **(24)** Private investigator and security guard licensing board (IC 25-30-1-5.2).

~~(26)~~ **(25)** Occupational therapy committee (IC 25-23.5).

~~(27)~~ ***(26)*** ~~*Social worker, marriage and family therapist, and mental health counselor*~~ *Behavioral health and human services licensing* board (IC 25-23.6).

~~(28)~~ **(27)** Real estate appraiser licensure and certification board (IC 25-34.1-8).

~~(29)~~ **(28)** State board of registration for land surveyors (IC 25-21.5-2-1).

~~(30)~~ **(29)** Physician assistant committee (IC 25-27.5).

~~(31)~~ **(30)** Indiana athletic trainers board (IC 25-5.1-2-1).

~~(32)~~ **(31)** Indiana dietitians certification board (IC 25-14.5-2-1).

~~(33)~~ **(32)** Indiana hypnotist committee (IC 25-20.5-1-7).

~~(34)~~ **(33)** Indiana physical therapy committee (IC 25-27).

~~(35)~~ **(34)** Manufactured home installer licensing board (IC 25-23.7).

~~(36)~~ **(35)** Home inspectors licensing board (IC 25-20.2-3-1).

~~(37)~~ **(36)** State department of health, for out-of-state mobile health care entities.

~~(38)~~ **(37)** State board of massage therapy (IC 25-21.8-2-1).

~~(39)~~ **(38)** Any other occupational or professional agency created after June 30, 1981.

SECTION 102. IC 25-1-8-1, AS AMENDED BY P.L.122-2009, SECTION 6, AND AS AMENDED BY P.L.160-2009, SECTION 8, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. As used in this chapter, "board" means any of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).

(2) Board of registration for architects and landscape architects (IC 25-4-1-2).

(3) Indiana auctioneer commission (IC 25-6.1-2-1).

(4) State board of barber examiners (IC 25-7-5-1).

~~(5) State *boxing athletic* commission (IC 25-9-1).~~

~~(6)~~ **(5)** Board of chiropractic examiners (IC 25-10-1).
~~(7)~~ **(6)** State board of cosmetology examiners (IC 25-8-3-1).
~~(8)~~ **(7)** State board of dentistry (IC 25-14-1).
~~(9)~~ **(8)** State board of funeral and cemetery service (IC 25-15).
~~(10)~~ **(9)** State board of registration for professional engineers (IC 25-31-1-3).
~~(11)~~ **(10)** Indiana state board of health facility administrators (IC 25-19-1).
~~(12)~~ **(11)** Medical licensing board of Indiana (IC 25-22.5-2).
~~(13)~~ **(12)** Mining board (IC 22-10-1.5-2).
~~(14)~~ **(13)** Indiana state board of nursing (IC 25-23-1).
~~(15)~~ **(14)** Indiana optometry board (IC 25-24).
~~(16)~~ **(15)** Indiana board of pharmacy (IC 25-26).
~~(17)~~ **(16)** Indiana plumbing commission (IC 25-28.5-1-3).
~~(18)~~ **(17)** Board of environmental health specialists (IC 25-32-1).
~~(19)~~ **(18)** State psychology board (IC 25-33).
~~(20)~~ **(19)** Speech-language pathology and audiology board (IC 25-35.6-2).
~~(21)~~ **(20)** Indiana real estate commission (IC 25-34.1-2-1).
~~(22)~~ **(21)** Indiana board of veterinary medical examiners (IC 25-38.1-2-1).
~~(23)~~ **(22)** Department of insurance (IC 27-1).
~~(24)~~ **(23)** State police department (IC 10-11-2-4), for purposes of certifying polygraph examiners under IC 25-30-2.
~~(25)~~ **(24)** Department of natural resources for purposes of licensing water well drillers under IC 25-39-3.
~~(26)~~ **(25)** Private investigator and security guard licensing board (IC 25-30-1-5.2).
~~(27)~~ **(26)** Occupational therapy committee (IC 25-23.5-2-1).
~~(28)~~ ***(27)*** ~~*Social worker, marriage and family therapist, and mental health counselor*~~ *Behavioral health and human services licensing* board (IC 25-23.6-2-1).
~~(29)~~ **(28)** Real estate appraiser licensure and certification board (IC 25-34.1-8).
~~(30)~~ **(29)** State board of registration for land surveyors (IC 25-21.5-2-1).
~~(31)~~ **(30)** Physician assistant committee (IC 25-27.5).
~~(32)~~ **(31)** Indiana athletic trainers board (IC 25-5.1-2-1).

~~(33)~~ **(32)** Board of podiatric medicine (IC 25-29-2-1).

~~(34)~~ **(33)** Indiana dietitians certification board (IC 25-14.5-2-1).

~~(35)~~ **(34)** Indiana physical therapy committee (IC 25-27).

~~(36)~~ **(35)** Manufactured home installer licensing board (IC 25-23.7).

~~(37)~~ **(36)** Home inspectors licensing board (IC 25-20.2-3-1).

~~(38)~~ **(37)** State board of massage therapy (IC 25-21.8-2-1).

~~(39)~~ **(38)** Any other occupational or professional agency created after June 30, 1981.

SECTION 103. IC 25-1-11-1, AS AMENDED BY P.L.160-2009, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. As used in this chapter, "board" means any of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).

(2) Board of registration for architects and landscape architects (IC 25-4-1-2).

(3) Indiana auctioneer commission (IC 25-6.1-2).

(4) State board of barber examiners (IC 25-7-5-1).

~~(5) State athletic commission (IC 25-9-1).~~

~~(6)~~ **(5)** State board of cosmetology examiners (IC 25-8-3-1).

~~(7)~~ **(6)** State board of registration of land surveyors (IC 25-21.5-2-1).

~~(8)~~ **(7)** State board of funeral and cemetery service (IC 25-15-9).

~~(9)~~ **(8)** State board of registration for professional engineers (IC 25-31-1-3).

~~(10)~~ **(9)** Indiana plumbing commission (IC 25-28.5-1-3).

~~(11)~~ **(10)** Indiana real estate commission (IC 25-34.1-2-1).

~~(12)~~ **(11)** Real estate appraiser licensure and certification board (IC 25-34.1-8).

~~(13)~~ **(12)** Private investigator and security guard licensing board (IC 25-30-1-5.2).

~~(14)~~ **(13)** Manufactured home installer licensing board (IC 25-23.7).

~~(15)~~ **(14)** Home inspectors licensing board (IC 25-20.2-3-1).

~~(16)~~ **(15)** State board of massage therapy (IC 25-21.8-2-1).

SECTION 104. IC 25-1-14-2, AS AMENDED BY P.L.160-2009, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) A member of a board, committee, or

commission may participate in a meeting of the board, committee, or commission:

(1) except as provided in ~~subsections~~ **subsection** (b), ~~and (c),~~ at which at least a quorum is physically present at the place where the meeting is conducted; and

(2) by using a means of communication that permits:

(A) all other members participating in the meeting; and

(B) all members of the public physically present at the place where the meeting is conducted;

to simultaneously communicate with each other during the meeting.

(b) A member of a board, committee, or commission may participate in an emergency meeting of the board, committee, or commission to consider disciplinary sanctions under IC 25-1-9-10 or IC 25-1-11-13 by using a means of communication that permits:

(1) all other members participating in the meeting; and

(2) all members of the public physically present at the place where the meeting is conducted;

to simultaneously communicate with each other during the meeting.

~~(c) A member of the state athletic commission may participate in meetings of the commission to consider the final approval of a permit for a particular boxing, sparring, or unarmed combat match or exhibition under IC 25-9-1-6(b) by using a means of communication that permits:~~

~~(1) all other members participating in the meeting; and~~

~~(2) all members of the public physically present at the place where the meeting is conducted;~~

~~to simultaneously communicate with each other during the meeting.~~

~~(d)~~ **(c)** A member who participates in a meeting under subsection (b): ~~or (c):~~

(1) is considered to be present at the meeting;

(2) shall be counted for purposes of establishing a quorum; and

(3) may vote at the meeting.

SECTION 105. IC 34-30-2-14.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 14.6. IC 5-14-3.5-3 (Concerning the state and state officials, officers, and employees for posting certain confidential information).**

SECTION 106. IC 34-30-2-156.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 156.2. IC 36-8-16.6-19 (Concerning sellers of prepaid wireless telecommunications service for provision of 911 or wireless 911 service and lawful assistance to law enforcement officers).**

SECTION 107. IC 35-45-18-1, AS AMENDED BY P.L.160-2009, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) As used in this chapter, "combative fighting" (also known as "toughman fighting", "badman fighting", and "extreme fighting") means a match, contest, or exhibition that involves at least (2) contestants, with or without gloves or protective headgear, in which the contestants:

(1) use their:

(A) hands;

(B) feet; or

(C) both hands and feet;

to strike each other; and

(2) compete for a financial prize or any item of pecuniary value.

(b) The term does not include:

(1) a boxing, sparring, or unarmed combat match regulated under ~~IC 25-9;~~ **IC 4-33-22;**

(2) mixed martial arts (as defined by ~~IC 25-9-1-0.3).~~ **IC 4-33-22-2);**

(3) martial arts, as regulated by the ~~state athletic~~ **gaming** commission in rules adopted under ~~IC 25-9-1-4.5;~~ **IC 4-33-22;**

(4) professional wrestling, as regulated by the ~~state athletic~~ **gaming** commission in rules adopted under ~~IC 25-9-1-4.5;~~ **IC 4-33-22;** or

(5) a match, contest, or game in which a fight breaks out among the participants as an unplanned, spontaneous event and not as an intended part of the match, contest, or game.

SECTION 108. IC 36-1-12-4, AS AMENDED BY P.L.169-2006, SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) This section applies whenever the cost of a public work project will be:

(1) at least seventy-five thousand dollars ($75,000) in:

(A) a consolidated city or second class city;

(B) a county containing a consolidated city or second class city; or

(C) a regional water or sewage district established under IC 13-26; or

(2) at least fifty thousand dollars ($50,000) in a political subdivision or an agency not described in subdivision (1).

(b) The board must comply with the following procedure:

(1) The board shall prepare general plans and specifications describing the kind of public work required, but shall avoid specifications which might unduly limit competition. If the project involves the resurfacing (as defined by IC 8-14-2-1) of a road, street, or bridge, the specifications must show how the weight or volume of the materials will be accurately measured and verified.

(2) The board shall file the plans and specifications in a place reasonably accessible to the public, which shall be specified in the notice required by subdivision (3).

(3) Upon the filing of the plans and specifications, the board shall publish notice in accordance with IC 5-3-1 calling for sealed proposals for the public work needed.

(4) The notice must specify the place where the plans and specifications are on file and the date fixed for receiving bids.

(5) The period of time between the date of the first publication and the date of receiving bids shall be governed by the size of the contemplated project in the discretion of the board. ~~but it~~ **The period of time between the date of the first publication and receiving bids** may not be more than:

(A) six (6) weeks **if the estimated cost of the public works project is less than twenty-five million dollars ($25,000,000); and**

(B) ten (10) weeks if the estimated cost of the public works project is at least twenty-five million dollars ($25,000,000).

(6) If the cost of a project is one hundred thousand dollars ($100,000) or more, the board shall require the bidder to submit a financial statement, a statement of experience, a proposed plan or plans for performing the public work, and the equipment that the bidder has available for the performance of the public work. The statement shall be submitted on forms prescribed by the state

board of accounts.

(7) The board may not require a bidder to submit a bid before the meeting at which bids are to be received. The meeting for receiving bids must be open to the public. All bids received shall be opened publicly and read aloud at the time and place designated and not before.

(8) Except as provided in subsection (c), the board shall:

(A) award the contract for public work or improvements to the lowest responsible and responsive bidder; or

(B) reject all bids submitted.

(9) If the board awards the contract to a bidder other than the lowest bidder, the board must state in the minutes or memoranda, at the time the award is made, the factors used to determine which bidder is the lowest responsible and responsive bidder and to justify the award. The board shall keep a copy of the minutes or memoranda available for public inspection.

(10) In determining whether a bidder is responsive, the board may consider the following factors:

(A) Whether the bidder has submitted a bid or quote that conforms in all material respects to the specifications.

(B) Whether the bidder has submitted a bid that complies specifically with the invitation to bid and the instructions to bidders.

(C) Whether the bidder has complied with all applicable statutes, ordinances, resolutions, or rules pertaining to the award of a public contract.

(11) In determining whether a bidder is a responsible bidder, the board may consider the following factors:

(A) The ability and capacity of the bidder to perform the work.

(B) The integrity, character, and reputation of the bidder.

(C) The competence and experience of the bidder.

(12) The board shall require the bidder to submit an affidavit:

(A) that the bidder has not entered into a combination or agreement:

(i) relative to the price to be bid by a person;

(ii) to prevent a person from bidding; or

(iii) to induce a person to refrain from bidding; and

(B) that the bidder's bid is made without reference to any other

bid.

(c) Notwithstanding subsection (b)(8), a county may award sand, gravel, asphalt paving materials, or crushed stone contracts to more than one (1) responsible and responsive bidder if the specifications allow for bids to be based upon service to specific geographic areas and the contracts are awarded by geographic area. The geographic areas do not need to be described in the specifications.

SECTION 109. IC 36-1.5-4-5, AS ADDED BY P.L.186-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: Sec. 5. (a) Except as provided in subsection (b), a reorganization approved under this chapter takes effect when all of the following have occurred:

(1) The later of:

(A) the date that a copy of a joint certification from the county election board in each county in which reorganizing political subdivisions are located that indicates that:

(i) the reorganization has been approved by the voters of each reorganizing political subdivision; or

(ii) in the case of a reorganization described in section 1(a)(9) of this chapter, the reorganization has been approved as set forth in section 32(b) of this chapter;

is recorded as required by section 31 of this chapter; or

(B) the date specified in the finally adopted plan of reorganization.

(2) The appointed or elected officers of the reorganized political subdivision are elected (as prescribed by section 36 of this chapter) or appointed and qualified, if:

(A) the reorganized political subdivision is a new political subdivision and reorganizing political subdivisions are not being consolidated into one (1) of the reorganizing political subdivisions;

(B) the reorganized political subdivision will have different boundaries than any of the reorganizing political subdivisions;

(C) the reorganized political subdivision will have different appointment or election districts than any of the reorganizing political subdivisions; or

(D) the finally adopted plan of reorganization requires new appointed or elected officers before the reorganization

becomes effective.

(b) A reorganization approved under this chapter may not take effect during the year preceding a year in which a federal decennial census is conducted. A consolidation that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January ~~2~~ **1** of the year in which a federal decennial census is conducted.

(c) Notwithstanding subsection (b) as that subsection existed on December 31, 2009, a reorganization that took effect January 2, 2010, because of the application of subsection (b), as that subsection existed on December 31, 2009, is instead considered to take effect January 1, 2010, without the adoption of an amended reorganization plan.

SECTION 110. IC 36-1.5-4-18, AS ADDED BY P.L.186-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) A reorganization committee shall prepare a comprehensive plan of reorganization for the reorganizing political subdivisions. The plan of reorganization governs the actions, duties, and powers of the reorganized political subdivision that are not specified by law.

(b) The plan of reorganization must include at least the following:

(1) The name and a description of the reorganized political subdivision that will succeed the reorganizing political subdivisions.

(2) A description of the boundaries of the reorganized political subdivision.

(3) Subject to section 40 of this chapter, a description of the taxing areas in which taxes to retire obligations of the reorganizing political subdivisions will be imposed.

(4) A description of the membership of the legislative body, fiscal body, and executive of the reorganized political subdivision, a description of the election districts or appointment districts from which officers will be elected or appointed, and the manner in which the membership of each elected or appointed office will be elected or appointed.

(5) A description of the services to be offered by the reorganized political subdivision and the service areas in which the services will be offered.

(6) The disposition of the personnel, the agreements, the assets, and, subject to section 40 of this chapter, the liabilities of the reorganizing political subdivisions, including the terms and conditions upon which the transfer of property and personnel will be achieved.

(7) Any other matter that the:

(A) reorganization committee determines to be necessary or appropriate; or

(B) legislative bodies of the reorganizing political subdivisions require the reorganization committee;

to include in the plan of reorganization.

(8) In the case of a reorganization described in section 1(a)(9) of this chapter, if the legislative bodies of the reorganizing political subdivisions have specified that the vote on the public question regarding the reorganization shall be conducted on a countywide basis under section 30(b) of this chapter with a rejection threshold, the reorganization committee shall include in the reorganization plan a rejection threshold, specified as a percentage, that applies for purposes of section 32(b) of this chapter. The rejection threshold must be the same for each municipality that is a party to the proposed reorganization and to the county that is a party to the proposed reorganization.

(9) In the case of a reorganization described in section 1(a)(9) of this chapter, the reorganization committee shall determine and include in the reorganization plan the percentage of voters voting on the public question regarding the proposed reorganization who must vote, on a countywide basis, in favor of the proposed reorganization for the public question to be approved. This percentage is referred to in this chapter as the "countywide vote approval percentage". The countywide vote approval percentage must be greater than fifty percent (50%).

(10) The statement required by subsection (e).

(c) In the case of a reorganization described in section 1(a)(9) of this chapter, the reorganization committee may not change the decision of the legislative bodies of the reorganizing political subdivisions regarding whether the vote on the public question regarding the reorganization shall be conducted on a countywide basis without a rejection threshold or with a rejection threshold.

(d) Upon completion of the plan of reorganization, the reorganization committee shall present the plan of reorganization to the legislative body of each of the reorganizing political subdivisions for adoption. The initial plan of reorganization must be submitted to the legislative body of each of the reorganizing political subdivisions not later than one (1) year after the clerk of the last political subdivision that adopts a reorganization resolution under this chapter has certified the resolution to all of the political subdivisions named in the resolution. **In the case of a plan of reorganization submitted to a political subdivision by a reorganization committee after June 30, 2010, the political subdivision shall post a copy of the plan of reorganization on an Internet web site maintained or authorized by the political subdivision not more than thirty (30) days after receiving the plan of reorganization from the reorganization committee.**

(e) A reorganization committee must include in the plan of reorganization submitted to a political subdivision after June 30, 2010, a statement of:

(1) whether a fiscal impact analysis concerning the proposed reorganization has been prepared or has not been prepared by or on behalf of the reorganization committee; and

(2) whether a fiscal impact analysis concerning the proposed reorganization has been made available or has not been made available to the public by or on behalf of the reorganization committee.

SECTION 111. IC 36-1.5-4-27, AS ADDED BY P.L.186-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27. After the county recorder of each county in which reorganizing political subdivisions are located has notified the county election board that a public question on a plan of reorganization is eligible to be placed on the ballot, the county election board shall place the public question on the ballot in accordance with IC 3-10-9 on the first regularly scheduled **general election or municipal** election **(excluding any primary elections)** that will occur in all of the precincts of the reorganizing political subdivisions at least sixty (60) days after the required notices are received.

SECTION 112. IC 36-1.5-4-36, AS ADDED BY P.L.186-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

UPON PASSAGE]: Sec. 36. (a) This section applies if section 5 of this chapter requires an election for a reorganization to become effective.

(b) At the next:

(1) general election, if:

(A) the reorganized political subdivision is not a municipality or a school corporation; **or**

(B) the reorganized political subdivision results from a reorganization including a county and at least one (1) municipality;

(2) municipal election, if the reorganized political subdivision is a municipality; or

(3) primary or general election, as specified in an election plan adopted in substantially identical resolutions by the legislative body of each of the participating political subdivisions if the reorganized political subdivision is a school corporation;

after the voters approve a reorganization, one (1) set of officers for the reorganized political subdivision having the combined population of the reorganizing political subdivisions shall be elected by the voters in the territory of the reorganized political subdivision as prescribed by statute.

(c) In the election described in subsection (b):

(1) one (1) member of the legislative body of the reorganized political subdivision shall be elected from each election district established by the reorganizing political subdivisions in substantially identical resolutions adopted by the legislative body of each of the reorganizing political subdivisions; and

(2) the total number of at large members shall be elected as prescribed by statute for the reorganized political subdivision.

(d) If appointed officers are required in the reorganized political subdivision, one (1) set of appointed officers shall be appointed for the reorganized political subdivision. The appointments shall be made as required by statute for the reorganized political subdivision. Any statute requiring an appointed officer to reside in the political subdivision where the appointed officer resides shall be treated as permitting the appointed officer to reside in any part of the territory of the reorganized political subdivision.

SECTION 113. IC 36-2-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]:

Sec. 2. (a) If the resident voters in a specified territory in two (2) or more contiguous counties desire to change the boundaries of their respective counties, they may file a petition with the executives of their respective counties requesting that the territory be transferred. The petition must:

(1) be signed by at least the number of voters resident in the territory requested to be transferred required to place a candidate on the ballot under IC 3-8-6-3;

(2) contain a clear, distinct description of the requested boundary change; and

(3) not propose to decrease the area of any county below four hundred (400) square miles in compliance with Article 15, Section 7 of the Constitution of the State of Indiana.

(b) Whenever a petition under subsection (a) is filed with a county executive, the executive shall determine, at its first meeting after the petition is filed:

(1) whether the signatures on the petition are genuine; and

(2) whether the petition complies with subsection (a).

(c) If the determinations under subsection (b) are affirmative, the executive shall certify the question to the county election board of each affected county. The county election boards shall jointly order a special election to be held, scheduling the election so that the election is held on the same date in each county interested in the change, but not later than thirty (30) days and not on the same date as a general election. The election shall be conducted under IC 3-10-8-6. All voters of each interested county are entitled to vote on the question. The question shall be placed on the ballot in the form prescribed by IC 3-10-9-4 and must state "Shall the boundaries of _____ County and _____ County change?".

(d) After an election under subsection (c), the clerk of each county shall make a certified copy of the election returns and not later than five (5) days after the election file the copy with the auditor of the county. The auditor shall, not later than five (5) days after the filing of the returns in the auditor's office, make a true and complete copy of the returns, certified under the auditor's hand and seal, and deposit the copy with the auditor of every other county interested in the change.

(e) After copies have been filed under subsection (d), the auditor of each county shall call a meeting of the executive of the county, which

shall examine the returns. If a majority of the voters of each interested county voted in favor of change, the executive shall:

(1) enter an order declaring their boundaries to be changed as described in the petition; and

(2) if the county has received territory from the transfer, adopt revised descriptions of:

(A) county commissioner districts under IC 36-2-2-4; and

(B) county council districts under IC 36-2-3-4;

so that the transferred territory is assigned to at least one (1) county commissioner district and at least one (1) county council district.

(f) The executive of each county shall file a copy of the order described in subsection (e)(1) with:

(1) the office of the secretary of state; and

(2) the circuit court clerk of the county.

Except as provided in subsection (g), the transfer of territory becomes effective when the last county order is filed under this subsection.

(g) An order declaring county boundaries to be changed may not take effect during the year preceding a year in which a federal decennial census is conducted. An order that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January ~~2~~ **1** of the year in which a federal decennial census is conducted.

(h) An election under this section may be held only once every three (3) years.

(i) Notwithstanding subsection (g) as that subsection existed on December 31, 2009, a boundary change that took effect January 2, 2010, because of the application of subsection (g), as that subsection existed on December 31, 2009, is instead considered to take effect January 1, 2010, without an amended order or any other additional action being required.

SECTION 114. IC 36-3-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: Sec. 7. (a) This section governs the transfer of territory that is either:

(1) inside the corporate boundaries of the consolidated city and contiguous to an excluded city; or

(2) inside the corporate boundaries of an excluded city and contiguous to the consolidated city.

IC 36-4-3 does not apply to such a transfer.

(b) If the owners of land located in territory described in subsection (a) want to have that territory transferred from one (1) municipality to the other, they must file:

(1) a petition for annexation of that territory with the legislative body of the contiguous municipality; and

(2) a petition for disannexation of that territory with the legislative body of the municipality containing that territory.

Each petition must be signed by at least fifty-one percent (51%) of the owners of land in the territory sought to be transferred. The territory must be reasonably compact in configuration, and its boundaries must generally follow streets or natural boundaries.

(c) Each legislative body shall, not later than sixty (60) days after a petition is filed with it under subsection (b), either approve or disapprove the petition, with the following results:

(1) Except as provided in subsection (g), if both legislative bodies approve, the transfer of territory takes effect:

(A) on the effective date of the approval of the latter legislative body to act; and

(B) when a copy of each transfer approval has been filed under subsection (f).

(2) If the legislative body of the contiguous municipality disapproves or fails to act within the prescribed period, the proceedings are terminated.

(3) If the legislative body of the contiguous municipality approves but the legislative body of the other municipality disapproves or fails to act within the prescribed period, the proceedings are terminated unless there is an appeal under subsection (d).

(d) In the case described by subsection (c)(3), the petitioners may, not later than sixty (60) days after the disapproval or expiration of the prescribed period, appeal to the circuit court. The appeal must allege that the benefits to be derived by the petitioners from the transfer outweigh the detriments to the municipality that has failed to approve, which is defendant in the appeal.

(e) The court shall try an appeal under subsection (d) as other civil actions, but without a jury. If the court determines that:

(1) the requirements of this section have been met; and

(2) the benefits to be derived by the petitioners outweigh the detriments to the municipality;

it shall order the transfer of territory to take effect on the date its order becomes final, subject to subsection (g), and shall file the order under subsection (f). However, if the municipality, or a district of it, is furnishing sanitary sewer service or municipal water service in the territory, or otherwise has expended substantial sums for public facilities (other than roads) specially benefiting the territory, the court shall deny the transfer.

(f) A municipal legislative body that approves a transfer of territory under subsection (c) or a court that approves a transfer under subsection (e) shall file a copy of the approval or order, setting forth a legal description of the territory to be transferred, with:

(1) the office of the secretary of state; and

(2) the circuit court clerk of each county in which the municipality is located.

(g) A transfer of territory under this section may not take effect during the year preceding a year in which a federal decennial census is conducted. A transfer of territory that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January ~~2~~ **1** of the year in which a federal decennial census is conducted.

(h) A petition for annexation or disannexation under this section may not be filed with respect to land as to which a transfer of territory has been disapproved or denied within the preceding three (3) years.

(i) The legislative body of a municipality annexing territory under this section shall assign the territory to at least one (1) municipal legislative body district under IC 36-3-4-3 or IC 36-4-6 not later than thirty (30) days after the transfer of territory becomes effective under this section.

(j) Notwithstanding subsection (g) as that subsection existed on December 31, 2009, a transfer of territory that took effect January 2, 2010, because of the application of subsection (g), as that subsection existed on December 31, 2009, is instead considered to take effect January 1, 2010, without any additional action being required.

SECTION 115. IC 36-4-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: Sec. 9. (a) Except as provided in subsection (c), a merger approved under this chapter takes effect when:

(1) the officers of the new municipality are elected and qualified, as prescribed by section 13 of this chapter; and

(2) a copy of the agreement under section 2 of this chapter or the certified election results under section 7 of this chapter are filed with:

(A) the office of the secretary of state; and

(B) the circuit court clerk of each county in which the municipality is located.

(b) On the effective date of the merger, the merging municipalities cease to exist and are merged into a single municipality of the class created by the combined population of the merging municipalities. The new municipality shall be governed by the laws applicable to that class.

(c) A merger approved under this chapter may not take effect during the year preceding a year in which a federal decennial census is conducted. A merger that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January ~~2~~ **1** of the year in which a federal decennial census is conducted.

(d) Notwithstanding subsection (c) as that subsection existed on December 31, 2009, a merger that took effect January 2, 2010, because of the application of subsection (c), as that subsection existed on December 31, 2009, is instead considered to take effect January 1, 2010, without any additional action being required.

SECTION 116. IC 36-4-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: Sec. 7. (a) After an ordinance is adopted under section 3, 4, 5, or 5.1 of this chapter, it must be published in the manner prescribed by IC 5-3-1. Except as provided in subsection (b), (c), or (f), in the absence of remonstrance and appeal under section 11 or 15.5 of this chapter, the ordinance takes effect at least ninety (90) days after its publication and upon the filing required by section 22(a) of this chapter.

(b) An ordinance described in subsection (d) or adopted under section 3, 4, 5, or 5.1 of this chapter may not take effect during the year preceding a year in which a federal decennial census is conducted. An ordinance that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January ~~2~~ **1** of the year in which a federal decennial census is conducted.

(c) Subsections (d) and (e) apply to fire protection districts that are established after June 14, 1987.

(d) Except as provided in subsection (b), whenever a municipality annexes territory, all or part of which lies within a fire protection district (IC 36-8-11), the annexation ordinance (in the absence of remonstrance and appeal under section 11 or 15.5 of this chapter) takes effect the second January 1 that follows the date the ordinance is adopted and upon the filing required by section 22(a) of this chapter. The municipality shall:

(1) provide fire protection to that territory beginning the date the ordinance is effective; and

(2) send written notice to the fire protection district of the date the municipality will begin to provide fire protection to the annexed territory within ten (10) days of the date the ordinance is adopted.

(e) If the fire protection district from which a municipality annexes territory under subsection (d) is indebted or has outstanding unpaid bonds or other obligations at the time the annexation is effective, the municipality is liable for and shall pay that indebtedness in the same ratio as the assessed valuation of the property in the annexed territory (that is part of the fire protection district) bears to the assessed valuation of all property in the fire protection district, as shown by the most recent assessment for taxation before the annexation, unless the assessed property within the municipality is already liable for the indebtedness. The annexing municipality shall pay its indebtedness under this section to the board of fire trustees. If the indebtedness consists of outstanding unpaid bonds or notes of the fire protection district, the payments to the board of fire trustees shall be made as the principal or interest on the bonds or notes becomes due.

(f) This subsection applies to an annexation initiated by property owners under section 5.1 of this chapter in which all property owners within the area to be annexed petition the municipality to be annexed. Subject to subsections (b) and (d), and in the absence of an appeal under section 15.5 of this chapter, an annexation ordinance takes effect at least thirty (30) days after its publication and upon the filing required by section 22(a) of this chapter.

SECTION 117. IC 36-4-3-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: Sec. 12. (a) The circuit or superior court shall:

(1) on the date fixed under section 11 of this chapter, hear and determine the remonstrance without a jury; and

(2) without delay, enter judgment on the question of the annexation according to the evidence that either party may introduce.

(b) If the court enters judgment in favor of the annexation, the annexation may not take effect during the year preceding the year in which a federal decennial census is conducted. An annexation that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January ~~2~~ **1** of the year in which a federal decennial census is conducted.

SECTION 118. IC 36-4-3-15.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: Sec. 15.5. (a) Except as provided in subsection (b), an owner of land within one-half (1/2) mile of territory proposed to be annexed under this chapter may, not later than sixty (60) days after the publication of the annexation ordinance, appeal that annexation to a circuit court or superior court of a county in which the annexed territory is located. The complaint must state that the reason the annexation should not take place is that the territory sought to be annexed is not contiguous to the annexing municipality.

(b) This subsection applies to an annexation initiated by property owners under section 5.1 of this chapter in which all property owners within the area to be annexed petition the municipality to be annexed. An owner of land within one-half (1/2) mile of the territory proposed to be annexed under this chapter may, not later than thirty (30) days after the publication of the annexation ordinance, appeal that annexation to a circuit court or superior court of a county in which the annexed territory is located. The complaint must state that the reason the annexation should not take place is that the territory sought to be annexed is not contiguous to the annexing municipality.

(c) Upon the determination of the court that the complaint is sufficient, the judge shall fix a time for a hearing to be held not later than sixty (60) days after the determination. Notice of the proceedings shall be served by summons upon the proper officers of the annexing municipality. The municipality shall become a defendant in the cause and be required to appear and answer. The judge of the circuit or superior court shall, upon the date fixed, proceed to hear and determine

the appeal without a jury, and shall, without delay, give judgment upon the question of the annexation according to the evidence introduced by the parties. If the evidence establishes that the territory sought to be annexed is contiguous to the annexing municipality, the court shall deny the appeal and dismiss the proceeding. If the evidence does not establish the foregoing factor, the court shall issue an order to prevent the proposed annexation from taking effect. The laws providing for change of venue from the county do not apply, but changes of venue from the judge may be had. Costs follow judgment. Pending the appeal, and during the time within which the appeal may be taken, the territory sought to be annexed is not a part of the annexing municipality.

(d) If the court enters a judgment in favor of the municipality, the annexation may not take effect during the year preceding a year in which a federal decennial census is conducted. An annexation that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January ~~2~~ **1** of the year in which a federal decennial census is conducted.

SECTION 119. IC 36-4-3-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: Sec. 19. (a) If disannexation is ordered under this chapter by the works board of a municipality and no appeal is taken, the clerk of the municipality shall, without compensation and not later than ten (10) days after the order is made, make and certify a complete transcript of the disannexation proceedings to the auditor of each county in which the disannexed lots or lands lie and to the office of the secretary of state. The county auditor shall list those lots or lands appropriately for taxation. The proceedings of the works board shall not be certified to the county auditor or to the office of the secretary of state if an appeal to the circuit court has been taken.

(b) In all proceedings begun in or appealed to the circuit court, if vacation or disannexation is ordered, the clerk of the court shall immediately after the judgment of the court, or after a decision on appeal to the supreme court or court of appeals if the judgment on appeal is not reversed, certify the judgment of the circuit court, as affirmed or modified, to each of the following:

(1) The auditor of each county in which the lands or lots affected lie, on receipt of one dollar ($1) for the making and certifying of the transcript from the petitioners for the disannexation.

(2) The office of the secretary of state.

(3) The circuit court clerk of each county in which the lands or lots affected are located.

(4) The county election board of each county in which the lands or lots affected are located.

(5) If a board of registration exists, the board of each county in which the lands or lots affected are located.

(6) The office of census data established by IC 2-5-1.1-12.2.

(c) The county auditor shall forward a list of lots or lands disannexed under this section to the following:

(1) The county highway department of each county in which the lands or lots affected are located.

(2) The county surveyor of each county in which the lands or lots affected are located.

(3) Each plan commission, if any, that lost or gained jurisdiction over the disannexed territory.

(4) The township trustee of each township that lost or gained jurisdiction over the disannexed territory.

(5) The sheriff of each county in which the lands or lots affected are located.

(6) The office of the secretary of state.

(7) The office of census data established by IC 2-5-1.1-12.2.

The county auditor may require the clerk of the municipality to furnish an adequate number of copies of the list of disannexed lots or lands or may charge the clerk a fee for photoreproduction of the list.

(d) A disannexation described by this section takes effect upon the clerk of the municipality filing the order with:

(1) the county auditor of each county in which the annexed territory is located; and

(2) the circuit court clerk, or if a board of registration exists, the board of each county in which the annexed territory is located.

(e) The clerk of the municipality shall notify the office of the secretary of state and the office of census data established by IC 2-5-1.1-12.2 of the date a disannexation is effective under this chapter.

(f) A disannexation order under this chapter may not take effect during the year preceding a year in which a federal decennial census is conducted. A disannexation order that would otherwise take effect

during the year preceding a year in which a federal decennial census is conducted takes effect January ~~2~~ **1** of the year in which a federal decennial census is conducted.

SECTION 120. IC 36-4-3-23 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: **Sec. 23. Notwithstanding sections 7, 12, 15.5, and 19 of this chapter, as those sections existed on December 31, 2009, an annexation or disannexation that took effect January 2, 2010, because of the application of section 7(b), 12(b), 15.5(d), or 19(f) of this chapter, as those sections existed on December 31, 2009, is instead considered to take effect January 1, 2010, without the adoption of an amended ordinance or the entry of an amended judgment or order under this chapter.**

SECTION 121. IC 36-4-6-5, AS AMENDED BY P.L.230-2005, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) This section applies to third class cities having a population of less than ten thousand (10,000). The legislative body of such a city may, by ordinance adopted ~~before September 1, 1982,~~ **after June 30, 2010, and during a year in which an election of the legislative body will not occur,** decide to be governed by this section instead of section 4 of this chapter. ~~If this ordinance is repealed after August 31, 1982, except as a part of a codification of ordinances that reenacts the ordinance under IC 36-1-5-6, then section 4 of this chapter again applies to the city.~~ **The legislative body districts created by an ordinance adopted under this subsection apply to the first election of the legislative body held after the date the ordinance is adopted.** The clerk of the legislative body shall send a certified copy of any ordinance adopted under this subsection to the secretary of the county election board.

(b) This subsection does not apply to a city with an ordinance described by subsection (j). The legislative body shall adopt an ordinance to divide the city into four (4) districts that:

(1) are composed of contiguous territory, except for territory that is not contiguous to any other part of the city;

(2) are reasonably compact;

(3) do not cross precinct boundary lines except as provided in subsection (c) or (d); and

(4) contain, as nearly as is possible, equal population.

(c) The boundary of a city legislative body district may cross a precinct boundary line if:

(1) more than one (1) member of the legislative body elected from the districts established under subsection (b) or (j) resides in one (1) precinct established under IC 3-11-1.5 after the most recent municipal election; and

(2) following the establishment of a legislative body district whose boundary crosses a precinct boundary line, not more than one (1) member of the legislative body elected from the districts resides within the same city legislative body district.

(d) The boundary of a city legislative body district may cross a precinct line if the districts would not otherwise contain, as nearly as is possible, equal population.

(e) A city legislative body district with a boundary described by subsection (c) or (d) may not cross a census block boundary line:

(1) except when following a precinct boundary line; or

(2) unless the city legislative body certifies in the ordinance that the census block has no population, and is not likely to ever have population.

(f) The legislative body may not adopt an ordinance dividing the city into districts with boundaries described by subsection (c) or (d) unless the clerk of the city mails a written notice to the circuit court clerk. The notice must:

(1) state that the legislative body is considering the adoption of an ordinance described by this subsection; and

(2) be mailed not later than ten (10) days before the legislative body adopts the ordinance.

(g) The division under subsection (b) or (j) shall be made:

(1) during the second year after a year in which a federal decennial census is conducted; and

(2) when required to assign annexed territory to a district.

This division may be made at any other time, subject to IC 3-11-1.5-32.

(h) This subsection does not apply to a city with an ordinance described by subsection (j). The legislative body is composed of four (4) members elected from the districts established under subsection (b) and one (1) at-large member.

(i) This subsection does not apply to a city with an ordinance

described by subsection (j). Each voter may vote for one (1) candidate for at-large membership and one (1) candidate from the district in which the voter resides. The at-large candidate receiving the most votes from the whole city and the district candidates receiving the most votes from their respective districts are elected to the legislative body.

(j) A city may adopt an ordinance under this subsection to divide the city into three (3) districts that:

(1) are composed of contiguous territory, except for territory that is not contiguous to any other part of the city;

(2) are reasonably compact;

(3) do not cross precinct boundary lines, except as provided in subsection (c) or (d); and

(4) contain, as nearly as is possible, equal population.

(k) This subsection applies to a city with an ordinance described by subsection (j). The legislative body is composed of three (3) members elected from the districts established under subsection (j) and two (2) at-large members.

(l) This subsection applies to a city with an ordinance described by subsection (j). Each voter of the city may vote for two (2) candidates for at-large membership and one (1) candidate from the district in which the voter resides. The two (2) at-large candidates receiving the most votes from the whole city and the district candidates receiving the most votes from their respective districts are elected to the legislative body.

(m) This subsection applies to a city having a population of less than seven thousand (7,000). A legislative body of such a city that has, by resolution adopted before May 7, 1991, decided to continue an election process that permits each voter of the city to vote for one (1) candidate at large and one (1) candidate from each of its four (4) council districts may hold elections using that voting arrangement. The at-large candidate and the candidate from each district receiving the most votes from the whole city are elected to the legislative body. The districts established in cities adopting such a resolution may cross precinct boundary lines.

(n) A copy of the ordinance establishing districts under this section must be filed with the circuit court clerk of the county that contains the greatest population of the city not later than thirty (30) days after the ordinance is adopted.

(o) If any territory in the city is not included in one (1) of the districts established under this section, the territory is included in the district that:

(1) is contiguous to that territory; and

(2) contains the least population of all districts contiguous to that territory.

(p) If any territory in the city is included in more than one (1) of the districts established under this section, the territory is included in the district that:

(1) is one (1) of the districts in which the territory is described in the ordinance adopted under this section;

(2) is contiguous to that territory; and

(3) contains the least population of all districts contiguous to that territory.

SECTION 122. IC 36-4-7-11, AS AMENDED BY P.L.169-2006, SECTION 55, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 11. If the city legislative body does not pass the ordinance required by section 7 of this chapter before ~~October 1~~ **November 2** of each year, the most recent annual appropriations and annual tax levy are continued for the ensuing budget year.

SECTION 123. IC 36-5-1-10.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: Sec. 10.1. (a) Except as provided in subsection (g), if the county executive makes the findings required by section 8 of this chapter, it may adopt an ordinance incorporating the town. The ordinance must:

(1) provide that:

(A) all members of the town legislative body are to be elected at large (if the town would have a population of less than three thousand five hundred (3,500); or

(B) divide the town into not less than three (3) nor more than seven (7) districts; and

(2) direct the county election board to conduct an election in the town on the date of the next general or municipal election to be held in any precincts in the county.

An election conducted under this section must comply with IC 3 concerning town elections. If, on the date that an ordinance was adopted under this section, absentee ballots for a general or municipal election have been delivered under IC 3-11-4-15 for voters within a

precinct in the town, the election must be conducted on the date of the next general or municipal election held in any precincts in the county after the election for which absentee balloting is being conducted. However, a primary election may not be conducted before an election conducted under this section, regardless of the population of the town.

(b) Districts established by an ordinance adopted under this section must comply with IC 3-11-1.5.

(c) If any territory in the town is not included in one (1) of the districts established under this section, the territory is included in the district that:

(1) is contiguous to that territory; and

(2) contains the least population of all districts contiguous to that territory.

(d) If any territory in the town is included in more than one (1) of the districts established under this section, the territory is included in the district that:

(1) is one (1) of the districts in which the territory is described in the ordinance adopted under this section;

(2) is contiguous to that territory; and

(3) contains the least population of all districts contiguous to that territory.

(e) Except as provided in subsection (f), an ordinance adopted under this section becomes effective when filed with:

(1) the office of the secretary of state; and

(2) the circuit court clerk of each county in which the town is located.

(f) An ordinance incorporating a town under this section may not take effect during the year preceding a year in which a federal decennial census is conducted. An ordinance under this section that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January ~~2~~ **1** of the year in which a federal decennial census is conducted.

(g) Proceedings to incorporate a town across county boundaries must have the approval of the county executive of each county that contains a part of the proposed town. Each county that contains a part of the proposed town must adopt identical ordinances providing for the incorporation of the town.

(h) Notwithstanding subsection (f) as that subsection existed on

December 31, 2009, an ordinance that took effect January 2, 2010, because of the application of subsection (f), as that subsection existed on December 31, 2009, is instead considered to take effect January 1, 2010, without the adoption of an ordinance or an amended ordinance or any other additional action being required.

SECTION 124. IC 36-5-1-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: Sec. 18. (a) If at least two-thirds (2/3) of the votes cast in an election under section 16 of this chapter are affirmative, and at least four-fifths (4/5) of all the voters listed in the census voted in the election, the dissolution or change of name takes effect in the manner prescribed by this section.

(b) A change of name takes effect thirty (30) days after the filing of the statement required by section 17 of this chapter.

(c) Except as provided in subsection (d), a dissolution takes effect six (6) months after the filing of the statement required by section 17 of this chapter. The property owned by the town after payment of debts and liabilities shall be disposed of in the manner chosen by a majority of the voters of the town at a special election for that purpose. Dissolution of a town does not affect the validity of a contract to which the town is a party.

(d) A dissolution under this chapter may not take effect during the year preceding a year in which a federal decennial census is conducted. A dissolution that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January ~~2~~ **1** of the year in which a federal decennial census is conducted.

(e) Notwithstanding subsection (d) as that subsection existed on December 31, 2009, a dissolution that took effect January 2, 2010, because of the application of subsection (d), as that subsection existed on December 31, 2009, is instead considered to take effect January 1, 2010, without any additional action being required.

SECTION 125. IC 36-5-1.1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: Sec. 9. (a) A person aggrieved by a decision made by the county executive under section 6 of this chapter may, within thirty (30) days, appeal that decision or result to the circuit court for the county containing more than fifty percent (50%) in assessed valuation of the

land in the town. The appeal is instituted by giving written notice to the clerk of the circuit court and filing with the county executive a bond for five hundred dollars ($500), with surety approved by the county executive. The bond must provide:

(1) that the appeal will be duly prosecuted; and

(2) that the appellants will pay all costs if the appeal is decided against them.

(b) When an appeal is instituted, the county executive shall file with the clerk of the circuit court a transcript of all proceedings in the case, together with all papers filed in the case. The county executive may not take further action in the case until the appeal is heard and determined.

(c) An appeal under this section shall be heard by the circuit court without a jury. Change of venue from the judge may be granted, but change of venue from the county may not be granted. If the court orders the dissolution to take place, the circuit court clerk shall, immediately after the judgment of the court, certify the judgment of the circuit court to:

(1) the clerk of the municipality;

(2) the circuit court clerk of any other county in which the town is located; and

(3) the office of the secretary of state.

(d) Except as provided in subsection (e), the dissolution takes effect sixty (60) days after the order is certified.

(e) A dissolution under this section may not take effect during the year preceding a year in which a federal decennial census is conducted. A dissolution under this section that would otherwise take effect during the year preceding the year in which the federal decennial census is conducted takes effect January ~~2~~ **1** of the year in which a federal decennial census is conducted.

(f) Notwithstanding subsection (e) as that subsection existed on December 31, 2009, a dissolution that took effect January 2, 2010, because of the application of subsection (e), as that subsection existed on December 31, 2009, is instead considered to take effect January 1, 2010, without any additional action being required.

SECTION 126. IC 36-5-1.1-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: Sec. 10. (a) If the county executive approves dissolution under section 6 of this chapter, the county executive shall adopt:

(1) an ordinance; or

(2) an order in a county having a consolidated city;

dissolving the town.

(b) Except as provided in subsection (e), a dissolution takes effect:

(1) at least sixty (60) days after the ordinance or order under subsection (a) is adopted; and

(2) when the county auditor files a copy of the ordinance or order with:

(A) the circuit court clerk of each county in which the town is located; and

(B) the office of the secretary of state.

(c) The property owned by the town after payment of debts and liabilities shall be disposed of by the county executive. Any proceeds remaining shall be deposited in the county general fund. Dissolution of a town does not affect the validity of a contract to which the town is a party.

(d) After dissolution, the books and records of the town become the property of the county executive for safekeeping.

(e) A dissolution under this section may not take effect during the year preceding a year in which a federal decennial census is conducted. A dissolution under this section that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January ~~2~~ **1** of the year in which a federal decennial census is conducted.

(f) Notwithstanding subsection (e) as that subsection existed on December 31, 2009, a dissolution that took effect January 2, 2010, because of the application of subsection (e), as that subsection existed on December 31, 2009, is instead considered to take effect January 1, 2010, without any additional action being required.

SECTION 127. IC 36-5-1.1-10.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: Sec. 10.5. (a) This section applies to the dissolution of an included town.

(b) The town legislative body may adopt a resolution to consider dissolution of the town under this section. The resolution must state the following:

(1) That the town legislative body conduct a public hearing at a stated date, place, and time concerning the dissolution of the

town.

(2) That the town legislative body will hear all statements presented in favor of or in opposition to dissolution.

(3) That the town legislative body may adopt an ordinance to dissolve the town at the conclusion of the public hearing.

(c) The town clerk shall publish a notice of the public hearing in accordance with IC 5-3-1.

(d) The town legislative body may continue a public hearing under this section. If a hearing is continued, the clerk is not required to publish an additional notice under subsection (c).

(e) The town legislative body may adopt an ordinance following the conclusion of the public hearing under subsection (b). The town clerk shall file a copy of the ordinance with:

(1) the circuit court clerk of the county; and

(2) the office of the secretary of state.

(f) Except as provided in subsection (g), the ordinance dissolving the town takes effect:

(1) at least sixty (60) days after adoption; and

(2) when the ordinance is filed under subsection (e).

(g) A dissolution under this section may not take effect during the year preceding a year in which a federal decennial census is conducted. A dissolution under this section that would otherwise take effect during the year preceding a year in which the federal decennial census is conducted takes effect January ~~2~~ **1** of the year in which a federal decennial census is conducted.

(h) When an ordinance dissolving a town becomes effective:

(1) the territory included within the town when the ordinance was adopted becomes a part of the consolidated city;

(2) the books and records of the town become the property of the county executive;

(3) the property owned by the town after payment of debts and liabilities shall be disposed of by the county executive; and

(4) the county executive shall deposit any proceeds remaining after payment of debts and liabilities into the county general fund.

(i) The dissolution of a town under this section does not affect the validity of a contract to which the town is a party.

(j) Notwithstanding subsection (g) as that subsection existed on December 31, 2009, a dissolution that took effect January 2, 2010,

because of the application of subsection (g), as that subsection existed on December 31, 2009, is instead considered to take effect January 1, 2010, without any additional action being required.

SECTION 128. IC 36-5-1.1-10.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: Sec. 10.6. (a) This section applies to included towns.

(b) The dissolution of a town under this section may be instituted by filing a petition with the county board of registration. The petition must be signed by at least the number of the registered voters of the town required to place a candidate on the ballot under IC 3-8-6-3. The petition must be filed not later than June 1 of a year in which a general or municipal election will be held.

(c) If a petition meets the criteria set forth in subsection (b), the county board of registration shall certify the public question to the county election board under IC 3-10-9-3. The county election board shall place the question of dissolution on the ballot provided for voters in the included town at the first general or municipal election following certification. The question shall be placed on the ballot in the form prescribed by IC 3-10-9-4 and must state "Shall the town of _____ dissolve?".

(d) If the public question is approved by a majority of the voters voting on the question, the county election board shall file a copy of the certification prepared under IC 3-12-4-9 concerning the public question described by this section with the following:

(1) The circuit court clerk of the county.

(2) The office of the secretary of state.

(e) Except as provided in subsection (f), dissolution occurs:

(1) at least sixty (60) days after certification under IC 3-12-4-9; and

(2) when the certification is filed under subsection (d).

(f) A dissolution under this section may not take effect during the year preceding a year in which a federal decennial census is conducted. A dissolution under this section that would otherwise take effect during the year preceding a year in which the federal decennial census is conducted takes effect January ~~2~~ **1** of the year in which a federal decennial census is conducted.

(g) When a town is dissolved under this section:

(1) the territory included within the town when the ordinance was

adopted becomes a part of the consolidated city;

(2) the books and records of the town become the property of the county executive;

(3) the property owned by the town after payment of debts and liabilities shall be disposed of by the county executive; and

(4) the county executive shall deposit any proceeds remaining after payment of debts and liabilities into the county general fund.

(h) The dissolution of a town under this section does not affect the validity of a contract to which the town is a party.

(i) Notwithstanding subsection (f) as that subsection existed on December 31, 2009, a dissolution that took effect January 2, 2010, because of the application of subsection (f), as that subsection existed on December 31, 2009, is instead considered to take effect January 1, 2010, without any additional action being required.

SECTION 129. IC 36-6-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)]: Sec. 3. (a) When part of a township is owned by the state or the United States, devoted to a public use, and withdrawn from taxation for local purposes, and:

(1) less than eighteen (18) square miles of the township remains subject to taxation; or

(2) the township is divided into two (2) or more separate sections by the government owned part;

the county executive may issue an order to alter the boundaries of the township and adjoining townships on receipt of a petition signed by at least thirty-five percent (35%) of the resident freeholders of a part of the township adjoining another township.

(b) Except as provided in subsection (c), a boundary alteration under this section is effective when a copy of the order is filed with:

(1) the circuit court clerk; and

(2) the office of the secretary of state.

(c) A boundary alteration under this section may not take effect during the year preceding a year in which a federal decennial census is conducted. A boundary alteration that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January ~~2~~ **1** of the year in which a federal decennial census is conducted.

(d) Notwithstanding subsection (c) as that subsection existed on

December 31, 2009, a boundary alteration that took effect January 2, 2010, because of the application of subsection (c), as that subsection existed on December 31, 2009, is instead considered to take effect January 1, 2010, without any additional action being required.

SECTION 130. IC 36-7-10.1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) The legislative body of a municipality or county may by ordinance require the owners of real property located within the municipality or the unincorporated area of the county to cut and remove weeds and other rank vegetation growing on the property. As used in this chapter, "weeds and other rank vegetation" does not include agricultural crops, such as hay and pasture.

(b) An ordinance adopted under subsection (a) must specify the following:

(1) The department of the municipality or county responsible for the administration of the ordinance.

(2) The definitions of weeds and rank vegetation.

(3) The height at which weeds or rank vegetation becomes a violation of the ordinance, specifying the appropriate heights for various types of weeds and rank vegetation.

(4) The procedure for issuing notice to the owner of real property of a violation of the ordinance.

(5) The procedure under which the municipality or county, or its contractors, may enter real property to abate a violation of the ordinance if the owner fails to abate the violation.

(6) The procedure for issuing a bill to the owner of real property for the costs incurred by the municipality or county in abating the violation, including administrative costs and removal costs. **The cost of sending notice under subsection (c) is an administrative cost that may be billed to the owner under this subdivision.**

(7) The procedure for appealing a notice of violation or a bill issued under the ordinance.

(c) An ordinance adopted under subsection (a) must provide that a notice sent to the property owner must be sent by certified mail, return receipt requested, or an equivalent service permitted under IC 1-1-7-1 to:

(1) the owner of record of real property with a single owner; or

(2) at least one (1) of the owners of real property with multiple owners;

at the last address of the owner for the property as indicated in the records of the county auditor on the date of the notice.

SECTION 131. IC 36-7-13-12, AS AMENDED BY P.L.199-2005, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) If a municipal or county executive has submitted an application to an advisory commission on industrial development requesting that an area be designated as a district under this chapter and the advisory commission has compiled and prepared the information required under section 11 of this chapter concerning the area, the advisory commission may adopt a resolution designating the area as a district if it makes the findings described in subsection (b), (c), (d), or (e). In a county described in subsection (c), an advisory commission may designate more than one (1) district under subsection (c).

(b) For an area located in a county having a population of more than one hundred twenty thousand (120,000) but less than one hundred thirty thousand (130,000), an advisory commission may adopt a resolution designating a particular area as a district only after finding all of the following:

(1) The area contains a building or buildings:

(A) with at least one million (1,000,000) square feet of usable interior floor space; and

(B) that is or are vacant or will become vacant due to the relocation of an employer.

(2) At least one thousand (1,000) fewer persons are employed in the area than were employed in the area during the year that is ten (10) years previous to the current year.

(3) There are significant obstacles to redevelopment of the area due to any of the following problems:

(A) Obsolete or inefficient buildings.

(B) Aging infrastructure or inefficient utility services.

(C) Utility relocation requirements.

(D) Transportation or access problems.

(E) Topographical obstacles to redevelopment.

(F) Environmental contamination.

(4) The unit has expended, appropriated, pooled, set aside, or pledged at least one hundred thousand dollars ($100,000) for purposes of addressing the redevelopment obstacles described in subdivision (3).

(5) The area is located in a county having a population of more than one hundred twenty thousand (120,000) but less than one hundred thirty thousand (130,000).

(c) For a county having a population of more than one hundred eighteen thousand (118,000) but less than one hundred twenty thousand (120,000), an advisory commission may adopt a resolution designating not more than ~~two (2)~~ **three (3)** areas as districts. An advisory commission may designate an area as a district only after finding the following:

(1) The area meets ~~either~~ **at least one (1)** of the following conditions:

(A) **The area meets the following conditions:**

(i) The area contains a building with at least seven hundred ninety thousand (790,000) square feet. ~~and~~

(ii) At least eight hundred (800) fewer people are employed in the area than were employed in the area during the year that is fifteen (15) years previous to the current year.

(iii) The area is located in or is adjacent to an industrial park.

(B) **The area meets the following conditions:**

(i) The area contains a building with at least three hundred eighty-six thousand (386,000) square feet. ~~and~~

(ii) At least four hundred (400) fewer people are employed in the area than were employed in the area during the year that is fifteen (15) years previous to the current year.

(iii) The area is located in or is adjacent to an industrial park.

(C) The area meets the following conditions:

(i) The area contains a building with at least one million (1,000,000) square feet.

(ii) At least seven hundred (700) fewer people are employed in the area than were employed in the area on January 1, 2008.

~~(2) The area is located in or is adjacent to an industrial park.~~

~~(3)~~ **(2)** There are significant obstacles to redevelopment of the area due to any of the following problems:

(A) Obsolete or inefficient buildings.

(B) Aging infrastructure or inefficient utility services.

(C) Utility relocation requirements.

(D) Transportation or access problems.

(E) Topographical obstacles to redevelopment.

(F) Environmental contamination.

~~(4)~~ **(3)** The area is located in a county having a population of more than one hundred eighteen thousand (118,000) but less than one hundred twenty thousand (120,000).

(d) For an area located in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000), an advisory commission may adopt a resolution designating a particular area as a district only after finding all of the following:

(1) The area contains a building or buildings:

(A) with at least one million five hundred thousand (1,500,000) square feet of usable interior floor space; and

(B) that is or are vacant or will become vacant.

(2) At least eighteen thousand (18,000) fewer persons are employed in the area at the time of application than were employed in the area before the time of application.

(3) There are significant obstacles to redevelopment of the area due to any of the following problems:

(A) Obsolete or inefficient buildings.

(B) Aging infrastructure or inefficient utility services.

(C) Utility relocation requirements.

(D) Transportation or access problems.

(E) Topographical obstacles to redevelopment.

(F) Environmental contamination.

(4) The unit has expended, appropriated, pooled, set aside, or pledged at least one hundred thousand dollars ($100,000) for purposes of addressing the redevelopment obstacles described in subdivision (3).

(5) The area is located in a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000).

(e) For an area located in a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000), an advisory commission may adopt a resolution designating a particular area as a district only after finding all of the following:

(1) The area contains a building or buildings:

(A) with at least eight hundred thousand (800,000) gross square feet; and

(B) having leasable floor space, at least fifty percent (50%) of which is or will become vacant.

(2) There are significant obstacles to redevelopment of the area due to any of the following problems:

(A) Obsolete or inefficient buildings as evidenced by a decline of at least seventy-five percent (75%) in their assessed valuation during the preceding ten (10) years.

(B) Transportation or access problems.

(C) Environmental contamination.

(3) At least four hundred (400) fewer persons are employed in the area than were employed in the area during the year that is fifteen (15) years previous to the current year.

(4) The area has been designated as an economic development target area under IC 6-1.1-12.1-7.

(5) The unit has appropriated, pooled, set aside, or pledged at least two hundred fifty thousand dollars ($250,000) for purposes of addressing the redevelopment obstacles described in subdivision (2).

(6) The area is located in a county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000).

(f) The advisory commission, or the county or municipal legislative body, in the case of a district designated under section 10.5 of this chapter, shall designate the duration of the district. However, a district must terminate not later than fifteen (15) years after the income tax incremental amount or gross retail incremental amount is first allocated to the district.

(g) Upon adoption of a resolution designating a district, the advisory commission shall:

(1) publish notice of the adoption and substance of the resolution in accordance with IC 5-3-1; and

(2) file the following information with each taxing unit in the county where the district is located:

(A) A copy of the notice required by subdivision (1).

(B) A statement disclosing the impact of the district, including the following:

(i) The estimated economic benefits and costs incurred by the district, as measured by increased employment and anticipated growth of property assessed values.

(ii) The anticipated impact on tax revenues of each taxing unit.

The notice must state the general boundaries of the district.

(h) Upon completion of the actions required by subsection (g), the advisory commission shall submit the resolution to the budget committee for review and recommendation to the budget agency. If the budget agency fails to take action on a resolution designating a district within one hundred twenty (120) days after the date that the resolution is submitted to the budget committee, the designation of the district by the resolution is considered approved.

(i) When considering a resolution, the budget committee and the budget agency must make the following findings:

(1) The area to be designated as a district meets the conditions necessary for designation as a district.

(2) The designation of the district will benefit the people of Indiana by protecting or increasing state and local tax bases and tax revenues for at least the duration of the district.

(j) The income tax incremental amount and the gross retail incremental amount may not be allocated to the district until the resolution is approved under this section.

SECTION 132. IC 36-7-13-14, AS AMENDED BY P.L.199-2005, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) **This section does not apply to a district that:**

(1) is described in section 23(a) of this chapter; and

(2) is not selected by the advisory commission to receive an allocation of income tax incremental amount and the gross retail incremental amount under this chapter.

(b) Before the first business day in October of each year, the department shall calculate the income tax incremental amount and the

gross retail incremental amount for the preceding state fiscal year for each district designated under this chapter.

~~(b)~~ **(c)** Businesses operating in the district shall report, in the manner and in the form prescribed by the department, information that the department determines necessary to calculate incremental gross retail, use, and income taxes.

~~(c)~~ **(d)** Not later than sixty (60) days after receiving a certification of a district's modified boundaries under section 12.5(c) of this chapter, the department shall recalculate the income tax incremental amount and the gross retail incremental amount for the preceding state fiscal year for a district modified under section 12.5 of this chapter.

SECTION 133. IC 36-7-13-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) **This section does not apply to a district that:**

(1) is described in section 23(a) of this chapter; and

(2) is not selected by the advisory commission to receive an allocation of income tax incremental amount and the gross retail incremental amount under this chapter.

(b) If an advisory commission on industrial development designates a district under this chapter or the legislative body of a county or municipality adopts an ordinance designating a district under section 10.5 of this chapter, the treasurer of state shall establish an incremental tax financing fund for the district. The fund shall be administered by the treasurer of state. Money in the fund does not revert to the state general fund at the end of a state fiscal year.

~~(b)~~ **(c)** Subject to subsection ~~(c),~~ **(d),** the following amounts shall be deposited during each state fiscal year in the incremental tax financing fund established for the district under subsection (a):

(1) The aggregate amount of state gross retail and use taxes that are remitted under IC 6-2.5 by businesses operating in the district, until the amount of state gross retail and use taxes deposited equals the gross retail incremental amount for the district.

(2) The aggregate amount of state and local income taxes paid by employees employed in the district with respect to wages earned for work in the district, until the amount of state and local income taxes deposited equals the income tax incremental amount.

~~(c)~~ **(d)** The aggregate amount of revenues that is:

(1) attributable to:

(A) the state gross retail and use taxes established under IC 6-2.5; and

(B) the adjusted gross income tax established under IC 6-3-1 through IC 6-3-7; and

(2) deposited during any state fiscal year in each incremental tax financing fund established for a district;

may not exceed one million dollars ($1,000,000) per district designated under section 10.5 or 12 of this chapter and seven hundred fifty thousand dollars ($750,000) per district for a district designated under section 10.1 or 12.1 of this chapter.

~~(d)~~ **(e)** On or before the twentieth day of each month, all amounts held in the incremental tax financing fund established for a district shall be distributed to the district's advisory commission on industrial development for deposit in the industrial development fund of the unit that requested designation of the district.

SECTION 134. IC 36-7-13-23 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 23. (a) This section applies only to a district designated for an area described in:**

(1) section 12(c)(1)(A) of this chapter; or

(2) section 12(c)(1)(C) of this chapter.

(b) A district is not entitled to receive an allocation of the income tax incremental amount and the gross retail incremental amount unless the advisory commission selects the district to receive the allocations.

(c) The advisory commission may select only one (1) of the districts to receive allocations of the income tax incremental amount and the gross retail incremental amount.

(d) The advisory commission shall inform the budget agency which district it selects to receive allocations on an election form prescribed by the budget agency.

(e) The income tax incremental amount and the gross retail incremental amount may not be allocated to the district selected under this section until the budget agency receives the election form required by subsection (d).

SECTION 135. IC 36-7-22-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. (a) After conducting a hearing on the proposed economic improvement district, the

legislative body may adopt an ordinance establishing the economic improvement district if it determines that:

(1) the petition meets the requirements of this section and sections 4 and 5 of this chapter;

(2) the economic improvement projects to be undertaken in the district will provide special benefits to property owners in the district and will be of public utility and benefit;

(3) the benefits provided by the project will be new benefits that do not replace benefits existing before the establishment of the district; and

(4) the formula to be used for the assessment of benefits is appropriate.

(b) The legislative body may adopt the ordinance only if it determines that the petition has been signed by:

(1) a majority of the owners of real property within the proposed district; and

(2) the owners of real property constituting ~~at least sixty-six and two-thirds percent (66 2/3%)~~ **more than fifty percent (50%)** of the assessed valuation in the proposed district.

(c) The signature of a person whose property would be exempt from assessments under the ordinance may not be considered in determining whether the requirements of subsection (b) are met. In addition, the assessed valuation of any property that would be exempt from assessment under the ordinance may not be considered in determining the total assessed valuation in the proposed district.

SECTION 136. IC 36-7-22-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. An ordinance adopted under section 7 of this chapter must establish an economic improvement board to be appointed by the legislative body. The board must have at least three (3) members, and a majority of the board members must own real property within the district. **However, if there is only one (1) property owner within a district formed before March 1, 2010, the legislative body shall appoint one (1) member to the economic improvement board who owns real property within the district and not more than two (2) other members who are not required to own real property within the district. After, February 28, 2010, a district formed under this chapter must have at least one (1) parcel of real property that is not owned by an**

owner of other parcels of real property in the district.

SECTION 137. IC 36-7-22-12, AS AMENDED BY P.L.1-2009, SECTION 166, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) The board shall use the formula approved by the legislative body under section 7(a)(4) of this chapter to determine the percentage of benefit to be received by each parcel of real property within the economic improvement district. The board shall apply the percentage determined for each parcel to the total amount that is to be defrayed by special assessment and determine the **special** assessment for each parcel.

(b) Promptly after determining the proposed assessment for each parcel, the board shall mail notice to each owner of property to be assessed. This notice must:

(1) set forth the amount of the proposed **special** assessment;

(2) state that the proposed **special** assessment on each parcel of real property in the economic improvement district is on file and can be seen in the board's office;

(3) state the time and place where written remonstrances against the **special** assessment may be filed;

(4) set forth the time and place where the board will hear any owner of assessed real property who has filed a remonstrance before the hearing date; and

(5) state that the board, after hearing evidence, may increase or decrease, or leave unchanged, the **special** assessment on any parcel.

(c) The notices must be deposited in the mail twenty (20) days before the hearing date. The notices to the owners must be addressed as the names and addresses appear on the tax duplicates and the records of the county auditor.

(d) At the time fixed in the notice, the board shall hear any owner of assessed real property who has filed a written remonstrance before the date of the hearing. The hearing may be continued from time to time as long as is necessary to hear the owners.

(e) The board shall render its decision by increasing, decreasing, or confirming each **special** assessment by setting opposite each name, parcel, and proposed assessment, the amount of the assessment as determined by the board. However, if the total of the **special** assessments exceeds the amount needed, the board shall make a

prorated reduction in each **special** assessment.

(f) Except as provided in section 13 of this chapter, the signing of the **special** assessment schedule by a majority of the members of the board and the delivery of the schedule to the county auditor constitute a final and conclusive determination of the benefits that are assessed.

(g) Each ~~economic improvement district~~ **special** assessment is

~~(1) included within the definition of property taxation under IC 6-1.1-1-14; and~~

~~(2)~~ a lien on the real property that is assessed, ~~in the economic improvement district.~~ **second only to ad valorem property taxes levied on that property.**

~~The general assembly finds that an economic improvement district assessment is a property tax levied for the general public welfare.~~

~~(h) An economic improvement district assessment paid by a property owner is a property tax for the purposes of applying Section 164 of the Internal Revenue Code to the determination of adjusted gross income. However, an economic improvement district assessment paid by a property owner is not eligible for a credit under IC 6-1.1, IC 6-3.5, or any other law.~~

~~(i)~~ **(h)** The board shall certify to the county auditor the schedule of **special** assessments of benefits. **For purposes of providing substantiation of the deductibility of a special assessment for federal adjusted gross income tax purposes under Section 164 of the Internal Revenue Code, the board shall, to the extent practicable, supplement the schedule of special assessments provided to the county auditor with a statement that identifies the part of each special assessment that is allocable to interest, maintenance, and repair charges. If the board provides the county auditor with the statement, the county auditor shall show, on the tax statement, the part of the special assessment that is for interest and maintenance and repair items separately from the remainder of the special assessment.**

SECTION 138. IC 36-7-32-11, AS AMENDED BY P.L.3-2008, SECTION 263, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 11. (a) After receipt of an application under section 10 of this chapter, and subject to subsection (b), the Indiana economic development corporation may designate a certified technology park if the corporation determines that the

application demonstrates a firm commitment from at least one (1) business engaged in a high technology activity creating a significant number of jobs and satisfies one (1) or more of the following additional criteria:

(1) A demonstration of significant support from an institution of higher education, a private research based institute, or a military research and development or testing facility on an active United States government military base or other military installation located within, or in the vicinity of, the proposed certified technology park, as evidenced by the following criteria:

(A) Grants of preferences for access to and commercialization of intellectual property.

(B) Access to laboratory and other facilities owned by or under the control of the postsecondary educational institution or private research based institute.

(C) Donations of services.

(D) Access to telecommunications facilities and other infrastructure.

(E) Financial commitments.

(F) Access to faculty, staff, and students.

(G) Opportunities for adjunct faculty and other types of staff arrangements or affiliations.

(H) Other criteria considered appropriate by the Indiana economic development corporation.

(2) A demonstration of a significant commitment by the postsecondary educational institution, private research based institute, or military research and development or testing facility on an active United States government military base or other military installation to the commercialization of research produced at the certified technology park, as evidenced by the intellectual property and, if applicable, tenure policies that reward faculty and staff for commercialization and collaboration with private businesses.

(3) A demonstration that the proposed certified technology park will be developed to take advantage of the unique characteristics and specialties offered by the public and private resources available in the area in which the proposed certified technology park will be located.

(4) The existence of or proposed development of a business incubator within the proposed certified technology park that exhibits the following types of resources and organization:

(A) Significant financial and other types of support from the public or private resources in the area in which the proposed certified technology park will be located.

(B) A business plan exhibiting the economic utilization and availability of resources and a likelihood of successful development of technologies and research into viable business enterprises.

(C) A commitment to the employment of a qualified full-time manager to supervise the development and operation of the business incubator.

(5) The existence of a business plan for the proposed certified technology park that identifies its objectives in a clearly focused and measurable fashion and that addresses the following matters:

(A) A commitment to new business formation.

(B) The clustering of businesses, technology, and research.

(C) The opportunity for and costs of development of properties under common ownership or control.

(D) The availability of and method proposed for development of infrastructure and other improvements, including telecommunications technology, necessary for the development of the proposed certified technology park.

(E) Assumptions of costs and revenues related to the development of the proposed certified technology park.

(6) A demonstrable and satisfactory assurance that the proposed certified technology park can be developed to principally contain property that is primarily used for, or will be primarily used for, a high technology activity or a business incubator.

(b) The Indiana economic development corporation may not approve an application that would result in a substantial reduction or cessation of operations in another location in Indiana in order to relocate them within the certified technology park.

(c) A certified technology park designated under this section is subject to the review of the Indiana economic development corporation and must be recertified every four (4) years. The corporation shall develop procedures and the criteria to be used in the review required

by this subsection. A certified technology park shall furnish to the corporation the following information to be used in the course of the review:

(1) Total employment and payroll levels for all businesses operating within the certified technology park.

(2) The nature and extent of any technology transfer activity occurring within the certified technology park.

(3) The nature and extent of any nontechnology businesses operating within the certified technology park.

(4) The use and outcomes of any state money made available to the certified technology park.

(5) An analysis of the certified technology park's overall contribution to the technology based economy in Indiana.

If a certified technology park is not recertified, the Indiana economic development corporation shall send a certified copy of a notice of the determination to the county auditor, the department of local government finance, and the department of state revenue.

(d) To the extent allowed under IC 5-14-3, the corporation shall maintain the confidentiality of any information that is:

(1) submitted as part of the review process under subsection (c); and

(2) marked as confidential;

by the certified technology park.

SECTION 139. IC 36-8-16.5-14.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 14.5. As used in this chapter, "prepaid ~~subscriber" refers to a CMRS subscriber who pays in full prospectively for the service and is issued an Indiana telephone number or an Indiana identification number for the service.~~ **user" has the meaning set forth in IC 36-8-16.6-6.**

SECTION 140. IC 36-8-16.5-14.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 14.7. As used in this chapter, "standard ~~subscriber"~~ **user" or "user"** refers to a CMRS ~~subscriber~~ **user** who pays retrospectively for the service and has an Indiana billing address for the service.

SECTION 141. IC 36-8-16.5-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 22. The fund consists of the following:

(1) Service charges assessed on CMRS users in the state under

section 25.5 of this chapter.

(2) Appropriations made by the general assembly.

(3) Grants and gifts intended for deposit in the fund.

(4) Interest, premiums, gains, or other earnings on the fund.

(5) Enhanced prepaid wireless charges collected and remitted under IC 36-8-16.6-12.

SECTION 142. IC 36-8-16.5-25.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 25.5. (a) As used in this section, "customer" and "place of primary use" have the meanings set forth in IC 6-8.1-15.

(b) Except as provided in section 34 of this chapter, the board shall assess a monthly wireless emergency enhanced 911 fee on each ~~CMRS subscriber~~ **standard user** that is a customer having a place of primary use in Indiana. A customer's place of primary use shall be determined in the manner provided by IC 6-8.1-15.

(c) The fee assessed under subsection (b) does not apply to a prepaid user in a retail transaction under IC 36-8-16.6.

SECTION 143. IC 36-8-16.5-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 29. An additional fee relating to the provision of wireless 911 service may not be levied by a state agency or local unit of government. **An enhanced prepaid wireless charge (as defined in IC 36-8-16.6-4) is not considered an additional fee relating to the provision of wireless 911 service for purposes of this section.**

SECTION 144. IC 36-8-16.5-30.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 30.5. (a) As used in this section, "customer" and "place of primary use" have the meanings set forth in IC 6-8.1-15.

(b) Except as provided in section 34 of this chapter, ~~each~~ **a** CMRS provider shall, **as part of its normal monthly billing process,** collect the wireless emergency enhanced 911 fee assessed under section 25.5 of this chapter ~~as follows (1) As part of its normal monthly billing process, a CMRS provider shall collect the fee~~ from each standard ~~subscriber~~ **user** that is a customer having a place of primary use in Indiana and may list the fee as a separate line item on each bill. A customer's place of primary use shall be determined in the manner provided by IC 6-8.1-15. If a CMRS provider receives a partial payment for a monthly bill from a CMRS standard ~~subscriber,~~ **user,** the

CMRS provider shall apply the payment against the amount the CMRS standard ~~subscriber~~ **user** owes to the CMRS provider before applying the payment against the fee.

~~(2)~~ **(c) This subsection applies only if IC 36-8-16.6 expires and sunsets under the conditions set forth in IC 36-8-16.6-22.** A CMRS provider shall collect and remit to the board under section 36 of this chapter fees from its prepaid ~~subscribers~~ **users** in a total amount equal to the fee amount multiplied by the number of active prepaid ~~subscriber~~ **user** accounts on the last day of each calendar month.

SECTION 145. IC 36-8-16.5-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 31. A CMRS provider, as part of its monthly billing process, may not pro-rate the monthly wireless emergency enhanced 911 fee collected from ~~the subscriber.~~ **a standard user.**

SECTION 146. IC 36-8-16.5-32 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 32. A CMRS provider is not required to take legal action to enforce the collection of the wireless emergency enhanced 911 fee for which a ~~subscriber~~ **user** is billed. However, a collection action may be initiated by the board. A court finding for the board in the action may award reasonable costs and attorney's fees associated with the collection action.

SECTION 147. IC 36-8-16.5-34 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 34. A CMRS number is exempt from the wireless emergency enhanced 911 fee if the ~~subscriber~~ **user** is any of the following:

(1) The federal government or an agency of the federal government.

(2) The state or an agency or instrumentality of the state.

(3) A political subdivision (as defined in IC 36-1-2-13) or an agency of a political subdivision.

SECTION 148. IC 36-8-16.5-35, AS AMENDED BY P.L.146-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 35. A CMRS provider may keep seven tenths of a cent ($0.007) of the wireless emergency enhanced 911 fee collected each month from each ~~subscriber~~ **user** for the purpose of defraying the administrative costs of collecting the fee.

SECTION 149. IC 36-8-16.5-39, AS AMENDED BY P.L.146-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2010]: Sec. 39. (a) Except as provided by section 26 of this chapter and subsections (b) and (c), the fund must be managed in the following manner:

(1) Three cents ($0.03) of the wireless emergency 911 fee collected from each ~~subscriber~~ **user** must be deposited in an escrow account to be used to reimburse:

(A) CMRS providers, PSAPs, and the board for costs associated with implementation of phase two (2) of the FCC order; and

(B) the board for costs associated with other wireless enhanced 911 services mandated by the FCC and specified in the FCC order but not incurred by CMRS providers or PSAPs.

A CMRS provider or a PSAP may recover costs under this chapter if the costs are incurred before July 1, 2005, and invoiced to the board not later than December 31, 2005. The board may invest money in the account in the manner prescribed by section 23 of this chapter and may use the proceeds of the investments to reimburse CMRS providers and PSAPs under this subdivision.

(2) At least twenty-five cents ($0.25) of the wireless emergency 911 fee collected from each ~~subscriber~~ **user** must be deposited in an escrow account and used to reimburse CMRS providers for the actual costs incurred by the CMRS providers before July 1, 2005, in complying with the wireless 911 requirements established by the FCC order and rules that are adopted by the FCC under the FCC order, including costs and expenses incurred in designing, upgrading, purchasing, leasing, programming, installing, testing, or maintaining all necessary data, hardware, and software required to provide service as well as the costs of operating the service. The board may invest money in the account in the manner prescribed by section 23 of this chapter and may use the proceeds of the investments to reimburse CMRS providers under this subdivision. The CMRS provider may only request funds for true cost recovery. The board may increase the amount held in escrow under this subdivision not more than one (1) time a calendar year. If the board adjusts the wireless emergency 911 fee under section 26(a) of this chapter within a calendar year, an adjustment to the amount held in escrow under this subdivision for the calendar year must be made at that time.

(3) Two percent (2%) of the wireless emergency 911 fee collected from each ~~subscriber~~ **user** may be used by the board to recover the board's expenses in administering this chapter. However, the board may increase this percentage at the time the board may adjust the monthly fee assessed against each ~~subscriber~~ **user** to allow for full recovery of administration expenses.

(4) The remainder of the wireless emergency 911 fee collected from each ~~subscriber~~ **user** must be distributed in the following manner:

(A) The board shall distribute on a monthly basis to each county containing one (1) or more eligible PSAPs, as identified by the county in the notice required under section 40 of this chapter, a part of the remainder based upon the county's percentage of the state's population (as reported in the most recent official United States census). A county must use a distribution received under this clause to make distributions to PSAPs that:

(i) are identified by the county under section 40 of this chapter as eligible for distributions; and

(ii) accept wireless enhanced 911 service;

for actual costs incurred by the PSAPs in complying with the wireless enhanced 911 requirements established by the FCC order and rules.

(B) The amount of the fee remaining, if any, after the distributions required under clause (A) must be distributed in equal shares between the escrow accounts established under subdivisions (1) and (2).

(b) Notwithstanding the requirements described in subsection (a), the board may transfer money between and among the accounts in subsection (a) in accordance with the following procedures:

(1) For purposes of acting under this subsection, the board must have a quorum consisting of at least one (1) member appointed under section 18(c)(2) of this chapter and at least one (1) member appointed under section 18(c)(3) of this chapter.

(2) A transfer under this subsection must be approved by the affirmative vote of:

(A) at least fifty percent (50%) of the members present at a duly called meeting of the board who are appointed under

section 18(c)(2) of this chapter; and

(B) at least fifty percent (50%) of the members present at a duly called meeting of the board who are appointed under section 18(c)(3) of this chapter.

(3) The board may make transfers only one (1) time during a calendar year.

(4) The board may not make a transfer that:

(A) impairs cost recovery by CMRS providers or PSAPs; or

(B) impairs the ability of the board to fulfill its management and administrative obligations described in this chapter.

(c) If all CMRS providers have been reimbursed for their costs under this chapter, and the fee has been reduced under section 26(c) of this chapter, the board shall manage the fund in the following manner:

(1) One cent ($0.01) of the wireless emergency 911 fee collected from each ~~subscriber~~ **user** may be used by the board to recover the board's expenses in administering this chapter. However, the board may increase this amount at the time the board may adjust the monthly fee assessed against each ~~subscriber~~ **user** to allow for full recovery of administration expenses.

(2) Thirty-eight and three tenths cents ($0.383) of the wireless emergency 911 fee collected from each ~~subscriber~~ **user** must be distributed to each county containing at least one (1) PSAP, as identified in the county notice required by section 40 of this chapter. The board shall make these distributions in the following manner:

(A) The board shall distribute on a monthly basis to each eligible county thirty-four and four tenths cents ($0.344) of the wireless emergency 911 fee based upon the county's percentage of the state's population.

(B) The board shall distribute on a monthly basis to each eligible county three and nine tenths cents ($0.039) of the wireless emergency 911 fee equally among the eligible counties. A county must use a distribution received under this clause to reimburse PSAPs that:

(i) are identified by the county under section 40 of this chapter as eligible for distributions; and

(ii) accept wireless enhanced 911 service;

for actual costs incurred by the PSAPs in complying with the

wireless enhanced 911 requirements established by the FCC order and rules.

(C) The board shall deposit the remainder of the wireless emergency 911 fee collected from each ~~subscriber~~ **user** into an escrow account to be used for costs associated with other wireless enhanced 911 services mandated by the FCC and specified in the FCC order but not incurred by PSAPs. The board may invest money in the account in the manner prescribed by section 23 of this chapter and may use the proceeds of the investments for costs associated with other wireless enhanced 911 services mandated by the FCC but not specified in the FCC order or to make distributions to PSAPs under this section.

(3) If the fee has been reduced under section 26(c) of this chapter, the board shall determine how money remaining in the accounts or money for uses described in subsection (a) is to be allocated into the accounts described in this subsection or used for distributions under this subsection.

This subsection does not affect the transfer provisions set forth in subsection (b).

SECTION 150. IC 36-8-16.5-45 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 45. (a) All proprietary information submitted to the board or the treasurer of state is confidential. Notwithstanding any other law, proprietary information submitted under this chapter is not subject to subpoena, and proprietary information submitted under this chapter may not be released to a person other than to the submitting CMRS provider without the permission of the submitting CMRS provider.

(b) General information collected by the board or the treasurer of state may be released or published only in aggregate amounts that do not identify or allow identification of numbers of ~~subscribers~~ **users** or revenues attributable to an individual CMRS provider.

SECTION 151. IC 36-8-16.6 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

Chapter 16.6. Enhanced Prepaid Wireless Telecommunications Service Charge

Sec. 1. As used in this chapter, "board" refers to the wireless

enhanced 911 advisory board established by IC 36-8-16.5-18.

Sec. 2. As used in this chapter, "consumer" means a person that purchases prepaid wireless telecommunications service from a seller. The term includes a prepaid user.

Sec. 3. As used in this chapter, "department" refers to the department of state revenue.

Sec. 4. As used in this chapter, "enhanced prepaid wireless charge" means the charge that a seller is required to collect from a consumer under section 12 of this chapter.

Sec. 5. As used in this chapter, "fund" refers to the wireless emergency telephone system fund established by IC 36-8-16.5-21(a).

Sec. 6. As used in this chapter, "prepaid user" refers to a user of prepaid wireless telecommunications service who:

(1) is issued an Indiana telephone number or an Indiana identification number for the service; or

(2) purchases prepaid wireless telecommunications service in a retail transaction that is sourced to Indiana (as determined under IC 6-2.5-12-16).

Sec. 7. As used in this chapter, "prepaid wireless telecommunications service" means a prepaid wireless calling service (as defined in IC 6-2.5-1-22.4) that allows a user of the service to reach emergency services by dialing the digits nine (9) one (1) one (1).

Sec. 8. As used in this chapter, "provider" means a person or entity that offers prepaid wireless telecommunications service.

Sec. 9. As used in this chapter, "retail transaction" means the purchase of prepaid wireless telecommunications service from a seller for any purpose other than resale.

Sec. 10. As used in this chapter, "seller" means a person that sells prepaid wireless telecommunications service to another person.

Sec. 11. (a) Subject to section 22 of this chapter, the board shall impose an enhanced prepaid wireless charge on each retail transaction that occurs after June 30, 2010. The amount of the initial charge imposed under this subsection may not exceed one-half (1/2) of the monthly wireless emergency enhanced 911 fee assessed under IC 36-8-16.5-25.5.

(b) Subject to legislative approval, the board may increase the

enhanced prepaid wireless charge to ensure adequate revenue for the board to fulfill its duties and obligations under this chapter, IC 36-8-16, and IC 36-8-16.5.

(c) A consumer that is the federal government or an agency of the federal government is exempt from the enhanced prepaid wireless charge imposed under this section.

Sec. 12. (a) A seller shall collect the enhanced prepaid wireless charge from the consumer with respect to each retail transaction.

(b) The seller shall disclose to the consumer the amount of the enhanced prepaid wireless charge. The seller may separately state the amount of the enhanced prepaid wireless charge on an invoice, a receipt, or a similar document that the seller provides to the consumer in connection with the retail transaction.

(c) Subject to section 15 of this chapter, a seller shall remit enhanced prepaid wireless charges to the department at the time and in the manner prescribed by the department.

Sec. 13. The enhanced prepaid wireless charge is the liability of the consumer and not of the seller or a provider. However, a seller is liable to remit to the board all enhanced prepaid wireless charges that the seller collects from consumers under section 12 of this chapter, including all charges that the seller is considered to collect where the amount of the charge has not been separately stated on an invoice, receipt, or other similar document provided to the consumer by the seller.

Sec. 14. The amount of the enhanced prepaid wireless charge that is collected by a seller from a consumer, whether or not separately stated on an invoice, receipt, or other similar document provided to the consumer by the seller, may not be included in the base for determining a tax, fee, surcharge, or other charge that is imposed by the state, a political subdivision, or any other governmental agency.

Sec. 15. A seller may deduct and retain one percent (1%) of enhanced prepaid wireless charges that the seller collects from consumers to reimburse the direct costs incurred by the seller in collecting and remitting enhanced prepaid wireless charges.

Sec. 16. (a) A seller is subject to the same audit and appeal procedures with respect to the collection and remittance of enhanced prepaid wireless charges as with collection and remittance of the state gross retail tax under IC 6-2.5.

(b) An audit under subsection (a) must be conducted jointly by the department of state revenue and the board.

Sec. 17. (a) The department, in conjunction and coordination with the board, shall establish procedures:

(1) governing the collection and remittance of enhanced prepaid wireless charges in accordance with the procedures established under IC 6-8.1 concerning listed taxes; and

(2) allowing a seller to document that a sale of prepaid wireless telecommunications service is not a retail transaction.

(b) A procedure established under subsection (a)(1):

(1) must take into consideration the differences between large and small sellers, including smaller sales volumes; and

(2) may establish lower thresholds for the remittance of enhanced prepaid wireless charges by small sellers.

For purposes of this subsection, a small seller is a seller that sells less than one hundred dollars ($100) of prepaid wireless telecommunications service each month.

Sec. 18. (a) The department shall deposit all remitted enhanced prepaid wireless charges in the fund.

(b) The board shall administer money deposited in the fund under this section in the same manner as wireless emergency enhanced 911 fees assessed under IC 36-8-16.5-25.5.

Sec. 19. A seller of prepaid wireless telecommunications service is not liable for damages to a person resulting from or incurred in connection with the following:

(1) Providing or failing to provide 911 or wireless 911 services.

(2) Identifying or failing to identify the telephone number, address, location, or name associated with a person or device that accesses or attempts to access 911 or wireless 911 service.

(3) Providing lawful assistance to an investigative or law enforcement officer of the United States, a state, or a political subdivision of a state in connection with a lawful investigation or other law enforcement activity by the law enforcement officer.

Sec. 20. (a) An additional fee relating to the provision of wireless 911 service with respect to prepaid wireless telecommunications service may not be levied by a state agency or local unit of government.

(b) The enhanced prepaid wireless charge imposed by section 12 of this chapter is not considered an additional charge relating to the provision of wireless 911 service for purposes of IC 36-8-16.5-29.

Sec. 21. The following are not required to take legal action to enforce the collection of an enhanced prepaid wireless charge that is imposed on a consumer:

(1) A provider.

(2) A seller.

However, the department or the board may initiate a collection action. A court finding for the department or the board, as applicable, in an action may award reasonable costs and attorney's fees associated with the collection action.

Sec. 22 (a) Not later than January 1, 2011, the department shall determine the total amount of fees collected and remitted under IC 36-8-16.5-30.5 (b)(2) (as effective in the period beginning July 1, 2008, and ending June 30, 2010) for the period beginning July 1, 2008, and ending June 30, 2010. The board shall provide all information necessary for the department to perform its duties under this subsection.

(b) Not later than January 1, 2013, the department shall determine the total amount of fees collected and remitted under this chapter for the period beginning July 1, 2010, and ending June 30, 2012.

(c) If the amount determined under subsection (b) is less than the amount determined under subsection (a) by more than five percent (5%), this chapter expires and sunsets July 1, 2013.

SECTION 152. IC 36-9-16-2, AS AMENDED BY P.L.8-2009, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A unit may establish a cumulative building or sinking fund or cumulative capital improvement funds to provide money for one (1) or more of the following purposes:

(1) To purchase, construct, equip, and maintain buildings for public purposes.

(2) To acquire the land, and any improvements on it, that are necessary for the construction of public buildings.

(3) To demolish any improvements on land acquired under this section, and to level, grade, and prepare the land for the

construction of a public building.

(4) To acquire land or rights-of-way to be used as a public way or other means of ingress or egress to land acquired for the construction of a public building.

(5) To improve or construct any public way or other means of ingress or egress to land acquired for the construction of a public building.

(b) In addition to the purposes described in subsection (a), a cumulative capital improvement fund may be used to purchase body armor (as defined in IC 36-8-4-4.5(a)) for active members of a police department.

(c) A municipality may establish a cumulative capital improvement fund for a purpose described in IC 6-7-1-31.1.

SECTION 153. IC 36-9-23-32, AS AMENDED BY P.L.131-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 32. (a) Fees assessed against real property under this chapter or under any statute repealed by IC 19-2-5-30 constitute a lien against the property assessed. The lien is superior to all other liens except tax liens. Except as provided in subsections (b) and (c), the lien attaches when notice of the lien is filed in the county recorder's office under section 33 of this chapter.

(b) A fee is not enforceable as a lien against a subsequent owner of property unless the lien for the fee was recorded with the county recorder before the conveyance to the subsequent owner. If the property is conveyed before the lien can be filed, the municipality shall notify the person who owned the property at the time the fee became payable. The notice must inform the person that payment, including penalty fees for delinquencies, is due not more than fifteen (15) days after the date of the notice. If payment is not received within one hundred eighty (180) days after the date of the notice, the amount due may be expensed as a bad debt loss.

(c) A lien attaches against real property occupied by someone other than the owner only if the utility notified the owner within twenty (20) days after the time the utility fees became sixty (60) days delinquent. However, the utility is required to give notice to the owner ~~only~~ if the owner has given the general office of the utility written notice of the address to which the owner's notice is to be sent. **A notice sent to the owner under this subsection must be sent by certified mail, return**

receipt requested, or an equivalent service permitted under IC 1-1-7-1 to:

(1) the owner of record of real property with a single owner; or

(2) at least one (1) of the owners of real property with multiple owners;

at the last address of the owner for the property as indicated in the records of the county auditor on the date of the notice. The cost of sending notice under this subsection is an administrative cost that may be billed to the owner.

(d) The municipality shall release:

(1) liens filed with the county recorder after the recorded date of conveyance of the property; and

(2) delinquent fees incurred by the seller;

upon receipt of a verified demand in writing from the purchaser. The demand must state that the delinquent fees were not incurred by the purchaser as a user, lessee, or previous owner, and that the purchaser has not been paid by the seller for the delinquent fees.

SECTION 154. IC 36-9-36-37, AS AMENDED BY P.L.67-2006, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 37. (a) Except as provided in section 38 of this chapter, the entire assessment is payable in cash without interest not later than thirty (30) days after the approval of the assessment roll by the works board if an agreement has not been signed and filed under section 36 of this chapter.

(b) If the assessment is not paid when due, the total assessment becomes delinquent and bears interest at the rate prescribed by ~~IC 6-1.1-37-10(a)~~ **IC 6-1.1-37-9(b)** per year from the date of the final acceptance of the completed improvement by the works board.

SECTION 155. IC 36-9-36-55, AS AMENDED BY P.L.67-2006, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 55. (a) An irregularity or error in making a foreclosure sale under this chapter does not make the sale ineffective, unless the irregularity or error substantially prejudiced the property owner.

(b) A property owner has two (2) years from the date of sale in which to redeem the owner's property. The property owner may redeem the owner's property by paying the principal, interest, and costs of the

judgment, plus interest on the principal, interest, and costs at the rate prescribed by ~~IC 6-1.1-37-10(a).~~ **IC 6-1.1-37-9(b).**

(c) If the property is not redeemed, the sheriff shall execute a deed to the purchaser. The deed relates back to the final letting of the contract for the improvement and is superior to all liens, claims, and interests, except liens for taxes.

SECTION 156. IC 36-9-37-19, AS AMENDED BY P.L.67-2006, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) If a person defaults in the payment of a waivered installment of principal or interest of an assessment, the municipal fiscal officer shall mail notice of the default to the person. The notice must meet the following conditions:

(1) Be mailed not more than sixty (60) days after the default.

(2) Show the amount of the default, plus interest on that amount for the number of months the person is in default at one-half (1/2) the rate prescribed by ~~IC 6-1.1-37-10(a).~~ **IC 6-1.1-37-9(b).**

(3) State that the amount of the default, plus interest, is due by the date determined as follows:

(A) If the person selected monthly installments under section 8.5(a)(2) of this chapter, within sixty (60) days after the date the notice is mailed.

(B) If the person selected annual installments under section 8.5(a)(1) of this chapter, within six (6) months after the date the notice is mailed.

(b) A notice that is mailed to the person in whose name the property is assessed and addressed to the person within the municipality is sufficient notice. However, the fiscal officer shall also attempt to determine the name and address of the current owner of the property and send a similar notice to the current owner.

(c) Failure to send the notice required by this section does not preclude or otherwise affect the following:

(1) The sale of the property for delinquency as prescribed by IC 6-1.1-24.

(2) The foreclosure of the assessment lien by the bondholder.

(3) The preservation of the assessment lien under section 22.5 of this chapter.

SECTION 157. IC 36-9-37-20, AS AMENDED BY P.L.67-2006, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

UPON PASSAGE]: Sec. 20. (a) If any principal and interest, or an installment of principal and interest, is not paid in full when due, the municipal fiscal officer shall enforce payment of the following:

(1) The unpaid amount of principal and interest.

(2) A penalty of interest at the rate prescribed by subsection (b).

(b) If payment is made after a default, the municipal fiscal officer shall also collect a penalty of interest on the delinquent amount at one-half (1/2) the rate prescribed by ~~IC 6-1.1-37-10(a)~~ **IC 6-1.1-37-9(b)** for each six (6) month period, or fraction of a six (6) month period, from the date when payment should have been made.

SECTION 158. IC 36-12-2-8, AS ADDED BY P.L.1-2005, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) Except as provided in subsection (b), an appointee to a library board may not serve more than four (4) consecutive terms on the library board. **An unexpired term of two (2) years or less that an individual serves in filling a vacancy on the library board may not be counted in computing consecutive terms for purposes of this subsection.** The consecutive terms are computed without regard to a change in the appointing authority that appointed the member. ~~or the length of any term served by the appointee.~~ If:

(1) a member's term is interrupted due to the merger of at least two (2) public libraries under IC 36-12-4; and

(2) the member is reappointed to the merged public library board;

the term that was interrupted may not be considered in determining the number of consecutive terms a member may serve on a library board. **An appointee who has served four (4) consecutive terms may be reappointed to the board at least four (4) years after the date the appointee's most recent term ended.**

(b) This subsection applies to a library board for a library district having a population of less than three thousand (3,000). If an appointing authority conducts a diligent but unsuccessful search for a qualified individual who wishes to be appointed to serve on the library board:

(1) the appointing authority may reappoint a board member who has served four (4) or more consecutive terms; and

(2) state funds may not be withheld from distribution to the library.

The appointing authority shall file with the library board a written

description of the search that was conducted under this subsection. The record becomes a part of the official records of the library board.

SECTION 159. IC 36-12-2-18, AS ADDED BY P.L.1-2005, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 18. (a) Subject to subsection (b), the term of a library board member is four (4) years. A member may continue to serve on a library board after the member's term expires until the member's successor is qualified under section 19 of this chapter. The term of the member's successor is not extended by the time that has elapsed before the successor's appointment and qualification. If a member is appointed to fill a vacancy on a library board, the member's term is the unexpired term of the member being replaced.

(b) Except for a library board whose membership is established under section 15 of this chapter, for purposes of establishing staggered terms for the members of a library board, the initial members shall serve the following terms:

(1) One (1) year for one (1) member appointed under section 9(1), 9(5), 16(b)(1), 16(b)(2), or 17(1) of this chapter.

(2) Two (2) years for one (1) member appointed under section 9(3)(A), 9(4), 16(b)(3), 16(b)(4), or 17(2) of this chapter.

(3) Three (3) years for one (1) member appointed under section 9(2), 9(3)(A), 16(b)(4), 16(b)(5), or 17(1) of this chapter.

(4) Four (4) years for one (1) member appointed under section 9(3)(B), 16(b)(6), or 17(2) of this chapter.

(c) When an appointing authority appoints members to terms of different length under subsection (b), the appointing authority shall designate which member serves each term.

(d) A member may not serve more than four (4) consecutive terms as provided in section 8 of this chapter.

SECTION 160. IC 36-12-2-25, AS AMENDED BY P.L.91-2009, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 25. (a) The residents or real property taxpayers of the library district taxed for the support of the library may use the facilities and services of the public library without charge for library or related purposes. However, the library board may:

(1) fix and collect fees and rental charges; and

(2) assess fines, penalties, and damages for the:

(A) loss of;

(B) injury to; or

(C) failure to return;

any library property or material.

(b) A library board may issue local library cards to:

(1) residents of the library district; ~~or~~

(2) Indiana residents who are not residents of the library district;

(3) library employees of the library district; or

(4) employees of a school corporation or nonpublic school located in the library district;

who apply for the cards.

(c) Except as provided in subsections (d) and (e), a library board must set and charge a fee for a local library card issued under subsection (b)(2). The minimum fee that the board may set under this subsection is the greater of the following:

(1) The library district's operating fund expenditure per capita in the most recent year for which that information is available in the Indiana state library's annual "Statistics of Indiana Libraries".

(2) Twenty-five dollars ($25).

(d) A library board may charge a reduced fee or not charge a fee for a local library card under subsection (c) that is issued to an Indiana resident who is:

(1) a student enrolled in a public school corporation that is located at least in part in the library district; and

(2) not a resident of the library district.

(e) A library board may charge a reduced fee or not charge a fee for a local library card under subsection (c) that is issued to an Indiana resident who is a student enrolled in a nonpublic school that is located at least in part in the library district.

(f) A library board may issue a local library card under subsection (b)(3) or (b)(4):

(1) to an individual who is not a resident of the library district; and

(2) without charging a fee for the card;

if the board adopts a resolution that is approved by an affirmative vote of a majority of the members appointed to the library board.

SECTION 161. IC 36-12-2-26 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 26. (a) Dissolution of a library**

district is initiated when the legislative body of each municipality, township, or county that is a part of the district and library board of the district adopt identical resolutions proposing to dissolve the district by an affirmative vote of a majority of the voting members of each legislative body and library board.

(b) Copies of the resolutions adopted under subsection (a) shall be filed not later than ten (10) days after the resolution is adopted with:

(1) the state library; and

(2) the county recorder of each county in which the library district is located.

(c) A dissolution does not take effect until:

(1) all legal and fiscal obligations of the library district have been satisfied;

(2) the assets of the district have been distributed; and

(3) a notice is filed with the agencies listed in subsection (b), indicating that the actions described in subdivisions (1) and (2) have been completed and the dissolution is final.

SECTION 162. IC 36-12-3-16.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 16.5. (a) As used in this section, "electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephone, or computer or magnetic tape for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account.**

(b) A library board may adopt a resolution to authorize an electronic funds transfer method of payment of claims. If a library board adopts a resolution under this subsection, the public library may pay money from its funds by electronic funds transfer.

(c) A public library that pays a claim by electronic funds transfer shall comply with all other requirements for the payment of claims by the public library.

SECTION 163. IC 36-12-3-18, AS ADDED BY P.L.1-2005, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 18. (a) ~~Subject to subsection (d),~~ A library board or a person designated in writing by the library board may:

(1) collect money or library property; or

(2) compromise the amount of money;

that is owed to the library.

(b) A library board:

(1) shall determine the costs of collecting money or library property under this section; and

(2) may add the costs of collection, including reasonable attorney's fees, to money or library property that is owed and collected under this section.

(c) A library board or the library board's agent that collects money under this section shall deposit the money, less the costs of collection, in the account required by law.

~~(d) A person designated by the library board under subsection (a) may collect money from a person for the library only if the amount to be collected from the person is more than ten dollars ($10).~~

~~(e)~~ **(d)** A library board may compromise claims made against the library.

SECTION 164. IC 36-12-7-3, AS ADDED BY P.L.1-2005, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) A library board may issue local library cards to:

(1) residents of the library district; ~~and~~

(2) Indiana residents who are not residents of the library district;

(3) library employees of the library district; or

(4) employees of a school corporation or nonpublic school located in the library district;

who apply for the cards.

(b) Except as provided in subsection (c), a library board must set and charge a fee for a local library card issued under subsection (a)(2). The minimum fee that the board may set under this subsection is the greater of the following:

(1) The library district's operating fund expenditure per capita in the most recent year for which that information is available in the Indiana state library's annual "Statistics of Indiana Libraries".

(2) Twenty-five dollars ($25).

(c) A library board may charge a reduced fee or not charge a fee for a local library card under subsection (b) that is issued to an Indiana resident who is:

(1) a student enrolled in a public school corporation that is located

at least in part in the library district; and

(2) not a resident of that library district.

(d) A library board may issue a local library card under subsection (a)(3) or (a)(4):

(1) to an individual who is not a resident of the library district; and

(2) without charging a fee for the card;

if the board adopts a resolution that is approved by an affirmative vote of a majority of the members appointed to the library board.

SECTION 165. IC 36-12-7-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 9. (a) Dissolution of a library district is initiated when the legislative body of each municipality, township, or county that is a part of the district and library board of the district adopt identical resolutions proposing to dissolve the district by an affirmative vote of a majority of the voting members of each legislative body and library board.**

(b) Copies of the resolutions adopted under subsection (a) shall be filed not later than ten (10) days after the resolution is adopted with:

(1) the state library; and

(2) the county recorder of each county in which the library district is located.

(c) A dissolution does not take effect until:

(1) all legal and fiscal obligations of the library district have been satisfied;

(2) the assets of the district have been distributed; and

(3) a notice is filed with the agencies listed in subsection (b), indicating that the actions described in subdivisions (1) and (2) have been completed and the dissolution is final.

SECTION 166. IC 36-12-7-10 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 10. (a) As used in this section, "electronic funds transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephone, or computer or magnetic tape for the purpose of ordering, instructing, or authorizing a financial institution to debit**

or credit an account.

(b) A library board may adopt a resolution to authorize an electronic funds transfer method of payment of claims. If a library board adopts a resolution under this subsection, the public library may pay money from its funds by electronic funds transfer.

(c) A public library that pays a claim by electronic funds transfer shall comply with all other requirements for the payment of claims by the public library.

SECTION 167. IC 36-12-7-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 11. (a) A library board or a person designated in writing by the library board may:**

(1) collect money or library property; or

(2) compromise the amount of money;

that is owed to the library.

(b) A library board:

(1) shall determine the costs of collecting money or library property under this section; and

(2) may add the costs of collection, including reasonable attorney's fees, to money or library property that is owed and collected under this section.

(c) A library board or the library board's agent that collects money under this section shall deposit the money, less the costs of collection, in the account required by law.

(d) A library board may compromise claims made against the library.

SECTION 168. IC 6-3.1-13-27 IS REPEALED [EFFECTIVE JANUARY 1, 2010 (RETROACTIVE)].

SECTION 169. IC 36-8-16.5-14 IS REPEALED [EFFECTIVE JULY 1, 2010].

SECTION 170. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2010]: IC 2-5-29-8; IC 8-4.5-1-3; IC 8-4.5-2; IC 10-17-1-3; IC 10-17-12-3; IC 10-17-13-1; IC 16-18-2-9; IC 16-19-6-9; IC 16-41-35-2; IC 16-41-35-16; IC 16-41-35-17; IC 16-41-35-18; IC 16-41-35-19; IC 16-41-35-20; IC 16-41-35-21; IC 16-41-35-22; IC 16-41-35-23; IC 16-41-35-24; IC 25-9-1.

SECTION 171. [EFFECTIVE UPON PASSAGE] **(a) This SECTION applies only to a church and to land and improvements**

that meet all of the following conditions:

(1) The church constructed a community activity center on land owned by the church, and the land and improvements were assessed and subject to property taxation for the 2007 assessment date.

(2) The church failed to timely file an application under IC 6-1.1-11 for a property tax exemption for the land and improvements described in subdivision (1) for the 2007 assessment date.

(3) For the 2007 assessment date, the land and improvements described in subdivision (1) would have been eligible for property tax exemption if the church had timely filed an exemption application under IC 6-1.1-11.

(4) For the 2008 assessment date, the church filed a timely application under IC 6-1.1-11 for a property tax exemption for the land and improvements described in subdivision (1) and the exemption application was granted.

(b) Notwithstanding IC 6-1.1-11 or any other law specifying the date by which an application for property tax exemption must be filed to claim an exemption for the 2007 assessment date, a church described in subsection (a) may before July 1, 2010, file with the county assessor an application for property tax exemption for the land and improvements described in subsection (a)(1) for the 2007 assessment date.

(c) Notwithstanding IC 6-1.1-11 or any other law, an application for property tax exemption that is filed under subsection (b) is considered to be timely filed for the 2007 assessment date, and the county assessor shall forward the application to the county property tax assessment board of appeals for review. The board shall grant an exemption claimed for the 2007 assessment date if the board determines that:

(1) the church's application for property tax exemption satisfies the requirements of this SECTION; and

(2) the church's land and improvements were, except for the failure to timely file a property tax exemption application, otherwise eligible for the claimed exemption for the 2007 assessment date.

(d) This SECTION expires January 1, 2011.

SECTION 172. [EFFECTIVE UPON PASSAGE] **(a) As used in**

this SECTION, "social service center" means a faith based nonprofit organization that offers programs to meet the physical, emotional, academic, and spiritual needs of children, teens, adults, and families.

(b) This SECTION applies only to a social service center, to personal property, and to land and improvements that meet all of the following conditions:

(1) The social service center acquired personal property and land, made improvements to the land for the purpose of conducting its activities, and the land, improvements, and personal property were assessed and subject to property taxation for the 2006 assessment date.

(2) The social service center failed to timely file an application under IC 6-1.1-11 for a property tax exemption for the personal property, land, and improvements described in subdivision (1) for the 2006 assessment date.

(3) For the 2006 assessment date, the personal property, land, and improvements described in subdivision (1) would have been eligible for property tax exemption if the social service center had timely filed an exemption application under IC 6-1.1-11.

(4) For the 2007 assessment date, the social service center filed a timely application under IC 6-1.1-11 for a property tax exemption for the personal property, land, and improvements described in subdivision (1) and the exemption application was granted.

(c) Notwithstanding IC 6-1.1-11 or any other law specifying the date by which an application for property tax exemption must be filed to claim an exemption for the 2006 assessment date, a social service center described in subsection (b) may before July 1, 2010, file with the county assessor an application for property tax exemption for the personal property, land, and improvements described in subsection (b)(1) for the 2006 assessment date.

(d) Notwithstanding IC 6-1.1-11 or any other law, an application for property tax exemption that is filed under subsection (c) is considered to be timely filed for the 2006 assessment date, and the county assessor shall forward the application to the county property tax assessment board of appeals for review. The board shall grant an exemption claimed for the 2006 assessment date if

the board determines that:

(1) the social service center's application for property tax exemption satisfies the requirements of this SECTION; and

(2) the social service center's personal property, land, and improvements described in subsection (b)(1) were, except for the failure to timely file a property tax exemption application, otherwise eligible for the claimed exemption for the 2006 assessment date.

(e) This SECTION expires January 1, 2011.

SECTION 173. [EFFECTIVE UPON PASSAGE] **(a) As used in this SECTION, "social service center" means a faith based nonprofit organization that offers programs to meet the physical, emotional, academic, and spiritual needs of children, teens, adults, and families.**

(b) This SECTION applies only to a social service center, to personal property, and to land and improvements that meet all of the following conditions:

(1) The social service center acquired personal property, land, and improvements owned by a nonprofit youth sports club through a merger with the youth sports club, and the personal property, land, and improvements formerly owned by the nonprofit youth sports club were assessed and subject to property taxation for the 2006 assessment date.

(2) The nonprofit youth sports club or the social service center, as applicable, failed to timely file an application under IC 6-1.1-11 for a property tax exemption for the personal property, land, and improvements described in subdivision (1) for the 2006 assessment date.

(3) For the 2006 assessment date, the personal property, land, and improvements described in subdivision (1) would have been eligible for property tax exemption if the nonprofit youth sports club or social service center, as applicable, had timely filed an exemption application under IC 6-1.1-11.

(4) For the 2007 assessment date, the social service center filed a timely application under IC 6-1.1-11 for a property tax exemption for the personal property, land, and improvements described in subdivision (1) and the exemption application was granted.

(c) Notwithstanding IC 6-1.1-11 or any other law specifying the

date by which an application for property tax exemption must be filed to claim an exemption for the 2006 assessment date, a social service center described in subsection (b) may before July 1, 2010, file with the county assessor an application for property tax exemption for the personal property, land, and improvements described in subsection (b)(1) for the 2006 assessment date.

(d) Notwithstanding IC 6-1.1-11 or any other law, an application for a property tax exemption that is filed under subsection (c) is considered to be timely filed for the 2006 assessment date, and the county assessor shall forward the application to the county property tax assessment board of appeals for review. The board shall grant an exemption claimed for the 2006 assessment date if the board determines that:

(1) the social service center's application for property tax exemption satisfies the requirements of this SECTION; and

(2) the social service center's personal property, land, and improvements described in subsection (b)(1) were, except for the failure to timely file a property tax exemption application, otherwise eligible for the claimed exemption for the 2006 assessment date.

(e) This SECTION expires January 1, 2011.

SECTION 174. [EFFECTIVE JANUARY 1, 2006 (RETROACTIVE)] **(a) This SECTION applies to a taxpayer, notwithstanding IC 6-1.1-3, IC 6-1.1-11, IC 6-1.1-17, IC 6-1.1-37, 50 IAC 4.2, 50 IAC 16, or any other law or administrative rule or provision.**

(b) This SECTION applies to an assessment date (as defined in IC 6-1.1-1-2) occurring after December 31, 2005, and before January 1, 2010.

(c) As used in this SECTION, "taxpayer" refers to a women's fraternity.

(d) A taxpayer, after January 15, 2010, and before January 25, 2010, may file or refile in person or in any other manner consistent with IC 6-1.1-36-1.5:

(1) a Form 136 property tax exemption application, along with any supporting documents, schedules, or attachments, claiming an exemption from real property taxes or personal property taxes, or both, under IC 6-1.1-10-16 or IC 6-1.1-10-24 for any assessment date described in

subsection (b); and

(2) a personal property tax return, along with any supporting documents, schedules, or attachments, relating to any personal property under IC 6-1.1-10-16 or IC 6-1.1-10-24 for any assessment date for which an exemption is claimed on a Form 136 property tax exemption application that is filed under this subsection.

(e) Any property tax exemption application or personal property tax return filed or refiled under subsection (d):

(1) is, subject to this SECTION, allowed; and

(2) is considered to have been timely filed.

(f) If the taxpayer demonstrates in the application or by other means that the property that is the subject to the exemption application would have qualified for an exemption under IC 6-1.1-10-16 as owned, occupied, and used for an educational or charitable purpose or under IC 6-1.1-10-24 if the application had been filed under IC 6-1.1-11 in a timely manner, the taxpayer is entitled to the exemptions from real property taxes or personal property taxes, or both, as claimed on the property tax exemption applications filed or refiled by the taxpayer under subsection (d) and shall pay no property taxes, penalties, or interest with respect to the exempt property.

(g) For its property to be exempt under this SECTION, the taxpayer must have received for an assessment date preceding any assessment date described in subsection (b) an exemption from property taxes for property identified by the same parcel or key numbers or the same parcel and key numbers included on the property tax exemption applications filed or refiled by the taxpayer under subsection (d).

(h) This SECTION expires July 1, 2011.

SECTION 175. [EFFECTIVE JANUARY 1, 2008 (RETROACTIVE)] **(a) This SECTION applies to a taxpayer notwithstanding IC 6-1.1-11 or any other law or administrative rule or provision.**

(b) This SECTION applies to an assessment date, as defined in IC 6-1.1-1-2, occurring after December 31, 2007, and before January 1, 2010.

(c) As used in this SECTION, "taxpayer" refers to a person, as defined in IC 6-1.1-1-10, that:

(1) after January 15, 2010, and before January 25, 2010, filed or refiled, in a manner consistent with IC 6-1.1-36-1.5, a Form 136 property tax exemption application, along with any supporting documents, schedules, or attachments, claiming an exemption from real property taxes under IC 36-1-10-18 for any assessment date described in subsection (b); and

(2) leased real property to the bureau of motor vehicles commission during 2008 and 2009, and the real property identified in the property tax exemption application referred to in subdivision (1) received a full or partial exemption from real property taxes for the 2006 or 2007 assessment date.

(d) A property tax exemption application referred to in subsection (c)(1):

(1) is allowed; and

(2) is considered to have been timely filed.

(e) A taxpayer is entitled to the exemptions from real property taxes as claimed on the property tax exemption applications referred to in subsection (c)(1) and is not required to pay property taxes, penalties or interest with respect to the exempt property.

(f) This SECTION expires July 1, 2011.

SECTION 176. [EFFECTIVE UPON PASSAGE] **(a) This SECTION applies only to a local council of the Boy Scouts of America and to land and improvements that meet all of the following conditions:**

(1) The local council acquired title to the land and improvements after March 1, 2007, and the land and improvements were assessed and subject to property taxation for the 2007 assessment date.

(2) The local council failed to file a timely application under IC 6-1.1-11 for a property tax exemption for the land and improvements described in subdivision (1) for the 2007 assessment date.

(3) For the 2008 assessment date, the local council filed a timely application under IC 6-1.1-11 for a property tax exemption for the land and improvements described in subdivision (1) and the exemption application was granted.

(4) For the 2007 assessment date, the land and improvements described in subdivision (1) would have been eligible for property tax exemption if the local council:

(A) had on March 1, 2007:

(i) owned the land and improvements; and

(ii) used the land and improvements for the same purposes for which the local council used the land and improvements on March 1, 2008; and

(B) had timely filed an exemption application under IC 6-1.1-11.

(b) Notwithstanding IC 6-1.1-11 or any other law specifying the date by which an application for property tax exemption must be filed to claim an exemption for the 2007 assessment date, a local council described in subsection (a) may before July 1, 2010, file with the county assessor an application for property tax exemption for the land and improvements described in subsection (a)(1) for the 2007 assessment date.

(c) Notwithstanding IC 6-1.1-11 or any other law, an application for property tax exemption that is filed under subsection (b) is considered to be timely filed for the 2007 assessment date, and the county assessor shall forward the application to the county property tax assessment board of appeals for review. The board shall grant an exemption claimed for the 2007 assessment date if the board determines the local council's application for property tax exemption satisfies the requirements of this SECTION.

(d) This SECTION expires January 1, 2011.

SECTION 177. [EFFECTIVE UPON PASSAGE] **(a) This SECTION applies only to the American Legion and to land and improvements that meet all of the following conditions:**

(1) The American Legion holds title to the land and improvements located in Marion County, the land and improvements and the personal property located on the parcel were assessed and subject to property taxation for the 2007 and 2008 assessment dates, and the assessed value of the parcel for the 2007 assessment date is more than five (5) times the assessed value of the parcel for the March 1, 2005, assessment date.

(2) The American Legion failed to file a timely application under IC 6-1.1-11 for a property tax exemption for the land and improvements and personal property described in subdivision (1) for the 2007 and 2008 assessment dates.

(3) For the 2009 assessment date, the American Legion filed

a timely application under IC 6-1.1-11 for a property tax exemption for the land and improvements and personal property described in subdivision (1) and the exemption application was granted.

(4) For the 2007 and 2008 assessment dates, the land and improvements and personal property described in subdivision (1) would have been eligible for property tax exemption if the American Legion:

(A) had on each of these assessment dates:

(i) owned the land and improvements and personal property; and

(ii) used the land and improvements and personal property for the same purposes for which the American Legion used the land and improvements on March 1, 2006; and

(B) had timely filed an exemption application under IC 6-1.1-11.

(b) Notwithstanding IC 6-1.1-11 or any other law specifying the date by which an application for property tax exemption must be filed to claim an exemption for the 2007 and 2008 assessment dates, an American Legion described in subsection (a) may before July 1, 2010, file with the county assessor an application for property tax exemption for the land and improvements and personal property described in subsection (a)(1) for the 2007 and 2008 assessment dates.

(c) Notwithstanding IC 6-1.1-11 or any other law, an application for property tax exemption that is filed under subsection (b) is considered to be timely filed for the 2007 and 2008 assessment dates, and the county assessor shall forward the application to the county property tax assessment board of appeals for review. The board shall grant an exemption claimed for the 2007 and 2008 assessment dates if the board determines the American Legion's application for property tax exemption satisfies the requirements of this SECTION.

(d) This SECTION expires January 1, 2011.

SECTION 178. [EFFECTIVE JUNE 30, 2009 (RETROACTIVE)] **(a) An entity described in P.L.182-2009(ss), SECTION 479, is ineligible under P.L.182-2009(ss), SECTION 479, to file a property tax exemption application within the time permitted by**

P.L.182-2009(ss), SECTION 479, unless, in addition to complying with P.L.182-2009(ss), SECTION 479:

(1) the entity that owned, occupied, and predominately used the property for a purpose described in IC 6-1.1-10-16 during the period covered by the exemption application was, during that period, a nonprofit organization that was exempt from federal adjusted gross income taxes under Section 501(c)(3) of the Internal Revenue Code; and

(2) an application for a property tax exemption under IC 6-1.1-10-16 for the property was timely filed and granted for the same or a substantially similar use for one (1) or more preceding years beginning after 1999.

(b) Neither P.L.182-2009(ss), SECTION 479 nor this SECTION permits a property tax exemption for an entity that would not have qualified for the exemption under IC 6-1.1-10-16 had the application been timely filed in conformity with IC 6-1.1-11.

(c) The property tax assessment board of appeals shall deny a property tax exemption application filed within the period specified in P.L.182-2009(ss), SECTION 479 and dismiss any related proceeding initiated under P.L.182-2009(ss), SECTION 479 unless the entity and property also meet the requirements of this SECTION.

(d) This SECTION expires January 1, 2012.

SECTION 179. [EFFECTIVE UPON PASSAGE] **(a) The legislative council, with the assistance of the code revision commission, shall provide for the preparation of corrective legislation for introduction in the 2011 session of the general assembly to make changes to IC 6-3.5-1.1, IC 6-3.5-6, and IC 6-3.5-7, as necessary or appropriate, to reflect the changes made by IC 6-3.5-1.1-1.5, IC 6-3.5-6-1.5, and IC 6-3.5-7-4.9, all as added by this act. The code revision commission may as part of its review consider the relevant amendments to IC 6-3.5-1.1, IC 6-3.5-6, and IC 6-3.5-7 proposed in the introduced version of HB 1086-2010. Until the general assembly enacts corrective legislation, the department of local government finance may adopt rules under IC 4-22-2, including emergency rules adopted under IC 4-22-2-37.1, and prescribe procedures for the implementation of IC 6-3.5-1.1-1.5, IC 6-3.5-6-1.5, and IC 6-3.5-7-4.9, all as added by this act.**

(b) The commission on state tax and financing policy established under IC 2-5-3 shall, during the interim in 2010 between sessions of the general assembly, study the allocation and distribution of county adjusted gross income taxes (IC 6-3.5-1.1), county option income taxes (IC 6-3.5-6), and county economic development income taxes (IC 6-3.5-7) to civil taxing units within a county, including the allocation of revenues derived from a public safety tax rate imposed under IC 6-3.5-1.1-25 or IC 6-3.5-6-31.

(c) This SECTION expires January 1, 2011.

SECTION 180. [EFFECTIVE JULY 1, 2010] **(a) This SECTION applies to members of the youth advisory council appointed under IC 2-5-29, as amended by this act, after June 30, 2011.**

(b) Notwithstanding IC 2-5-29-3, as amended by this act, the initial terms of the members are staggered as follows:

(1) The president pro tempore of the senate and the speaker of the house of representatives shall each designate three (3) members to serve two (2) year terms and two (2) members to serve one (1) year terms.

(2) The minority leader of the senate and the minority leader of the house of representatives shall each designate two (2) members to serve two (2) year terms and three (3) members to serve one (1) year terms.

(3) The governor shall designate one (1) member to serve a two (2) year term and one (1) member to serve a one (1) year term.

(c) A member may be reappointed.

(d) This SECTION expires July 1, 2013.

SECTION 181. [EFFECTIVE JULY 1, 2010] **(a) After June 30, 2010, a reference in any law, rule, contract, or other document or record to the state athletic commission shall be treated as a reference to the gaming commission created by IC 4-33-3-1.**

(b) After June 30, 2010, any balance in the athletic commission fund created by IC 25-9-1-1.5 before its repeal by this act is transferred to the athletic fund created by IC 4-33-22-9.

(c) The rules adopted by the state athletic commission before July 1, 2010, and in effect on June 30, 2010, shall be treated after June 30, 2010, as the rules of the Indiana gaming commission.

SECTION 182. [EFFECTIVE JULY 1, 2010] **(a) As used in this SECTION, "buildings and grounds" has the meaning set forth in**

IC 14-20-7-1.

(b) On July 1, 2010, all powers, duties, rights, obligations, liabilities, funds, and revenues for the buildings and grounds are transferred from the department of natural resources to the Indiana department of veterans' affairs established by IC 10-17-1-2.

(c) Any memorandum of understanding between the department of natural resources and the Indiana department of veterans' affairs concerning the administration of the buildings and grounds by the Indiana department of veterans' affairs expires July 1, 2010.

(d) This SECTION expires July 2, 2010.

SECTION 183. [EFFECTIVE JULY 1, 2010] **(a) After June 30, 2010, a reference in any law, rule, contract, or other document or record to the military and veterans' benefits board or to the commission of veterans' affairs or the veterans' affairs commission established by IC 10-17-1-3 shall be treated as a reference to the Indiana veterans' affairs commission established by IC 10-17-13-4, as amended by this act.**

(b) The rules adopted by the commission of veterans' affairs or the veterans' affairs commission established by IC 10-17-1-3 before July 1, 2010, and in effect on June 30, 2010, shall be treated after June 30, 2010, as the rules of the Indiana veterans' affairs commission established by IC 10-17-13-4, as amended by this act.

(c) The terms of members of the veterans' affairs commission established by IC 10-17-1-3 who are serving on June 30, 2010, expire on June 30, 2010.

(d) The members of the military and veterans' benefits board serving on June 30, 2010, become the members of the veterans' affairs commission established by IC 10-17-13-4, as amended by this act, on July 1, 2010.

(e) This SECTION expires July 2, 2010.

SECTION 184. [EFFECTIVE UPON PASSAGE] **(a) The interim study committee on economic development is established to study the following:**

(1) Best practices in state and local economic development policies and activities.

(2) The use and effectiveness of tax credits and deductions.

(3) Whether there are any specific sectors of the economy for

which Indiana might have comparative advantages over other states.

(4) The extent to which Indiana's tax laws encourage business investment, and any improvements that might be made to Indiana's tax laws.

(5) The extent to which Indiana's education systems support economic development.

(6) The benefits of existing community revitalization enhancement districts and possible new community revitalization enhancement districts as an economic development tool.

(7) Any other issue assigned to the committee by the legislative council or as directed by the committee's co-chairs.

(b) The committee consists of the following members:

(1) Two (2) members of the senate, who must be affiliated with different political parties, appointed by the president pro tempore of the senate.

(2) Two (2) members of the house of representatives, who must be affiliated with different political parties, appointed by the speaker of the house of representatives.

(3) The chief executive officer of the Indiana economic development corporation (or the chief executive officer's designee).

(4) The following twelve (12) members appointed as follows:

(A) The following four (4) members appointed by the governor, not more than two (2) of whom may be affiliated with the same political party and at least one (1) of whom must be a woman who is an owner of a women's business enterprise (as defined in IC 4-13-16.5-1.3) that is certified under IC 4-13-16.5 or a member of a minority group (as defined in IC 4-13-16.5-1) who is an owner of a minority business enterprise (as defined in IC 4-13-16.5-1) that is certified under IC 4-13-16.5:

(i) One (1) member to represent large businesses.

(ii) One (1) member to represent small businesses.

(iii) One (1) member to represent banking and finance.

(iv) One (1) member to represent labor interests.

(B) The following four (4) members appointed by the president pro tempore of the senate, not more than two (2)

of whom may be affiliated with the same political party:

(i) One (1) member to represent higher education.

(ii) One (1) member to represent local economic development organizations and officials.

(iii) One (1) member to represent cities.

(iv) One (1) member to represent counties.

(C) The following four (4) members appointed by the speaker of the house of representatives, not more than two (2) of whom may be affiliated with the same political party:

(i) One (1) member to represent agricultural interests.

(ii) One (1) member to represent the public at large.

(iii) One (1) member to represent kindergarten through grade 12 education.

(iv) One (1) member to represent quality of life issues.

(c) The president pro tempore of the senate shall appoint one (1) of the members appointed by the president under subsection (b)(1) as a co-chair of the committee. The speaker of the house of representatives shall appoint one (1) of the members appointed by the speaker under subsection (b)(2) as a co-chair of the committee.

(d) The committee shall issue a final report in an electronic format under IC 5-14-6 before November 1, 2010, to the legislative council containing any findings and recommendations of the committee.

(e) Except as otherwise provided, the committee shall operate under the policies governing study committees adopted by the legislative council.

(f) The affirmative votes of a majority of the voting members appointed to the committee are required for the committee to take action on any measure, including final reports.

(g) This SECTION expires January 1, 2011.

SECTION 185. [EFFECTIVE UPON PASSAGE] **(a) If the amendment to Article 10, Section 1 of the Constitution of the State of Indiana agreed to by the One Hundred Fifteenth General Assembly (P.L.147-2008) is agreed to by the One Hundred Sixteenth General Assembly, the amendment shall be submitted to the electors of the state at the 2010 general election in the manner provided for the submission of constitutional amendments under IC 3.**

(b) Under Article 16, Section 1 of the Constitution of the State of Indiana, which requires the general assembly to submit constitutional amendments to the electors at the next general election after the general assembly agrees to the amendment referred to it by the last previously elected general assembly, and in accordance with IC 3-10-3, the general assembly prescribes the form in which the public question concerning the ratification of this state constitutional amendment must appear on the 2010 general election ballot as follows:

"PUBLIC QUESTION #1

SHALL PROPERTY TAXES BE LIMITED FOR ALL CLASSES OF PROPERTY by amending the Constitution of the State of Indiana to do the following:

(1) Limit a taxpayer's annual property tax bill to the following percentages of gross assessed value:

(A) 1% for an owner-occupied primary residence (homestead);

(B) 2% for residential property, other than an owner-occupied primary residence, including apartments;

(C) 2% for agricultural land;

(D) 3% for other real property; and

(E) 3% for personal property.

The above percentages exclude any property taxes imposed after being approved by the voters in a referendum.

(2) Specify that the General Assembly may grant a property tax exemption in the form of a deduction or credit and exempt a mobile home used as a primary residence to the same extent as real property?".

SECTION 186. [EFFECTIVE UPON PASSAGE] **(a) Notwithstanding IC 20-46-6, IC 20-40-8, 50 IAC 9, or any other law or administrative rule or provision, the department of local government finance shall authorize a school city described in IC 20-25 to impose the property tax rate under IC 20-46-6-5 and IC 20-46-6-6, adjusted for annual adjustments and reassessment as calculated by the department of local government finance, for taxes**

due and payable with respect to the March 1, 2009, assessment date.

(b) The department of local government finance's authorization in subsection (a) is subject to the following conditions:

(1) The property tax authorized in subsection (a) is limited to the amount the school city could have collected under IC 6-1.1-18.5-9.9, IC 6-1.1-18-12, IC 6-1.1-18-13, IC 20-46-6-5, and IC 20-46-6-6, if it had followed all applicable laws and provisions, including IC 20-46-6.

(2) The school city must, on or before March 16, 2010, file with the department of local government finance a supplement to its capital projects fund plan that supports the amounts to be collected under IC 20-46-6-5 and IC 20-46-6-6, including a sufficient description of its capital projects fund future allocations.

(c) If the school city satisfies the conditions set forth in subsection (b)(2), no other additional hearings or publication of notices is required.

(d) If the school city satisfies the conditions in subsection (b)(2), the following apply:

(1) The department of local government finance shall, as soon as practicable, recertify the affected levies, tax rates, and budgets under IC 6-1.1-17-16 to carry out this SECTION.

(2) The school city waives the ten (10) day notice period in IC 6-1.1-17-16.

(e) This SECTION expires January 1, 2011.

SECTION 187. **An emergency is declared for this act.**

P.L.114-2010
[H.1332. Approved March 24, 2010.]

AN ACT to amend the Indiana Code concerning trade regulation and to make an appropriation.

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

SECTION 1. IC 4-2-6-15, AS ADDED BY HEA 1001-2010, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) This section does not apply to the following:

(1) A communication made by the governor concerning the public health or safety.

(2) A communication:

(A) that a compelling public policy reason justifies the state officer to make; and

(B) the expenditure for which is approved by the budget agency after an advisory recommendation from the budget committee.

(b) This section does not prohibit a state officer from using in a communication the title of the office the state officer holds.

(c) As used in this section, "communication" refers only to the following:

(1) An audio communication.

(2) A video communication.

(3) A print communication in a newspaper (as defined in IC 5-3-1-0.4).

(d) A state officer may not use the state officer's name or likeness in a communication paid for entirely or in part with appropriations made by the general assembly, regardless of the source of the money.

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

(1) money from the securities division enforcement account

established under IC 23-19-6-1(f); or

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

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

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

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

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

(1) Utilities.

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

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

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

(1) contracts with a state agency; or

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

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

(B) enters into a contract:

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

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

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

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

(1) United States citizens; and

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

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

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

(2) is headquartered in Indiana;

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

(4) has a board of directors that has been in compliance with all other requirements of this chapter for at least five (5) years;

(5) is chartered for the benefit of the minority community or women; and

(6) provides a service that will not impede competition among minority business enterprises or women's business enterprises at the time a nonprofit applies for certification as a minority business enterprise or a women's business enterprise.

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

(1) if the business is a qualified minority nonprofit corporation, a majority of the board of directors are minority;

(2) if the business is a qualified women's nonprofit corporation, a majority of the members of the board of directors are women; or

(3) if the business is a business other than a qualified minority or women's nonprofit corporation, having:

(A) ownership of at least fifty-one percent (51%) of the enterprise, including corporate stock of a corporation;

(B) control over the management and active in the day-to-day operations of the business; and

(C) an interest in the capital, assets, and profits and losses of the business proportionate to the percentage of ownership.

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

(1) Blacks;

(2) American Indians;

(3) Hispanics; and

(4) Asian Americans.

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

~~(k)~~ **(l)** "State agency" refers to any authority, board, branch, commission, committee, department, division, or other instrumentality

of the executive, including the administrative, department of state government.

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

(1) A sole proprietorship owned and controlled by a woman.

(2) A partnership or joint venture owned and controlled by women in which:

(A) at least fifty-one percent (51%) of the ownership is held by women; and

(B) the management and daily business operations are controlled by at least one (1) of the women who owns the business.

(3) A corporation or other entity:

(A) whose management and daily business operations are controlled by at least one (1) of the women who owns the business; and

(B) that is at least fifty-one percent (51%) owned by women, or if stock is issued, at least fifty-one percent (51%) of the stock is owned by at least one (1) of the women.

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

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

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

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

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

(4) The commissioner of the department.

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) Reimbursement for traveling expenses as provided under IC 4-13-1-4.

(3) Other expenses actually incurred in connection with the member's duties.

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

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

(1) Identify minority and women's business enterprises in the state.

(2) Assess the needs of minority and women's business enterprises.

(3) Initiate aggressive programs to assist minority and women's business enterprises in obtaining state contracts.

(4) Give special publicity to procurement, bidding, and qualifying procedures.

(5) Include minority and women's business enterprises on solicitation mailing lists.

(6) Evaluate the competitive differences between qualified minority or women's nonprofit corporations and other than qualified minority or women's nonprofit corporations that offer similar services and make recommendation to the department on policy changes necessary to ensure fair competition among minority and women's business enterprises.

(7) Define the duties, goals, and objectives of the deputy commissioner of the department as created under this chapter to assure compliance by all state agencies, separate bodies corporate and politic, and state educational institutions with state and federal legislation and policy concerning the awarding of contracts (including, notwithstanding section 1(d) of this chapter or any other law, contracts of state educational institutions) to minority and women's business enterprises.

(8) Establish annual goals:

(A) for the use of minority and women's business enterprises; and

(B) derived from a statistical analysis of utilization study of state contracts (including, notwithstanding section 1(d) of this chapter or any other law, contracts of state educational

institutions) that are required to be updated every five (5) years.

(9) Prepare a review of the commission and the various affected departments of government to be submitted to the governor and the legislative council on March 1 and October 1 of each year, evaluating progress made in the areas defined in this subsection.

(10) Ensure that the statistical analysis required under this section:

(A) is based on goals for participation of minority business enterprises established in Richmond v. Croson, 488 U.S. 469 (1989);

(B) includes information on both contracts and subcontracts (including, notwithstanding section 1(d) of this chapter or any other law, contracts and subcontracts of state educational institutions); and

(C) uses data on the combined capacity of minority and women's businesses enterprises in Indiana and not just regional data.

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

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

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

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

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

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

(j) The commission shall advise the department on developing a statement, to be included in all applications for and agreements governing grants made with state funds, stating the importance of

the use of minority and women's business enterprises in fulfilling the purposes of the grant.

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

(b) The deputy commissioner shall do the following:

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

(2) Establish a central certification file.

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

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

(5) Require all state agencies, separate bodies corporate and politic, and state educational institutions to report on planned and actual participation of minority and women's business enterprises in contracts awarded by state agencies. The commissioner may exclude from the reports uncertified minority and women's business enterprises.

(6) Determine and define opportunities for minority and women's business participation in contracts awarded by all state agencies, separate bodies corporate and politic, and state educational institutions.

(7) Implement programs initiated by the commission under section 2 of this chapter.

(8) Perform other duties as defined by the commission or by the commissioner of the department.

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

(1) Adopt rules under IC 4-22-2 to implement this chapter.

(2) Make investigations and examinations:

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

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

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

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

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

(6) Hold and conduct hearings.

(7) Hear evidence.

(8) Conduct inquiries with or without hearings.

(9) Receive reports of investigators or other officers or employees of the state of Indiana or of any municipal corporation or governmental subdivision within the state.

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

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

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

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

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

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

(A) occurred before; or

(B) is occurring on;

the date the opinion or determination is requested.

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

(A) processing applications for:

(i) licenses under this chapter; and

(ii) renewals of licenses under this chapter; and

(B) performing other services that the commissioner determines are necessary for the orderly administration of the division's licensing system.

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

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

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

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

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

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

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

(d) If:

(1) a person disobeys any lawful:

(A) subpoena issued under this chapter; or

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

(2) a witness refuses to:

(A) appear when subpoenaed;

(B) testify to any matter about which the witness may be

lawfully interrogated; or

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

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

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

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

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

(A) submit information to; or

(B) participate in;

the multistate automated licensing system and repository.

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

SECTION 7. IC 23-2-5-11.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 11.5. (a) If the commissioner believes that a person has engaged, is engaging, or is about to engage in an act, practice, or course of business constituting a violation of this chapter or a rule adopted or order issued under this chapter or that a person has engaged, is engaging, or is about to engage in an act, practice, or course of business that materially aids a violation of this chapter or a rule adopted or order issued under this chapter, the commissioner may maintain an action in the circuit or superior**

court in the county where the investigation or inquiry in question is being conducted to enjoin the act, practice, or course of business and to enforce compliance with this chapter or a rule adopted or order issued under this chapter.

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

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

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

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

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

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

(ii) collect debts; and

(iii) acquire and dispose of property;

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

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

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

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

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

SECTION 8. IC 23-2-5-20, AS AMENDED BY P.L.156-2009, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 20. (a) A person shall not, in connection with a contract for the services of a loan broker, either directly or indirectly, do any of the following:

(1) Employ any device, scheme, or artifice to defraud.
(2) Make any untrue statements of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of circumstances under which they are made, not misleading.
(3) Engage in any act, practice, or course of business that operates or would operate as a fraud or deceit upon any person.
(4) Collect or solicit any consideration, except a bona fide third party fee, in connection with a **residential mortgage** loan until the loan has been closed.
(5) Receive any funds if the person knows that the funds were generated as a result of a fraudulent act.
(6) File or cause to be filed with a county recorder any document that the person knows:

(A) contains:

(i) a misstatement; or

(ii) an untrue statement;

of a material fact; or

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

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

(A) The personal information is:

(i) included on an application form or another form; or

(ii) transmitted as part of an application process or an enrollment process.

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

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

However, personal information allowed to be disclosed under this subdivision may not be printed in whole or in part on a postcard or other mailer that does not require an envelope, or in a manner

that makes the personal information visible on an envelope or a mailer without the envelope or mailer being opened.

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

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

(10) Violate any of the following:

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

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

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

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

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

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

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

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

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

amendment.

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

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

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

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

SECTION 10. IC 23-19-6-1, AS ADDED BY P.L.27-2007, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) This article shall be administered by a division of the office of the secretary of state. The secretary of state shall appoint a securities commissioner who shall be responsible for the direction and supervision of the division and the administration of this article under the direction and control of the secretary of state. The

salary of the securities commissioner shall be paid out of the funds appropriated for the administration of this article. The commissioner shall serve at the will of the secretary of state.

(b) The secretary of state:

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

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

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

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

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

(f) Fees and funds of whatever character accruing from the administration of this article shall be accounted for by the secretary of state and shall be deposited with the treasurer of state to be deposited by the treasurer of the state in either the state general fund or the enforcement account referenced below. **Subject to IC 4-2-6-15,**

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

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

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

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

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

(h) Neither the secretary of state, the commissioner, nor an employee of the securities division shall be liable in their individual capacity, except to the state, for an act done or omitted in connection

with the performance of their respective duties under this article.

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

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

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

(2) disclosure of sufficient and reliable information in order to afford reasonable opportunity for the exercise of independent judgment of the persons involved may be assured; and

(3) the qualifications may be prescribed to assure availability of reliable broker-dealers, investment advisers, and agents engaged in and in connection with the issuance, barter, sale, purchase, transfer, or disposition of securities in this state.

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

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

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

SECTION 11. IC 23-19-6-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 12. The commissioner may**

award, from any amount imposed as a penalty under this article and recovered by the securities division, a percentage, not to exceed ten percent (10%) and as considered appropriate by the commissioner, of the amount recovered, to any person who provided information leading to the imposition of the penalty. Any determination under this section, including whether to make a payment, to whom to make a payment, or in what amount to make a payment, is in the sole discretion of the commissioner. However, a payment may not be made under this section to an employee of the securities division. A determination under this section is final and is not subject to judicial review.

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

ARTICLE 20. VICTIMS OF SECURITIES VIOLATIONS

Chapter 1. Restitution for Victims of Securities Violations

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

(b) The term includes:

(1) a named party in an award;

(2) the executor of a named party in an award; or

(3) the heirs and assigns of a named party in an award.

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

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

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

(1) A final court order.

(2) A final administrative order.

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

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

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

(2) The Securities Exchange Act of 1934, as amended, and any

regulations related to that act.

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

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

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

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

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

Sec. 8. The division shall do the following:

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

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

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

(1) a court order; or

(2) an administrative order;

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

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

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

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

(A) in Indiana; or

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

(2) A nonresident of Indiana who is a victim of a securities violation committed in Indiana if the jurisdiction in which the victim resides offers to Indiana residents who are victims of

securities violations in that jurisdiction assistance that is substantially similar to the assistance offered under this chapter.

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

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

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

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

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

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

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

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

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

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

(e) The division shall deny the application if:

(1) the applicant does not furnish additional information; or

(2) additional time is not granted by the securities commissioner for good cause.

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

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

(A) participating or assisting in; or

(B) attempting to commit or committing;

a securities violation; or

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

(b) If the victim is a dependent child or dependent parent of the person who commits a securities violation, restitution assistance may be awarded if justice requires.

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

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

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

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

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

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

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

(b) If:

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

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

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

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

(b) The subrogation rights are against the person who

committed the securities violation or a person liable for the pecuniary loss.

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

(b) The state may:

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

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

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

Sec. 21. If:

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

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

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

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

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

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

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

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

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

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

(b) The fund consists of amounts:

(1) from funds received for deposit in the securities division

enforcement account as provided in IC 23-19-6-1(f); and

(2) appropriated from the general assembly.

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

(1) awarding restitution assistance under this chapter; and

(2) paying expenses incurred in administering this chapter.

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

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

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

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

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

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

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

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

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

under this chapter any statement that is, at the time and in the light of the circumstances under which it is made, false or misleading in any material respect.

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

SECTION 13. IC 24-5-15-2, AS AMENDED BY P.L.171-2006, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2010]: Sec. 2. (a) As used in this chapter, "credit services organization" means a person that, with respect to the extension of credit by another person, sells, provides, performs, or represents that the person can or will sell, provide, or perform, in return for the payment of money or other valuable consideration, any of the following services:

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

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

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

(4) Obtaining a lower interest rate for:

(A) a consumer loan; or

(B) a residential mortgage loan;

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

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

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

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

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

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

(3) A credit union doing business in Indiana.

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

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

(6) A person admitted to the practice of law in Indiana if the person is acting within the course and scope of the person's

practice as an attorney.

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

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

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

(A) a consumer loan; or

(B) a residential mortgage loan.

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

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

(1) A renegotiation of the debt.

(2) A settlement of the debt.

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

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

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

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

(3) The name and address of the:

(A) surety company that issued a bond; or

(B) depository and the trustee of a surety account and the

account number of the surety account;

required under section 8 of this chapter.

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

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

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

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

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

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

(8) A complete and accurate statement indicating when consumer information becomes obsolete and when consumer reporting agencies are prevented from issuing reports containing obsolete information.

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

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

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

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

(b) The attorney general may waive the bonding requirement under subsection (a) and, instead of the bond, accept an irrevocable letter of credit for an equivalent amount issued in favor of the state for the benefit of a person that is damaged by a violation of this chapter. **A**

credit services organization that obtains an irrevocable letter of credit under this subsection must file a copy of the irrevocable letter of credit with the attorney general before doing business in Indiana.

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

(1) a Class A misdemeanor; and

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

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

(1) A home loan subject to this article.

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

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

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

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

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

(A) that is located in Indiana; and

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

(5) A consumer credit loan subject to IC 24-4.5-3 in which a mortgage, deed of trust, or land contract that constitutes a lien is created or retained against land:

(A) that is located in Indiana; and

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

(6) A loan in which a mortgage, deed of trust, or land contract that constitutes a lien is created or retained against land:

(A) that is located in Indiana;

(B) upon which there is a dwelling that is not or will not be used by the borrower primarily for personal, family, or household purposes; and

(C) that is classified as residential for property tax purposes.

The term includes a loan that is secured by land in Indiana upon which there is a dwelling that is purchased by or through the borrower for investment or other business purposes.

(7) A reverse mortgage transaction that is secured by real estate in Indiana on which there is located a structure that is occupied by a borrower as the borrower's principal dwelling.

(b) As used in this section, "real estate transaction" means the sale or lease of any legal or equitable interest in real estate:

(1) that is located in Indiana;

(2) upon which there is a dwelling; and

(3) that is classified as residential for property tax purposes.

(c) A person may not **do any of the following:**

(1) Divide a **home** loan transaction into separate parts with the intent of evading a provision of this article.

(2) Structure a home loan transaction as an open-end loan with the intent of evading the provisions of this article if the **home** loan would be a high cost home loan if the home loan had been structured as a closed-end loan.

(3) Engage in a deceptive act in connection with a mortgage transaction or a real estate transaction.

(4) Engage in, or solicit to engage in, a real estate transaction or a mortgage transaction without a permit or license required by law. ~~or~~

(5) With respect to a real estate transaction or a mortgage transaction, represent that:

(A) the transaction has:

(i) certain terms or conditions; or

(ii) the sponsorship or approval of a particular person or

entity;

that it does not have and that the person knows or reasonably should know it does not have; or

(B) the real estate or property that is the subject of the transaction has any improvements, appurtenances, uses, characteristics, or associated benefits that it does not have and that the person knows or reasonably should know it does not have.

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

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

(i) A bank.

(ii) A savings and loan association.

(iii) A credit union.

(iv) A savings bank.

(B) The creditor in a mortgage transaction.

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

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

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

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

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

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

SECTION 19. IC 24-9-5-4, AS AMENDED BY P.L.105-2009, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2010]: Sec. 4. (a) This section does not apply to a violation of IC 24-9-3-7(c)(4), ~~or~~ IC 24-9-3-7(c)(5), **or IC 24-9-3-7(c)(6).** A person who violates this article is liable to a person who is a party to the home loan transaction, **mortgage transaction (as defined in IC 24-9-3-7(a)), or real estate transaction (as defined in IC 24-9-3-7(b)), as appropriate,** that gave rise to the violation for the following:

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

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

(3) Costs and reasonable attorney's fees.

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

(c) The right of rescission granted under 15 U.S.C. 1601 et seq. for a violation of the federal Truth in Lending Act (15 U.S.C. 1601 et seq.) is available to a person acting only in an individual capacity by way of recoupment as a defense against a party foreclosing on a home loan at any time during the term of the loan. Any recoupment claim asserted under this provision is limited to the amount required to reduce or extinguish the person's liability under the home loan plus amounts required to recover costs, including reasonable attorney's fees. This article shall not be construed to limit the recoupment rights available to a person under any other law.

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

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

(1) notify the homeowner protection unit established by IC 4-6-12-2 of the alleged violation giving rise to the action; and

(2) allow the homeowner protection unit at least ninety (90) days to institute appropriate administrative and civil action to redress a violation.

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

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

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

(1) a Class A misdemeanor; and

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

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

(1) issue an injunction;

(2) order a person to make restitution;

(3) order a person to reimburse the state for reasonable costs of the attorney general's investigation and prosecution of the violation of this article; and

(4) impose a civil penalty of not more than ten thousand dollars ($10,000) per violation.

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

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

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

(1) shall keep in one (1) or more trust accounts (interest or noninterest bearing) all funds belonging to others that come into

the possession of the principal broker or of any associated salesperson or broker-salesperson; and

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

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

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

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

(1) IC 24-5-15; or

(2) IC 24-5.5;

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

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

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

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

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

(b) This SECTION expires July 2, 2010.

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

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

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

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

(2) includes a court order that awards restitution to one (1) or more individuals who suffered monetary injury as a result of a violation under IC 24-5-0.5 that:

(A) involved the maintenance, on behalf of the injured individuals, of accounts for the receipt of funds for the payment of real estate taxes and insurance periodically owed in connection with real estate; and

(B) occurred before July 1, 2010;

(3) identifies the individuals described in subdivision (2) and each individual's pro rata share of the restitution awarded by the court;

(4) attests that the party ordered to pay the restitution awarded by the court has not paid the amount ordered; and

(5) seeks payment of the restitution awarded by the court from the account.

(d) Subject to subsection (e) and notwithstanding IC 23-2-5-7, upon receiving a qualifying claim from the office of the attorney general, the division shall pay to each individual identified under subsection (c)(3) an amount from the account that is needed to satisfy the individual's pro rata share of the restitution awarded by the court in the order described in subsection (c)(2), as set forth in qualifying claim under subsection (c)(3).

(e) The total amount paid from the account under subsection (d) to all individuals identified in the qualifying claim under subsection (c)(3) may not exceed one hundred fifty thousand dollars ($150,000).

(f) The personal information (as defined in IC 4-1-11-3) of an individual identified under subsection (c)(3) is confidential.

(g) This SECTION expires August 1, 2010.

SECTION 26. **An emergency is declared for this act.**

P.L.115-2010
[H.1336. Approved March 25, 2010.]

AN ACT to amend the Indiana Code concerning state and local administration.

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

SECTION 1. IC 2-3.5-5-3, AS AMENDED BY SEA 222-2010, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) The PERF board shall establish alternative investment programs within the fund, based on the following requirements:

(1) The PERF board shall maintain at least one (1) alternative investment program that is an indexed stock fund, one (1) alternative investment program that is a bond fund, and one (1) alternative investment program that is a stable value fund. **The PERF board may maintain one (1) or more alternative investment programs that:**

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

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

(2) The programs should represent a variety of investment objectives.

(3) The programs may not permit a member to withdraw money from the member's account, except as provided in section 6 of this chapter.

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

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

(A) the last day of each quarter; or

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

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

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

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

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

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

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

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

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

(c) When a member transfers the amount credited to the member from one (1) alternative investment program to another alternative investment program, the amount credited to the member shall be valued at the market value of the member's investment, as of the day before the effective date of the member's selection or at an alternate time established by the rules of the board. When a member retires,

becomes disabled, dies, or withdraws from the fund, the amount credited to the member shall be the market value of the member's investment as of the last day of the quarter preceding the member's distribution or annuitization at retirement, disability, death, or withdrawal, plus contributions received after that date or at an alternate time established by the rules of the board.

(d) The PERF board shall determine the value of each alternative program in the defined contribution fund, as of the last day of each calendar quarter, as follows:

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

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

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

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

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

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

(1) the members' contributions; and

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

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

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

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

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

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

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

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

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

(4) All administrative costs of each alternative program shall be

paid from the earnings on that program or as may be determined by the rules of each board.

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

(A) the last day of each quarter; or

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

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

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

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

(3) include a description of prior investment performance.

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

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

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

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

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

(5) On the effective date of a member's selection, the board shall reallocate the member's existing balance or balances in accordance with the member's direction, based on:

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

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

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

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

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

SECTION 4. IC 5-10.3-11-4.7, AS AMENDED BY P.L.146-2008,

SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2011]: Sec. 4.7. (a) In 2009 and each year thereafter, the state board shall distribute from the pension relief fund to each unit of local government the total amount of pension, disability, and survivor benefit payments from the 1925 police pension fund (IC 36-8-6), the 1937 firefighters' pension fund (IC 36-8-7), and the 1953 police pension fund (IC 36-8-7.5) to be made by the unit in the calendar year, as estimated by the state board under section 4 of this chapter. ~~after subtracting any distributions to the unit from the public deposit insurance fund that will be used for benefit payments.~~

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

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

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

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

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

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

(A) The United States Treasury.

(B) A federal agency.

(C) A federal instrumentality.

(D) A federal government sponsored enterprise.

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

(A) A federal agency.

(B) A federal instrumentality.

(C) A federal government sponsored enterprise.

(3) 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, if the issuer has not defaulted on any of the issuer's obligations within the twenty (20) years preceding the date of the purchase.

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

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

(d) The investing officers of the political subdivisions are the legal custodians of securities under this chapter. They shall accept safekeeping receipts or other reporting for securities from:

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

(2) a financial institution located either in or out of Indiana having custody of securities with a combined capital and surplus of at least ten million dollars ($10,000,000) according to the last statement of condition filed by the financial institution with its governmental supervisory body.

(e) The state board of accounts may rely on safekeeping receipts or other reporting from any depository or financial institution.

(f) In addition to any other investments allowed under this chapter, an officer of a conservancy district located in a city having a population of more than four thousand six hundred fifty (4,650) but less than five thousand (5,000) may also invest in

(1) municipal securities and

(2) equity securities;

having a stated final maturity of any number of years or having no stated final maturity. The total investments outstanding under this

subsection may not exceed twenty-five percent (25%) of the total portfolio of funds invested by the officer of a conservancy district. However, an investment that complies with this subsection when the investment is made remains legal even if a subsequent decrease in the total portfolio invested by the officer of a conservancy district causes the percentage of investments outstanding under this subsection to exceed twenty-five percent (25%).

(g) In addition to any other investments allowed under this chapter, a clerk-treasurer of a town with a population of more than six thousand three hundred (6,300) but less than ten thousand (10,000) located in a county having a population of more than one hundred thousand (100,000) but less than one hundred five thousand (105,000) may also invest money in a host community agreement future fund established by ordinance of the town in

(1) municipal securities and

(2) equity securities;

having a stated final maturity of any number of years or having no stated final maturity. The total investments outstanding under this subsection may not exceed twenty-five percent (25%) of the total portfolio of funds invested by the clerk-treasurer of a town. However, an investment that complies with this subsection when the investment is made remains legal even if a subsequent decrease in the total portfolio invested by the clerk-treasurer of a town causes the percentage of investments outstanding under this subsection to exceed twenty-five percent (25%).

SECTION 7. IC 5-13-9-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. (a) An officer designated in section 1 of this chapter may invest or reinvest funds that are held by the officer and available for investment in investments commonly known as money market mutual funds that are in the form of securities of or interests in an open-end, no-load, management-type investment company or investment trust registered under the provisions of the federal Investment Company Act of 1940, as amended (15 U.S.C. 80a et seq.).

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

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

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

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

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

(1) Direct obligations of the United States.

(2) Obligations issued by any of the following:

(A) A federal agency.

(B) A federal instrumentality.

(C) A federal government sponsored enterprise.

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

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

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

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

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

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

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

(b) The investing officer making a deposit in a certificate of deposit

shall obtain quotes of the specific rates of interest for the term of that certificate of deposit that each designated depository will pay on the certificate of deposit. Quotes may be solicited and taken by telephone. A memorandum of all quotes solicited and taken shall be retained by the investing officer as a public record of the political subdivision under IC 5-14-3. ~~A deposit made under this subsection shall be~~ **If the deposit is not** placed in the designated depository quoting the highest rate of interest, ~~If more than one (1) depository submits a quote of the highest interest rate quoted for the investment, the deposit may be placed in any or all of the designated depositories quoting the highest rate in the amount or amounts determined by the investing officer, in the investing officer's discretion.~~ **the investing officer shall:**

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

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

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

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

(b) With respect to any money to be invested in a deposit account under subsection (a), the investing officer shall solicit quotes for the certificates of deposit from at least three (3) depositories. If only one (1) depository has been designated for the political subdivision by its

local board of finance, a quote must be solicited from that depository. If two (2) or more depositories have been designated for the political subdivision by its local board of finance, at least two (2) quotes must be solicited from the depositories thus designated. The quotes may be solicited and taken by telephone. A memorandum of all quotes solicited and taken shall be retained by the investing officer as a public record of the political subdivision under IC 5-14-3.

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

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

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

~~(3) If none of the highest quoters is a depository designated for the political subdivision by its local board of finance, the investment shall be placed by the investing officer in one (1) of the depositories submitting the highest quote.~~

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

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

certificates of deposit in accordance with the following conditions:

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

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

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

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

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

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

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

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

(c) The fund shall be administered by a board, which must be comprised of the investing officer of each of the participating political

subdivisions and which must be an instrumentality of the participating political subdivisions. Each officer of a political subdivision located within the county who is designated in section 1 of this chapter may pay funds that are held by the officer and available for investment into a joint fund known as a joint investment fund. The fund is administered by a board comprised of the investing officer of each of the participating political subdivisions and is an instrumentality of the participating political subdivisions.

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

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

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

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

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

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

(5) A custodian bank or trust company located in Indiana must:

(A) be selected and contracted by the board of a joint investment fund to hold the securities and other investments of the joint investment fund;

(B) collect the income and other receipts from the securities and other investments; and

(C) provide any other services appropriate and customary for a custodian;

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

(6) The board of a joint investment fund may select and contract with a fund administrator to provide investment advice to the board and any other services determined by the board to be

appropriate and necessary for the efficient administration and accounting of the joint investment fund. The fund administrator shall agree to recommend only securities and other investments as prescribed in the written policies established by the board in rendering investment advice to the board and shall agree to be responsible, accountable, and liable for any breach of this provision. The fund administrator must have experience in the investment of public funds for governmental entities and must be either of the following:

(A) A financial institution located in Indiana.

(B) Registered as an investment adviser with the United States Securities and Exchange Commission under the Investment Advisers Act of 1940, as amended (15 U.S.C. 80a-9 et seq.), with public funds under management in the amount of at least one hundred million dollars ($100,000,000).

(7) A joint investment fund must be audited at least annually by an independent auditing firm, with a copy of the audit provided to each participating political subdivision.

(8) The administrative expenses of a joint investment fund, including fees for the fund administrator, custodian, auditor, and other professional services, must be paid from the fund's interest earnings.

(9) The interest earnings that exceed the administrative expenses of a joint investment fund must be credited to each political subdivision participating in the joint investment fund in a manner that equitably reflects the differing amounts and terms of the political subdivision's investment in the joint investment fund.

(10) Each participating political subdivision shall receive reports, including a daily transaction confirmation reflecting any activity in the political subdivision's account and monthly reports reflecting its investment activity in the joint investment fund and the performance and composition of the joint investment fund itself.

(11) The board of a joint investment fund shall meet at least annually to review the operation and performance of the joint investment fund, the custodian, the fund administrator, the auditor, and any other professional retained by the board.

(12) The board of a joint investment fund shall provide for any

other policies that are necessary for the efficient administration and accounting of the joint investment fund and are consistent with the law governing the investment, management, deposit, and safekeeping of public funds of political subdivisions.

SECTION 12. IC 5-13-9.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) A financial institution may at any time file an application to become a depository and receive public funds of the state on deposit. Except as provided in IC 5-13-8-1 and IC 5-13-8-7, designation of a depository to receive public funds of the state qualifies a depository to receive public funds of a political subdivision. Applications for the state board of finance must be filed with the treasurer of state. The treasurer shall submit each application to the board.

(b) An application must:

(1) be made in writing on forms prescribed under section 8 of this chapter;

(2) contain terms and conditions as required and authorized by this chapter; and

(3) offer to:

(A) receive public funds of the state on deposit; and

(B) provide the security required by IC 5-13-13-7 for the safekeeping and prompt payment of the deposited funds.

(c) A financial institution is ineligible to become a depository and receive public funds of the state if the institution:

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

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

If the financial institution is already a depository, the institution may continue to hold the public funds until maturity to avoid the imposition of a penalty upon the depositor, although the financial institution may not accept the public funds for reinvestment and may not accept additional public funds. A determination of the ratio described in this subsection must be based on the institution's most recent periodic

statement of condition filed with the institution's governmental supervisory body under the regulatory accounting principles as prescribed by the supervisory body.

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

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

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

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

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

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

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

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

officer of a depository at the time of the appointment if the depository is domiciled in Indiana. 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 both, or the person designated to manage public funds for the depository that is located in Indiana. In making the governor's appointments, the governor shall provide for geographic representation of all regions of Indiana, including both urban and rural communities. In addition, the appointees must, at the time of the appointment, be employed by the following depositories:

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

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

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

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

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

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

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

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

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

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

Total deposits shall be determined using the depository's reported deposits based on the information contained in the most recent June 30th FDIC Summary of Deposits, Market Share Selection for Indiana. The ~~terms~~ **term** of ~~the~~ **an** appointed ~~members extend for~~ **member is** four (4) ~~year periods.~~ **years from the effective date of the member's appointment.** Each appointed member holds office for the term of this appointment and serves after the expiration of that appointment until the member's successor is appointed and qualified. **An appointed member may be reappointed if the individual**

satisfies the requirements of this subsection at the time of the reappointment. Any appointed member may be removed from office by, and at the pleasure of, the ~~governor.~~ **appointing authority.**

(b) The officers of the board consist of a chairman, a secretary-investment manager, a vice chairman, and other officers the board determines to be necessary. The governor shall name a member of the board to serve as its chairman. The treasurer of state shall serve as the secretary-investment manager of the board. The board, by majority vote, shall elect the other officers. Officers, except the secretary-investment manager, shall be named or elected for one (1) year terms in January of each year. The members and officers of the board are not entitled to any compensation for their services but are entitled to reimbursement for actual and necessary expenses on the same basis as state employees.

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

(1) The financial strength of a particular financial institution.

(2) The collateral requirements of a particular financial institution.

(3) Any other matters concerning a particular financial institution.

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

(d) ~~Ten (10)~~ **Two (2)** days notice of the time and place of all meetings to determine and fix the assessment rate to be paid by depositories on account of insurance on public funds or the establishment or redetermination of the reserve for losses of the insurance fund shall be given by one (1) publication in a newspaper of general circulation printed and published in the city of Indianapolis.

The time, place, notice, and waiver requirements for the members of the board for all meetings shall be determined by its rules. The secretary-investment manager of the board shall enter its proceedings at length in a record provided for that purpose, and the records of the proceedings shall be approved and signed respectively by the chairman or vice chairman and attested by the secretary-investment manager.

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

(1) Approve all accounts for salaries and allowable expenses of the board, including, but not limited to:

(A) the employment of general or special attorneys, consultants, and employees and agents as may be necessary to assist the secretary-investment manager in carrying out the duties of that office and to assist the board in its consideration of applications for a guarantee of an industrial development obligation or credit enhancement obligation guarantee; and

(B) the setting of compensation of persons employed under clause (A).

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

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

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

(c) Each year, beginning in 2001 and ending in 2021, after the treasurer of state prepares the annual report required by IC 4-8.1-2-14,

the secretary-investment manager shall determine:

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

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

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

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

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

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

~~STEP ONE: Add the amount determined under subsection (c)(1) to the amount determined under subsection (c)(2).~~

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

~~STEP THREE: Multiply the STEP TWO quotient by the amount of payments made by each unit of local government during the preceding calendar year for benefits under the police and firefighter pension funds established by IC 36-8-6, IC 36-8-7, and IC 36-8-7.5, as reported under subsection (d).~~

~~(f)~~ **(d)** Subject to subsection ~~(j),~~ **(g),** on or before the last business day of December of each year, beginning in 2001 and ending in 2021, the secretary-investment manager shall provide to the auditor of state

~~(1) a report setting forth the amounts to be distributed to units of local government, as determined under subsection (c); and~~

~~(2)~~ a check payable from the public deposit insurance fund to the pension distribution fund established by subsection ~~(g)~~ **(e)** in an amount equal to the amount determined under subsection (c)(1).

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

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

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

(1) The amount determined under subsection (c)(2).

(2) The amount deposited in the pension distribution fund in December of the preceding year under subsection (d).

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

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

(1) the total amount of payments made from the public deposit

insurance fund under IC 5-13-13-3 after June 30, 2001;

(2) the total amount of payments received by the board for depositories and deposited in the public deposit insurance fund under IC 5-13-13-3 after June 30, 2001; and

(3) the total amount of interest earned by the public deposit insurance fund after the first of the payments described in subdivision (1).

If the total amount of payments determined under subdivision (1) less the total amount of payments determined under subdivision (2) (referred to in this subsection as the "net draw on the fund") exceeds ten million dollars ($10,000,000) and also exceeds the total amount of interest determined under subdivision (3), the secretary-investment manager may not provide a check to the auditor of state under subsection ~~(f)(2)~~ **(d)** and a distribution may not be made from the pension distribution fund under subsection ~~(h)~~ **(f)** in the following calendar year until the total amount of interest earned by the public deposit insurance fund equals the net draw on the fund. A check may not be provided under subsection ~~(f)(2)~~ **(d)** and a distribution may not be made under subsection ~~(f)~~ **(d)** in any subsequent calendar year if a study conducted by the board under section 7(b) of this chapter demonstrates that payment of the distribution would reduce the balance of the public deposit insurance fund to a level insufficient to ensure the safekeeping and prompt payment of public funds to the extent they are not covered by insurance of any federal deposit insurance agency.

SECTION 15. IC 5-13-12-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Subject to the limitations prescribed in this chapter, the board for depositories may fix the assessment rate to provide assets in the fund sufficient to equal the reserve for losses of the fund for the insurance of public funds on deposit in depositories. Effective on July 1, and January 1, of each year, **and from time to time as the board determines necessary,** the board shall determine and fix the fair and reasonable assessment rate for each classification of deposit, if any, to be used by depositories in determining the assessments. ~~payable during the succeeding six (6) month period.~~ This determination shall be made by the board before or as soon as practicable after the applicable July 1, ~~or~~ January 1, **or other date established by the board.** In fixing the rate, if any, the board shall consider the amount of public funds currently on deposit, the

liabilities of the insurance fund, contingent and accrued, and the determination of the board on the amount of the reserve for losses of the insurance fund as set out in section 7(b) of this chapter. For any ~~six (6) month~~ period, the maximum assessment rate that may be fixed by the board is two percent (2%). The board may lower or waive the assessment on any or all classifications of deposit if in its discretion it determines that a lower rate or waiver will not prevent the fund from attaining sufficient assets to equal the reserve for losses. **Subject to the board's power to implement an assessment at any time by action by the board,** if ~~at the beginning of any six (6) month period,~~ no action has been taken by the board for depositories fixing the assessment rate, if any, on public funds, ~~for the succeeding six (6) month period,~~ the assessment rate is the same rate, if any. ~~in effect during the preceding six (6) month period.~~ Whenever as of July 1, or January 1, **or another date established by the board,** the value of the assets in the fund equals or exceeds the reserve for losses, the board shall eliminate the assessment requirement ~~for the succeeding six (6) month period~~ for each classification of deposit.

(b) During any period when an assessment rate is in effect, the assessment base for each depository of public funds shall be determined monthly. The assessment base must be equal to the sum total of all the minimum balances of each classification of public funds on deposit in each and all accounts during the month, the minimum balance of each account being taken respectively as of the date on which it occurs. **For purposes of this section, deposits that are federally insured are not considered public funds deposits in a depository.** On or before the second day of each month in which an assessment rate is in effect, each depository shall compute the amount of the assessment due from it to the insurance fund on account of public funds on deposit with it during the preceding month. The amount of the monthly assessment, if any, is the product obtained by multiplying one-twelfth (1/12) times the assessment base for the month for which the assessment is being computed.

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

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

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

(c) At the end of each biennial period during which depositories have had public funds on deposit under this chapter and paid the assessments levied by the board, the board shall compute its receipts from assessments and all other sources and its expenses and losses and determine the profit derived from the operation of the fund for the period. Until the amount of the reserve for losses has been accumulated, all assessments levied for a biennial period shall be retained by the fund. The amount of the assessments, if any, levied by the board shall, to the extent the fund exceeds the reserve for losses at the end of a biennial period commencing July 1 of each odd-numbered year, be distributed to the depositories that had public funds on deposit during the biennial period in which the assessments were paid. The distribution shall be made to the respective depositories in the proportion that the total assessments paid by each depository during that period bears to the total assessments then paid by all depositories. A distribution to which any closed depository would otherwise be entitled shall be set off against any claim that the insurance fund may have against the closed depository.

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

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

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

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

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

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

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

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

(8) In bonds, notes, or other valid obligations of the Indiana finance authority that have been issued in conjunction with the authority's acquisition, development, or improvement of property or other interests for an industrial development project (as defined

in IC 4-4-10.9-11) that the authority has undertaken for the purposes of retaining or increasing employment in existing or new enterprises in Indiana, subject to the limitations in subsection (e).

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

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

(e) The investment authority of the board under subsection (d) is subject to the following limitations:

(1) For investments under subsection (d)(1) and (d)(2), the portfolio of an open-end no-load management-type investment company or investment trust must be limited to:

(A) direct obligations of the United States and obligations of a federal agency or a federal instrumentality that are fully guaranteed by the United States; and

(B) repurchase agreements fully collateralized by obligations described in clause (A), of which the company or trust takes delivery either directly or through an authorized custodian.

(2) Total outstanding investments in guarantees of industrial development obligations and credit enhancement obligations under subsection (d)(6) must not exceed the greater of:

(A) ten percent (10%) of the available balance of the insurance fund; or

(B) fourteen million dollars ($14,000,000).

(3) Total outstanding investments in guarantees of bond bank obligations under subsection (d)(7) must not exceed the greater of:

(A) twenty percent (20%) of the available balance of the insurance fund; or

(B) twenty-four million dollars ($24,000,000).

(4) Total outstanding investments in bonds, notes, or other obligations of the Indiana finance authority under subsection (d)(8) may not exceed the greater of:

(A) fifteen percent (15%) of the available balance of the insurance fund; or

(B) twenty million dollars ($20,000,000).

However, after June 30, 1988, the board may not make any additional investment in bonds, notes, or other obligations of the Indiana finance authority issued under IC 4-4-11, and the board may invest an amount equal to the remainder, if any, of:

(i) fifteen percent (15%) of the available balance of the insurance fund; minus

(ii) the board's total outstanding investments in bonds, notes, or other obligations of the Indiana finance authority issued under IC 4-4-11;

in guarantees of industrial development obligations or credit enhancement obligations, or both, as authorized by subsection (d)(6). In such a case, the outstanding investments, as authorized by subsection (d)(6) and (d)(8), may not exceed in total the greater of twenty-five percent (25%) of the available balance of the insurance fund or thirty-four million dollars ($34,000,000).

(5) Total outstanding investments in notes or other debt obligations of counties, cities, and towns under subsection (d)(9) may not exceed the greater of:

(A) ten percent (10%) of the available balance of the insurance fund; or

(B) twelve million dollars ($12,000,000).

(f) For purposes of subsection (e), the available balance of the insurance fund does not include the outstanding principal amount of any fund investment in a corporate note or obligation or the part of the fund that has been established as a reserve for losses.

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

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

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

(1) the principal amount of the loan;

(2) the deferred interest payable on the loan; and

(3) accrued interest to the date of purchase by the board.

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

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

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

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

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

(c) Subject to the limitations in subsections (a) through (b), the

warrants shall be issued in the individual and gross amounts and in the form and at the rate of interest approved by the board for depositories.

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

(1) United States Treasury securities.

(2) Federal agency securities.

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

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

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

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

securities to such an extent that the market value of the pledge will at all times be substantially equal to the amount of public funds on deposit in the respective depositories.

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

(d) Any order of the board for depositories ~~applies equally to all depositories and~~ becomes effective within the time fixed by the board. However, the time of effectiveness must not be earlier than thirty (30) days from the date of entry of the order by the board. The order continues in force until rescinded by the board. Upon the entry of any order by the board for depositories, all then constituted depositories **affected by the order** shall comply with the order. Upon compliance, and full payment of all its liabilities by the insurance fund, depositories are not required to pay any further assessments for insurance under this chapter until the order requiring collateral has been revoked or rescinded and the collateral returned to the respective depositories.

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

(1) elects this option;

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

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

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

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

SECTION 20. IC 24-5-23.6 IS ADDED TO THE INDIANA CODE

AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 23.6. Five Star Mortgages

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

(1) a person:

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

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

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

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

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

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

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

Sec. 2. (a) As used in this chapter, "debtor", with respect to a mortgage, refers to the maker of the note secured by the mortgage.

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

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

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

(1) condominium unit;

(2) cooperative unit;

(3) mobile home; or

(4) trailer;

that is used as a residence.

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

(1) offers at least one (1) mortgage product that qualifies as a five star mortgage under the program; and

(2) has a current and accurate certification on file with the department, as described in section 9(a)(3) of this chapter.

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

(1) is an Indiana resident at the time the mortgage is offered by the creditor; or

(2) would become an Indiana resident after purchasing and occupying the dwelling that is the subject of the mortgage being offered.

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

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

(1) A home loan subject to IC 24-9.

(2) A loan described in IC 24-9-1-1, to the extent allowed under federal law.

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

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

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

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

(2) To participate in the program, a creditor must submit a certification, on a form prescribed by the department,

attesting that the creditor qualifies as a five star mortgage lender.

(3) To qualify as a five star mortgage lender under the program, a creditor must certify, on the form described in subdivision (2), that the creditor meets the following conditions:

(A) The creditor offers or will offer to Indiana customers after June 30, 2010, at least one (1) mortgage product that qualifies as a five star mortgage under the program.

(B) The creditor does not have a record of any significant or recurring violation of:

(i) IC 24-5-23.5-7; or

(ii) any other state or federal law, regulation, or rule applicable to mortgage transactions;

as of the date of the creditor's certification. If the creditor is not certain whether it meets the criterion set forth in this clause, the creditor shall consult with the department before filing a certification to participate in the program.

(C) The creditor does not have a director or an executive officer who has been convicted of or pleaded guilty or nolo contendere to a felony involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction, as of the date of the creditor's certification. If the creditor is not certain whether it meets the criterion set forth in this clause, the creditor shall consult with the department before filing a certification to participate in the program.

(4) To qualify as a five star mortgage under the program, a mortgage must include the following terms and conditions:

(A) If the mortgage involves a purchase money transaction, the mortgage must require a down payment by the debtor, or a person acting on behalf of the debtor, of at least ten percent (10%) of the purchase price of the dwelling that is the subject of the mortgage. If the mortgage involves the refinancing of an existing mortgage, the customer must have equity of at least ten percent (10%) in the dwelling that is the subject of the mortgage.

(B) The mortgage must have a fixed rate of interest.

(C) The mortgage must provide for an escrow account

that:

(i) is established by the creditor, or a person acting on behalf of the creditor, for the benefit of the debtor;

(ii) is maintained by the creditor, or a person acting on behalf of the creditor, during the life of the mortgage; and

(iii) is used during the life of the mortgage to pay taxes and insurance owed with respect to the dwelling that is the subject of the mortgage.

However, this clause does not apply if, in the creditor's ordinary course of business, the creditor does not regularly establish and maintain, or contract for the establishment and maintenance of, escrow accounts for the payment of taxes and insurance, on behalf of the creditor's customers.

(D) The term of the mortgage may not exceed thirty (30) years.

(E) The mortgage may not include a prepayment penalty or fee.

(5) A creditor that qualifies as a five star mortgage lender and files a certification with the department under subdivision (3) shall provide a written statement, on a form and in the manner prescribed by the department, to any Indiana customer who:

(A) applies for a five star mortgage offered by the creditor; and

(B) does not qualify for the five star mortgage based on the creditor's underwriting standards for the five star mortgage.

The statement must set forth the reasons why the Indiana customer did not qualify for the five star mortgage.

(6) A creditor that qualifies as a five star mortgage lender and files a certification with the department may include that fact in any marketing material or solicitation directed at Indiana customers, subject to any conditions or limitations imposed by the department in the guidelines adopted under this section.

(7) If a creditor:

(A) holds itself out as a five star mortgage lender and:

(i) the creditor has not filed an accurate certification, including any renewal certification required by the

department under subsection (b)(3), with the department under this chapter; or

(ii) the creditor has filed a certification or a renewal certification with the department under this chapter and subsequently ceases offering at least one (1) mortgage product that qualifies as a five star mortgage; or

(B) fails to comply with any program requirement;

the department, upon discovering the act described in clause (A) or (B), shall immediately provide written notice to the creditor that the creditor does not qualify for participation in the program, or no longer qualifies for participation in the program, as appropriate. The notice provided under this subdivision must inform the creditor of the reason or reasons the creditor does not qualify for participation in the program, or no longer qualifies for participation in the program, as appropriate. Not later than seven (7) days after the date of the notice provided to the creditor under this subdivision, the department shall remove the creditor from the list of creditors published on the department's Internet web site under subsection (c), as appropriate, and shall post, on the same Internet web page on which the list described in subsection (c) is published, a link to the notice provided to the creditor under this subdivision.

(b) In addition to the program criteria required by subsection (a), the guidelines adopted by the department under this section may include the following:

(1) Provisions allowing a creditor that qualifies as a five star mortgage lender and files a certification with the department to include in the paperwork associated with a five star mortgage:

(A) a statement;

(B) a seal; or

(C) any other designation considered appropriate by the department;

indicating that the particular mortgage product is a five star mortgage.

(2) A requirement that a creditor that qualifies as a five star mortgage lender and files a certification with the department shall report the following information to the department on

an annual basis, or any other basis determined appropriate by the department:

(A) The total number and types of residential mortgage products that were offered by the creditor to Indiana customers during the applicable reporting period, including any five star mortgages reported under clause (C).

(B) The total number of residential mortgages described in clause (A) that were closed by the creditor during the applicable reporting period, including any five star mortgages that were closed during the reporting period, as reported under clause (D).

(C) The number of mortgage products that:

(i) qualified as five star mortgages under the program; and

(ii) were offered by the creditor to Indiana customers;

during the applicable reporting period.

(D) The number of five star mortgages offered to Indiana customers that were closed by the creditor during the applicable reporting period.

(3) A requirement that a creditor that qualifies as a five star mortgage lender and files a certification with the department shall periodically submit to the department a renewal certification, on a form prescribed by the department, in conjunction with a report filed under subdivision (2), or at such other time as the department determines appropriate. In any renewal certification required under this subdivision, a creditor must attest that the creditor:

(A) continued to meet the criteria necessary to qualify as a five star mortgage lender; and

(B) complied with all program requirements;

during the applicable reporting period.

(4) A fee fixed by the department under IC 28-11-3-5 for each certification and recertification submitted by a creditor under this chapter. However, any fee fixed by the department under this subdivision may not exceed the department's actual costs to:

(A) process certifications and renewal certifications;

(B) publish the list described in subsection (c) on the

department's Internet web site; and

(C) otherwise administer the program.

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

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

(1) certification under this chapter; or

(2) renewal certification under this chapter;

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

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

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

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

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

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

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

(b) If the department receives credible evidence from any source that a financial institution that issues to Indiana borrowers an unsecured credit card that is not a debit card, as a card issuer (as defined in 15 U.S.C. 1602(n)) is not in substantial compliance with the act, the director of the department shall send a notice of the

evidence by certified mail to the financial institution's chief executive officer. The notice must:

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

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

(3) describe the consequences under IC 5-13-9.5-1(c) of a finding that the financial institution is not in substantial compliance with the act; and

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

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

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

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

(e) A financial institution that has been determined by the department to not be in substantial compliance with the act may petition the department for a hearing to demonstrate that the financial institution has taken the necessary steps to attain substantial compliance with the act, and to ensure future substantial compliance with the act. The hearing and the determination by the department are subject to IC 4-21.5-3.

Judicial review of the department's final determination may be obtained in accordance with IC 4-21.5-5. Upon final determination by the department, or a final judgment in the case of pending judicial review, that the financial institution is in substantial compliance with the act, the department shall immediately notify the chairperson of the board for depositories established under IC 5-13-12 of the determination or judgment.

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

P.L.116-2010

[HJ.1. Approved January 19, 2010.]

A JOINT RESOLUTION proposing an amendment to Article 10, Section 1 of the Constitution of the State of Indiana concerning taxation.

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

SECTION 1. The following proposed amendment to the Constitution of the State of Indiana, which was agreed to by the One Hundred Fifteenth General Assembly of the State of Indiana and referred to this General Assembly for reconsideration and agreement, is agreed to by this the One Hundred Sixteenth General Assembly of the State of Indiana.

SECTION 2. ARTICLE 10, SECTION 1 OF THE CONSTITUTION OF THE STATE OF INDIANA IS AMENDED TO READ AS FOLLOWS: Section 1. (a) **Subject to this section,** the General Assembly shall provide, by law, for a uniform and equal rate of property assessment and taxation and shall prescribe regulations to secure a just valuation for taxation of all property, both real and personal.

(b) A provision of this section permitting the General Assembly to exempt property from taxation also permits the General Assembly to exercise its legislative power to enact property tax

deductions and credits for the property. The General Assembly may impose reasonable filing requirements for an exemption, deduction, or credit.

(c) The General Assembly may exempt from property taxation any property in any of the following classes:

(1) Property being used for municipal, educational, literary, scientific, religious, or charitable purposes.

(2) Tangible personal property other than property being held as an investment.

(3) Intangible personal property.

(4) Tangible ~~real~~ property, including curtilage, used as a principal place of residence by an:

(A) owner of the property;

(B) individual who is buying the tangible ~~real~~ property under a contract; or

(C) individual who has a beneficial interest in the owner of the tangible ~~real~~ property.

~~(b)~~ **(d)** The General Assembly may exempt any motor vehicles, mobile homes **(not otherwise exempt under this section),** airplanes, boats, trailers, or similar property, provided that an excise tax in lieu of the property tax is substituted therefor.

(e) This subsection applies to property taxes first due and payable in 2012 and thereafter. The following definitions apply to subsection (f):

(1) "Other residential property" means tangible property (other than tangible property described in subsection (c)(4)) that is used for residential purposes.

(2) "Agricultural land" means land devoted to agricultural use.

(3) "Other real property" means real property that is not tangible property described in subsection (c)(4), is not other residential property, and is not agricultural land.

(f) This subsection applies to property taxes first due and payable in 2012 and thereafter. The General Assembly shall, by law, limit a taxpayer's property tax liability as follows:

(1) A taxpayer's property tax liability on tangible property described in subsection (c)(4) may not exceed one percent (1%) of the gross assessed value of the property that is the basis for the determination of property taxes.

(2) A taxpayer's property tax liability on other residential property may not exceed two percent (2%) of the gross assessed value of the property that is the basis for the determination of property taxes.

(3) A taxpayer's property tax liability on agricultural land may not exceed two percent (2%) of the gross assessed value of the land that is the basis for the determination of property taxes.

(4) A taxpayer's property tax liability on other real property may not exceed three percent (3%) of the gross assessed value of the property that is the basis for the determination of property taxes.

(5) A taxpayer's property tax liability on personal property (other than personal property that is tangible property described in subsection (c)(4) or personal property that is other residential property) within a particular taxing district may not exceed three percent (3%) of the gross assessed value of the taxpayer's personal property that is the basis for the determination of property taxes within the taxing district.

(g) This subsection applies to property taxes first due and payable in 2012 and thereafter. Property taxes imposed after being approved by the voters in a referendum shall not be considered for purposes of calculating the limits to property tax liability under subsection (f).

(h) As used in this subsection, "eligible county" means only a county for which the General Assembly determines in 2008 that limits to property tax liability as described in subsection (f) are expected to reduce in 2010 the aggregate property tax revenue that would otherwise be collected by all units of local government and school corporations in the county by at least twenty percent (20%). The General Assembly may, by law, provide that property taxes imposed in an eligible county to pay debt service or make lease payments for bonds or leases issued or entered into before July 1, 2008, shall not be considered for purposes of calculating the limits to property tax liability under subsection (f). Such a law may not apply after December 31, 2019.

CERTIFICATE

INDIANA GENERAL ASSEMBLY

SS:

STATE OF INDIANA

We, the undersigned, do hereby certify that P.L.1-2010 through P.L.116-2010 of the Second Regular Session of the One Hundred Sixteenth General Assembly of the State of Indiana have been compared with the enrolled acts from which they were taken and have been found correctly printed.

Signed in the State of Indiana, this 28th day of April, 2010.

David C. Long
President Pro Tempore, Senate

B. Patrick Bauer
Speaker, House of Representatives

Seal

STATEMENT OF FUND NET ASSETS OF AUDITOR OF STATE

For the Fiscal Year Ended June 30, 2009
(amounts expressed in thousands)

		Balance 07/01/08	Revenues	Expenditures	Balance 06/30/09
Governmental Funds					
General Fund	a	$ 2,800,322	$ 12,405,185	$ 10,550,589	$ 1,533,299
Other Financing Sources (Net)			(3,121,619)		
Special Revenue Funds	a	4,353,907	12,732,503	14,465,420	5,086,882
Other Financing Sources (Net)			2,465,892		
Highway Fund		173,380	1,063,877	1,858,962	204,122
Other Financing Sources (Net)			825,827		
Capital Projects Funds		171,852	164,647	42,391	136,154
Other Financing Sources (Net)			(157,954)		
Permanent Funds	a	1,100,106	(2,683)	2,559	1,094,864
Other Financing Sources (Net)			-		
Proprietary Funds					
Enterprise Funds	a	325,296	1,251,916	2,366,788	(770,680)
Nonoperating Revenues (Net)			16,783		
Operating Transfers (Net)			2,113		
Internal Service Funds	a	117,499	523,319	512,825	109,092
Nonoperating Revenues (Net)			(10,300)		
Operating Transfers (Net)			(8,601)		
Fiduciary Funds					
Pension and Other Employee Benefit Trust Funds	a, b	416,074	31,796	29,945	417,925
Private-Purpose Trust Funds		38,088	155,750	165,650	28,188
Total		$ 9,496,524	$ 28,338,451	$ 29,995,129	$ 7,839,846

Notes:
a. Beginning balance as restated for prior period adjustments and/or reclassifications.
b. Includes new State Employee Retiree Health Benefit Trust Fund.

Source: Comprehensive Annual Financial Report for the fiscal year ended June 30, 2009.

TABLES

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Affected Provisions	Type	SEC.	Effective	P.L.
Noncode				
0-1986-245-3	Repealed	11	07/01/2010	20-2010
0-1989-1-78	Repealed	11	07/01/2010	20-2010
0-1999-184-2	Repealed	11	07/01/2010	20-2010
0-2000-32-28	Repealed	11	07/01/2010	20-2010
0-2005-4-149	Repealed	11	07/01/2010	20-2010
0-2005-73-176	Repealed	11	07/01/2010	20-2010
0-2005-161-4	Repealed	13	07/01/2010	10-2010
0-2005-185-54	Repealed	11	07/01/2010	20-2010
0-2005-235-217	Repealed	11	07/01/2010	20-2010
0-2006-165-42	Repealed	13	07/01/2010	10-2010
0-2008-94-69	Repealed	13	07/01/2010	10-2010
0-2009-127-14	Repealed	158	03/12/2010	1-2010
0-2009-128-3	Repealed	7	03/24/2010	100-2010
0-2009-131-77	Amended	157	03/12/2010	1-2010
Title 1				
1-1-1-2	Amended	1	07/01/2010	20-2010
1-1-3.2	Repealed	156	03/12/2010	1-2010
Title 2				
2-2.1-3-2	Amended	1	01/01/2011	58-2010
2-2.1-3-9.5	New	2	07/01/2010	58-2010
2-2.1-3-12	Amended	3	07/01/2010	58-2010
2-3.5-3-4	Amended	1	07/01/2010	99-2010
2-3.5-5-3	Amended	1	07/01/2010	115-2010
2-3.5-5-3	Amended	1	03/12/2010	1-2010
2-5-29-1.5	New	1	07/01/2010	113-2010
2-5-29-1.6	New	2	07/01/2010	113-2010
2-5-29-3	Amended	3	07/01/2010	113-2010
2-5-29-3.6	New	4	07/01/2010	113-2010
2-5-29-6	Amended	5	07/01/2010	113-2010
2-5-29-7.5	New	6	07/01/2010	113-2010
2-5-29-8	Repealed	170	07/01/2010	113-2010
2-5.5-2	Repealed	7	03/24/2010	100-2010
2-5.5-2-5	Amended	1	07/01/2010	103-2010
2-5.5-3-5	Amended	1	06/01/2010	59-2010
2-5.5-3-10	Amended	2	06/01/2010	59-2010
2-5.5-5	New	1	07/01/2010	100-2010
2-7-1-0.1	New	4	11/01/2010	58-2010

Affected Provisions	Type	SEC.	Effective	P.L.
2-7-1-1.3	New	5	11/01/2010	58-2010
2-7-1-1.5	Repealed	35	11/01/2010	58-2010
2-7-1-1.7	New	6	11/01/2010	58-2010
2-7-1-1.9	New	7	11/01/2010	58-2010
2-7-1-4	Amended	8	11/01/2010	58-2010
2-7-1-7.2	New	9	11/01/2010	58-2010
2-7-1-7.5	New	10	11/01/2010	58-2010
2-7-1-8	Amended	11	11/01/2010	58-2010
2-7-1-9	Amended	12	11/01/2010	58-2010
2-7-1-10	Amended	13	11/01/2010	58-2010
2-7-1-10.5	New	14	11/01/2010	58-2010
2-7-1-15	Repealed	35	11/01/2010	58-2010
2-7-1-17	Repealed	35	11/01/2010	58-2010
2-7-2-2	Amended	15	11/01/2010	58-2010
2-7-3-2	Amended	16	11/01/2010	58-2010
2-7-3-3	Amended	17	11/01/2010	58-2010
2-7-3-3.3	New	18	11/01/2010	58-2010
2-7-3-3.5	New	19	11/01/2010	58-2010
2-7-3-6	Repealed	35	11/01/2010	58-2010
2-7-3-7	New	20	11/01/2010	58-2010
2-7-4-5.5	New	21	11/01/2010	58-2010
2-7-4-6	Amended	22	11/01/2010	58-2010
2-7-5-1	Amended	23	11/01/2011	58-2010
2-7-5-7	New	24	01/01/2012	58-2010
2-7-5-7.1	New	25	03/17/2010	58-2010
2-7-5-8	New	26	11/01/2010	58-2010
2-7-5-9	New	27	11/01/2010	58-2010
2-7-5-10	New	28	07/01/2010	58-2010
2-7-6-3	Amended	29	11/01/2010	58-2010
2-7-6-6	Amended	30	11/01/2010	58-2010

Title 3

3-7-26.7-7	Amended	2	03/12/2010	1-2010
3-7-32-4	Amended	1	07/01/2010	66-2010
3-7-36-5	Amended	2	07/01/2010	66-2010
3-7-36-6	Amended	3	07/01/2010	66-2010
3-7-36-7	Amended	4	07/01/2010	66-2010
3-7-36-8	Amended	5	07/01/2010	66-2010
3-7-36-9	Amended	6	07/01/2010	66-2010
3-8-8-3	Amended	7	07/01/2010	66-2010
3-8-8-7	Amended	8	07/01/2010	66-2010
3-9-2-12	Amended	31	07/01/2010	58-2010

Affected Provisions	Type	SEC.	Effective	P.L.
3-9-5-3	Amended	32	01/01/2011	58-2010
3-10-4-4	Amended	3	03/12/2010	1-2010
3-10-8-4.5	Amended	1	03/12/2010	10-2010
3-10-8-9	Amended	2	03/12/2010	10-2010
3-11-4-1	Amended	9	07/01/2010	66-2010
3-11-4-3	Amended	10	07/01/2010	66-2010
3-11-4-4	Amended	11	07/01/2010	66-2010
3-11-4-5.5	Amended	12	07/01/2010	66-2010
3-11-4-5.7	New	13	07/01/2010	66-2010
3-11-4-6	Amended	14	07/01/2010	66-2010
3-11-4-6.1	New	15	07/01/2010	66-2010
3-11-4-12	Repealed	31	07/01/2010	66-2010
3-11-4-12.5	New	16	07/01/2010	66-2010
3-11-4-13	Repealed	31	07/01/2010	66-2010
3-11-4-14	Amended	17	07/01/2010	66-2010
3-11-4-15	Amended	18	07/01/2010	66-2010
3-11-4-18	Amended	19	07/01/2010	66-2010
3-11-9-1	Amended	20	07/01/2010	66-2010
3-11-9-6	New	21	07/01/2010	66-2010
3-11-10-12	Amended	22	07/01/2010	66-2010
3-11-10-12.5	New	23	07/01/2010	66-2010
3-11-10-26	Amended	24	07/01/2010	66-2010
3-11-10-26.3	Amended	25	07/01/2010	66-2010
3-11.5-1-4	Amended	26	07/01/2010	66-2010
3-11.5-5-14	Amended	27	07/01/2010	66-2010
3-12-1-18	New	28	07/01/2010	66-2010
3-12-1-19	New	29	07/01/2010	66-2010
3-12-2-7.5	Amended	30	07/01/2010	66-2010

Title 4

4-2-1-3	Amended	4	03/12/2010	1-2010
4-2-6-15	Amended	1	03/24/2010	114-2010
4-2-6-15	New	33	03/17/2010	58-2010
4-3-22-16	Amended	1	07/01/2010	110-2010
4-4-10.9-1.2	Amended	5	03/12/2010	1-2010
4-4-11.6-30	New	7	03/25/2010	113-2010
4-6-14	New	1	07/01/2010	84-2010
4-12-1-14.2	Amended	6	03/12/2010	1-2010
4-13-2-14.1	Amended	8	07/01/2010	113-2010
4-13-16.5-1	Amended	2	07/01/2010	114-2010
4-13-16.5-1.3	Amended	3	07/01/2010	114-2010
4-13-16.5-2	Amended	4	07/01/2010	114-2010

Affected Provisions	Type	SEC.	Effective	P.L.
4-13-16.5-3	Amended	5	07/01/2010	114-2010
4-13.6-6-2	Amended	7	03/12/2010	1-2010
4-13.6-6-2.7	Repealed	156	03/12/2010	1-2010
4-20.5-7-4.7	New	2	07/01/2010	20-2010
4-20.5-7-20	New	3	07/01/2010	20-2010
4-20.5-7-21	New	4	07/01/2010	20-2010
4-21.5-3-6	Amended	1	07/01/2010	35-2010
4-22-2-28	Amended	2	07/01/2010	110-2010
4-22-2-28.1	Amended	3	07/01/2010	110-2010
4-22-2-37.1	Amended	8	03/12/2010	1-2010
4-22-2-37.1	Amended	2	07/01/2010	35-2010
4-22-2-37.1	Amended	9	07/01/2010	113-2010
4-22-2.1-4	Amended	4	07/01/2010	110-2010
4-22-2.1-5	Amended	5	07/01/2010	110-2010
4-31-6-8	Amended	10	07/01/2010	113-2010
4-33-2-17	Amended	1	07/01/2010	96-2010
4-33-4-27	New	1	07/01/2010	80-2010
4-33-6.5-2	Amended	9	03/12/2010	1-2010
4-33-8.5-4	New	2	07/01/2010	80-2010
4-33-8.5-5	New	3	07/01/2010	80-2010
4-33-12-1	Amended	2	07/01/2010	96-2010
4-33-12-6	Amended	3	07/01/2010	96-2010
4-33-13-5	Amended	4	07/01/2010	96-2010
4-33-22	New	11	07/01/2010	113-2010
4-35-2-2.5	New	4	07/01/2010	80-2010
4-35-2-3.5	New	5	07/01/2010	80-2010
4-35-4-16	New	6	07/01/2010	80-2010
4-35-6.5-12	New	7	07/01/2010	80-2010
4-35-6.5-13	New	8	07/01/2010	80-2010
4-35-6.7	New	9	07/01/2010	80-2010

Title 5

5-1-16-37	Repealed	156	03/12/2010	1-2010
5-1.5-2-9	Amended	10	03/12/2010	1-2010
5-2-1-9	Amended	11	03/12/2010	1-2010
5-2-4-1	Amended	1	07/01/2010	27-2010
5-2-6-3	Amended	1	07/01/2010	74-2010
5-2-6.9	New	2	07/01/2010	74-2010
5-2-8-1	Amended	1	07/01/2010	34-2010
5-2-9-1.2	Amended	12	03/12/2010	1-2010
5-2-9-1.4	Amended	13	03/12/2010	1-2010
5-2-9-1.7	Amended	14	03/12/2010	1-2010

Affected Provisions	Type	SEC.	Effective	P.L.
5-2-9-5.5	Amended	15	03/12/2010	1-2010
5-2-9-6.5	Amended	16	03/12/2010	1-2010
5-10-8-6.7	Amended	1	03/24/2010	109-2010
5-10.2-2-2.5	Amended	2	07/01/2010	115-2010
5-10.2-2-3	Amended	17	03/12/2010	1-2010
5-10.2-2-3	Amended	3	07/01/2010	115-2010
5-10.2-2-19	New	1	07/01/2010	107-2010
5-10.2-3-6.5	Amended	2	03/24/2010	99-2010
5-10.2-3-7.5	Amended	18	03/12/2010	1-2010
5-10.2-3-7.5	Amended	3	07/01/2010	99-2010
5-10.3-3-7	Amended	2	07/01/2010	107-2010
5-10.3-8-5	Amended	4	07/01/2010	99-2010
5-10.3-8-15	New	5	07/01/2010	99-2010
5-10.3-11-4.7	Amended	4	01/01/2011	115-2010
5-10.4-2-6	Amended	6	03/24/2010	99-2010
5-10.4-3-5	Amended	3	07/01/2010	107-2010
5-10.4-3-6	Amended	4	07/01/2010	107-2010
5-10.4-4-10	Amended	7	07/01/2010	99-2010
5-10.4-5-17	New	8	07/01/2010	99-2010
5-13-6-3	Amended	1	07/01/2010	89-2010
5-13-7-5	Amended	5	07/01/2010	115-2010
5-13-9-2	Amended	6	07/01/2010	115-2010
5-13-9-2.5	Amended	7	03/25/2010	115-2010
5-13-9-4	Amended	8	03/25/2010	115-2010
5-13-9-5	Amended	9	03/25/2010	115-2010
5-13-9-5.3	New	10	07/01/2010	115-2010
5-13-9-10	Amended	11	07/01/2010	115-2010
5-13-9.5-1	Amended	12	07/01/2010	115-2010
5-13-12-2	Amended	13	03/25/2010	115-2010
5-13-12-4	Amended	14	01/01/2011	115-2010
5-13-12-5	Amended	15	03/25/2010	115-2010
5-13-12-7	Amended	16	03/25/2010	115-2010
5-13-12-12	New	17	07/01/2010	115-2010
5-13-13-4	Amended	18	03/25/2010	115-2010
5-13-13-7	Amended	19	03/25/2010	115-2010
5-14-3-4	Amended	1	07/01/2010	94-2010
5-14-7	New	34	11/01/2010	58-2010
5-20-1-3	Amended	5	07/01/2010	20-2010
5-28-1-2	New	6	07/01/2010	20-2010
5-28-2-5.5	New	6	03/25/2010	110-2010
5-28-6-4	New	7	03/25/2010	110-2010
5-28-6-5	New	8	03/25/2010	110-2010
5-28-6-6	New	9	03/25/2010	110-2010

Affected Provisions	Type	SEC.	Effective	P.L.
5-28-6-7	New	10	03/25/2010	110-2010
5-28-15-10	Amended	19	03/12/2010	1-2010
5-28-17-5	New	11	07/01/2010	110-2010
5-28-28-7	Amended	12	03/25/2010	110-2010
5-28-28-8	New	13	03/25/2010	110-2010
5-28-28-9	New	14	03/25/2010	110-2010

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6-1.1-1-8.8	New	12	01/01/2009	113-2010
6-1.1-1-24	Amended	20	03/12/2010	1-2010
6-1.1-4-4.4	New	13	03/25/2010	113-2010
6-1.1-4-4.5	Amended	1	01/01/2010	112-2010
6-1.1-4-4.6	Amended	14	07/01/2010	113-2010
6-1.1-4-5	Amended	15	01/01/2011	113-2010
6-1.1-4-13.6	Amended	16	01/01/2011	113-2010
6-1.1-4-31	Amended	17	01/01/2011	113-2010
6-1.1-5-3	Amended	18	07/01/2011	113-2010
6-1.1-5-5.5	Amended	19	07/01/2011	113-2010
6-1.1-5-16	Amended	20	07/01/2011	113-2010
6-1.1-8.7-3	Amended	21	01/01/2011	113-2010
6-1.1-8.7-5	Amended	22	01/01/2011	113-2010
6-1.1-10-38	Amended	1	07/01/2010	98-2010
6-1.1-12-1	Amended	1	07/01/2010	81-2010
6-1.1-12-2	Amended	21	03/12/2010	1-2010
6-1.1-12-2	Amended	2	07/01/2010	81-2010
6-1.1-12-9	Amended	22	03/12/2010	1-2010
6-1.1-12-9	Amended	23	03/25/2010	113-2010
6-1.1-12-11	Amended	23	03/12/2010	1-2010
6-1.1-12-13	Amended	24	03/12/2010	1-2010
6-1.1-12-24	Amended	24	03/25/2010	113-2010
6-1.1-12-26	Amended	25	03/01/2010	113-2010
6-1.1-12-27.1	Amended	26	03/01/2010	113-2010
6-1.1-12-37	Amended	27	07/01/2010	113-2010
6-1.1-12.7	New	28	07/01/2010	113-2010
6-1.1-17-1	Amended	25	03/12/2010	1-2010
6-1.1-17-5	Amended	1	03/25/2010	111-2010
6-1.1-17-5.6	Amended	2	03/25/2010	111-2010
6-1.1-17-20	Amended	29	03/25/2010	113-2010
6-1.1-17-20.5	Amended	30	03/25/2010	113-2010
6-1.1-18-2	Amended	26	03/12/2010	1-2010
6-1.1-18-3	Amended	27	03/12/2010	1-2010
6-1.1-18.5-1	Amended	31	03/25/2010	113-2010

Affected Provisions	Type	SEC.	Effective	P.L.
6-1.1-18.5-1	Amended	28	03/12/2010	1-2010
6-1.1-18.5-4.5	Amended	29	03/12/2010	1-2010
6-1.1-18.5-10.5	Amended	32	03/25/2010	113-2010
6-1.1-20-1.9	Amended	1	07/01/2010	41-2010
6-1.1-20-3.1	Amended	33	07/01/2010	113-2010
6-1.1-20-3.1	Amended	2	07/01/2010	41-2010
6-1.1-20-3.2	Amended	3	07/01/2010	41-2010
6-1.1-20-3.2	Amended	34	07/01/2010	113-2010
6-1.1-20-3.5	Amended	35	07/01/2010	113-2010
6-1.1-20-3.5	Amended	4	07/01/2010	41-2010
6-1.1-20-3.6	Amended	36	03/25/2010	113-2010
6-1.1-20-3.8	New	37	03/25/2010	113-2010
6-1.1-20.6-7	Amended	30	03/12/2010	1-2010
6-1.1-20.6-8.5	Amended	38	01/01/2009	113-2010
6-1.1-22-8.1	Amended	31	03/12/2010	1-2010
6-1.1-22.5-6	Amended	2	07/01/2010	89-2010
6-1.1-22.5-7	Amended	3	07/01/2010	89-2010
6-1.1-22.5-8	Amended	4	07/01/2010	89-2010
6-1.1-22.5-9	Amended	5	07/01/2010	89-2010
6-1.1-22.5-14	Amended	6	07/01/2010	89-2010
6-1.1-24-1	Amended	1	03/17/2010	73-2010
6-1.1-24-1	Amended	39	07/01/2011	113-2010
6-1.1-24-1.2	Amended	40	07/01/2011	113-2010
6-1.1-24-6.1	Amended	2	07/01/2010	73-2010
6-1.1-24-6.8	New	2	07/01/2010	98-2010
6-1.1-24-7	Amended	3	07/01/2010	73-2010
6-1.1-24-7.5	New	4	03/17/2010	73-2010
6-1.1-24-9	Amended	5	07/01/2010	73-2010
6-1.1-25-4	Amended	6	07/01/2010	73-2010
6-1.1-25-4	Amended	3	07/01/2010	98-2010
6-1.1-25-11	Amended	7	07/01/2010	73-2010
6-1.1-27-1	Amended	7	07/01/2010	89-2010
6-1.1-37-1	Amended	32	03/12/2010	1-2010
6-1.1-37-9	Amended	33	03/12/2010	1-2010
6-1.1-37-10.5	Repealed	156	03/12/2010	1-2010
6-1.1-41-12	Amended	34	03/12/2010	1-2010
6-1.5-3-4	New	41	07/01/2010	113-2010
6-1.5-6-3	New	42	07/01/2010	113-2010
6-2.5-1-5	Amended	43	07/01/2010	113-2010
6-2.5-1-14.5	New	44	07/01/2010	113-2010
6-2.5-1-27.2	New	45	07/01/2010	113-2010
6-2.5-1-28.5	New	46	07/01/2010	113-2010
6-2.5-2-2	Amended	47	07/01/2010	113-2010

Affected Provisions	Type	SEC.	Effective	P.L.
6-2.5-4-16.4	Amended	48	07/01/2010	113-2010
6-2.5-4-17	New	49	07/01/2010	113-2010
6-2.5-5-18	Amended	50	07/01/2010	113-2010
6-2.5-5-20	Amended	51	07/01/2010	113-2010
6-2.5-5-44	New	52	07/01/2007	113-2010
6-2.5-11-10	Amended	53	07/01/2010	113-2010
6-3-1-11	Amended	54	01/01/2010	113-2010
6-3-2-2.5	Amended	55	11/06/2009	113-2010
6-3-2-2.6	Amended	56	11/06/2009	113-2010
6-3-4-16.5	New	57	07/01/2010	113-2010
6-3.1-13-10	Amended	58	01/01/2010	113-2010
6-3.1-13-15.5	Amended	15	01/01/2010	110-2010
6-3.1-13-27	Repealed	168	01/01/2010	113-2010
6-3.1-19-3	Amended	59	03/25/2010	113-2010
6-3.1-19-5.5	New	60	03/25/2010	113-2010
6-3.1-33	New	16	01/01/2010	110-2010
6-3.5-1.1-1.5	New	61	03/25/2010	113-2010
6-3.5-1.1-9	Amended	62	03/25/2010	113-2010
6-3.5-6-1.5	New	63	03/25/2010	113-2010
6-3.5-6-17	Amended	64	03/25/2010	113-2010
6-3.5-6-32	Amended	65	01/01/2009	113-2010
6-3.5-7-4.9	New	66	03/25/2010	113-2010
6-3.5-7-11	Amended	67	03/25/2010	113-2010
6-4.1-4-0.5	Amended	1	07/01/2010	6-2010
6-4.1-4-1	Amended	2	07/01/2010	6-2010
6-4.1-4-7	Amended	3	07/01/2010	6-2010
6-6-1.1-906	Amended	35	03/12/2010	1-2010
6-6-5.1-15	Amended	1	07/01/2010	87-2010
6-6-5.1-16	Amended	2	07/01/2010	87-2010
6-6-5.1-17	Amended	3	07/01/2010	87-2010
6-6-5.1-18	Amended	4	07/01/2010	87-2010
6-6-6.5-25	New	68	07/01/2010	113-2010
6-7-1-31.1	Amended	69	03/25/2010	113-2010
6-8.1-1-8	Amended	36	03/12/2010	1-2010
6-8.1-14-2	Amended	37	03/12/2010	1-2010
6-9-2-2	Amended	70	03/25/2010	113-2010

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7.1-2-3-20	Amended	38	03/12/2010	1-2010
7.1-3-1-5.5	Amended	3	07/01/2010	10-2010
7.1-3-1-14	Amended	4	03/12/2010	10-2010
7.1-3-1.5-13	Amended	5	07/01/2010	10-2010

Affected Provisions	Type	SEC.	Effective	P.L.
7.1-3-2-7	Amended	6	07/01/2010	10-2010
7.1-3-20-16	Amended	7	07/01/2010	10-2010
7.1-3-20-26	New	8	07/01/2010	10-2010
7.1-3-23-44	New	10	07/01/2010	80-2010
7.1-3-23-45	New	11	07/01/2010	80-2010
7.1-5-7-5.1	Amended	9	07/01/2010	10-2010
7.1-5-7-11	Amended	10	07/01/2010	10-2010
7.1-5-10-1	Amended	11	03/12/2010	10-2010
7.1-5-10-23	New	12	07/01/2010	10-2010

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8-1-2.8-6	Amended	39	03/12/2010	1-2010
8-1-2.8-17	Amended	40	03/12/2010	1-2010
8-1-2.8-19	Amended	41	03/12/2010	1-2010
8-1-6-2	Amended	42	03/12/2010	1-2010
8-1-8.8-10	Amended	1	01/01/2011	95-2010
8-1-17-18.1	Repealed	156	03/12/2010	1-2010
8-1-17.5	New	1	07/01/2010	18-2010
8-1-19.5-6	Amended	2	07/01/2010	94-2010
8-1-19.5-9.5	New	3	07/01/2010	94-2010
8-1-26-24	Amended	43	03/12/2010	1-2010
8-2.1-24-1	Amended	1	03/12/2010	9-2010
8-2.1-24-2	Repealed	16	03/12/2010	9-2010
8-2.1-24-3	Amended	2	03/12/2010	9-2010
8-2.1-24-18	Amended	44	03/12/2010	1-2010
8-2.1-24-18	Amended	3	03/12/2010	9-2010
8-4.5-1-3	Repealed	170	07/01/2010	113-2010
8-4.5-2	Repealed	170	07/01/2010	113-2010
8-5-15-3	Amended	1	03/12/2010	48-2010
8-10-5-2	Amended	1	07/01/2010	49-2010
8-10-5-8	Amended	2	07/01/2010	49-2010
8-10-5-8.5	Amended	3	07/01/2010	49-2010
8-10-5-8.7	New	4	07/01/2010	49-2010
8-10-5-8.9	New	5	07/01/2010	49-2010
8-15-2-4	Amended	1	03/18/2010	85-2010
8-15-3-7	Amended	2	03/18/2010	85-2010
8-15-3-9	Amended	3	03/18/2010	85-2010
8-15.5-1-2	Amended	4	03/18/2010	85-2010
8-15.5-1-3	Amended	5	03/18/2010	85-2010
8-15.5-2-3.5	New	6	03/18/2010	85-2010
8-15.5-4-1.5	New	7	03/18/2010	85-2010
8-15.5-4-9	Amended	8	03/18/2010	85-2010

Affected Provisions	Type	SEC.	Effective	P.L.
8-15.5-5-2	Amended	9	03/18/2010	85-2010
8-15.5-6-2	Amended	10	03/18/2010	85-2010
8-15.5-10-5	Amended	11	03/18/2010	85-2010
8-15.5-10-8	New	12	03/18/2010	85-2010
8-15.7-1-1	Amended	13	03/18/2010	85-2010
8-15.7-1-5	Amended	14	03/18/2010	85-2010
8-15.7-2-12.5	New	15	03/18/2010	85-2010
8-15.7-4-1	Amended	16	03/18/2010	85-2010
8-15.7-4-2	Amended	17	03/18/2010	85-2010
8-15.7-5-1.5	New	18	03/18/2010	85-2010
8-15.7-6-2	Amended	19	03/18/2010	85-2010
8-15.7-12-2	Amended	20	03/18/2010	85-2010
8-15.7-14-5	Amended	21	03/18/2010	85-2010
8-16-1-0.5	New	22	03/18/2010	85-2010
8-16-2-0.5	New	23	03/18/2010	85-2010
8-23-7-22	Amended	24	03/18/2010	85-2010
8-23-8-10	Amended	1	03/17/2010	69-2010

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9-13-2-2.2	New	4	07/01/2010	9-2010
9-13-2-10.2	New	1	07/01/2010	65-2010
9-13-2-27.5	Repealed	156	03/12/2010	1-2010
9-13-2-28	Amended	45	03/12/2010	1-2010
9-13-2-29	Amended	5	07/01/2010	9-2010
9-13-2-35	Amended	6	07/01/2010	9-2010
9-13-2-38	Amended	7	07/01/2010	9-2010
9-13-2-42	Amended	1	07/01/2010	93-2010
9-13-2-60	Amended	1	07/01/2010	86-2010
9-13-2-69.8	New	5	01/01/2010	87-2010
9-13-2-72.5	New	2	07/01/2010	65-2010
9-13-2-80	Repealed	156	03/12/2010	1-2010
9-13-2-97.5	New	2	03/18/2010	93-2010
9-13-2-105	Amended	8	07/01/2010	9-2010
9-13-2-146.5	New	1	07/01/2010	8-2010
9-13-2-173	Amended	9	07/01/2010	9-2010
9-13-2-196	Amended	10	07/01/2010	9-2010
9-14-3-6	Amended	12	07/01/2010	80-2010
9-14-5-7	Amended	6	07/01/2010	87-2010
9-17-3-9	Amended	4	07/01/2010	6-2010
9-17-8-8	Amended	3	07/01/2010	93-2010
9-18-2-28	Amended	7	07/01/2010	87-2010
9-18-2-47	Amended	8	07/01/2010	87-2010

Affected Provisions	Type	SEC.	Effective	P.L.
9-18-12-2.5	Amended	9	07/01/2010	87-2010
9-18-15-1	Amended	10	07/01/2010	87-2010
9-18-15-5	Repealed	41	07/01/2010	87-2010
9-18-15-6	Amended	11	07/01/2010	87-2010
9-18-15-15	Repealed	41	07/01/2010	87-2010
9-18-18-1	Amended	12	07/01/2010	87-2010
9-18-18-2	Amended	13	07/01/2010	87-2010
9-18-18-3	Amended	14	07/01/2010	87-2010
9-18-18-4	Amended	15	07/01/2010	87-2010
9-18-18-5	Amended	16	07/01/2010	87-2010
9-18-18-6	Repealed	41	07/01/2010	87-2010
9-18-18-7	Amended	17	07/01/2010	87-2010
9-18-25-1	Amended	18	01/01/2010	87-2010
9-18-25-17.7	Amended	19	07/01/2010	87-2010
9-18-25-18	New	20	07/01/2010	87-2010
9-18-26-2.5	New	4	03/18/2010	93-2010
9-18-26-8	Amended	5	07/01/2010	93-2010
9-18-26-12	Amended	6	03/18/2010	93-2010
9-18-52-2	Amended	21	03/18/2010	87-2010
9-18-52-3	Amended	22	03/18/2010	87-2010
9-18-52-6	Amended	23	03/18/2010	87-2010
9-18-52-7	Amended	24	03/18/2010	87-2010
9-18-52-7.5	New	25	03/18/2010	87-2010
9-18-52-8	Amended	26	03/18/2010	87-2010
9-18-54	New	27	01/01/2010	87-2010
9-19-6-4	Amended	2	07/01/2010	34-2010
9-19-7-2	Amended	28	07/01/2010	87-2010
9-19-7-2	Amended	1	07/01/2010	2-2010
9-20-4-1	Amended	3	07/01/2010	65-2010
9-21-3-7	Amended	2	07/01/2010	8-2010
9-21-7-2	Amended	3	07/01/2010	34-2010
9-21-8-35	Amended	1	07/01/2010	14-2010
9-21-8-39	Amended	3	07/01/2010	8-2010
9-21-8-40	Amended	4	07/01/2010	8-2010
9-21-8-41.7	New	5	07/01/2010	8-2010
9-21-8-49	Amended	4	07/01/2010	65-2010
9-21-8-58	New	5	07/01/2010	65-2010
9-21-12-5	Amended	6	07/01/2010	8-2010
9-21-12-17	Amended	7	07/01/2010	8-2010
9-21-17-2	Amended	8	07/01/2010	8-2010
9-22-3-7	Amended	7	07/01/2010	93-2010
9-22-3-7.5	Amended	1	07/01/2010	106-2010
9-22-3-20	Amended	8	07/01/2010	93-2010

Affected Provisions	Type	SEC.	Effective	P.L.
9-22-3-21	Amended	9	07/01/2010	93-2010
9-22-3-24	Amended	10	07/01/2010	93-2010
9-23-2-2	Amended	1	07/01/2010	17-2010
9-23-2-2	Amended	11	07/01/2010	93-2010
9-23-2-11	Amended	12	07/01/2010	93-2010
9-23-3-7	Amended	2	07/01/2010	17-2010
9-24-1-7	Amended	29	07/01/2010	87-2010
9-24-6-0.3	New	11	07/01/2010	9-2010
9-24-6-2	Amended	6	07/01/2010	65-2010
9-24-6-6	Amended	12	07/01/2010	9-2010
9-24-6-6	Amended	9	07/01/2010	8-2010
9-24-6-8	Amended	13	07/01/2010	9-2010
9-24-6-17	Amended	14	07/01/2010	9-2010
9-24-6-19	Amended	15	07/01/2010	9-2010
9-24-11-3	Amended	46	03/12/2010	1-2010
9-24-11-3.3	Amended	47	03/12/2010	1-2010
9-24-11-5	Amended	48	03/12/2010	1-2010
9-24-12-1	Amended	30	07/01/2010	87-2010
9-24-12-5	Amended	31	03/18/2010	87-2010
9-24-14-1	Amended	32	07/01/2010	87-2010
9-24-14-3.5	New	33	07/01/2010	87-2010
9-24-15-3	Amended	1	07/01/2010	28-2010
9-24-15-4	Amended	2	07/01/2010	100-2010
9-24-15-5	Amended	2	07/01/2010	106-2010
9-24-15-6	Amended	2	07/01/2010	28-2010
9-24-15-6.5	Amended	3	07/01/2010	28-2010
9-24-15-6.7	Amended	4	07/01/2010	28-2010
9-24-16-4.5	New	34	07/01/2010	87-2010
9-24-16-5	Amended	35	07/01/2010	87-2010
9-24-18-1	Amended	3	07/01/2010	100-2010
9-25-6-15	Amended	13	07/01/2010	80-2010
9-27-4	Repealed	156	03/12/2010	1-2010
9-28-5.1	New	13	07/01/2010	93-2010
9-28-5.1	New	36	07/01/2010	87-2010
9-29-5-2	Amended	49	03/12/2010	1-2010
9-29-5-14.5	New	14	03/18/2010	93-2010
9-29-5-28	Amended	50	03/12/2010	1-2010
9-29-5-34.5	Amended	37	03/18/2010	87-2010
9-29-5-34.7	New	38	03/18/2010	87-2010
9-29-5-38.6	New	39	01/01/2010	87-2010
9-29-5-43	Amended	15	07/01/2010	93-2010
9-29-12-1	Repealed	156	03/12/2010	1-2010
9-29-12-2	Repealed	156	03/12/2010	1-2010

Affected Provisions	Type	SEC.	Effective	P.L.
9-30-2-8	Amended	51	03/12/2010	1-2010
9-30-3-12	Amended	4	07/01/2010	106-2010
9-30-4-6	Amended	4	07/01/2010	100-2010
9-30-4-6.5	New	5	07/01/2010	100-2010
9-30-5-5	Amended	1	07/01/2010	102-2010
9-30-6-6	Amended	1	03/12/2010	36-2010
9-30-10-4	Amended	5	07/01/2010	28-2010
9-30-10-7	Amended	3	07/01/2010	106-2010
9-30-10-9	Amended	6	07/01/2010	28-2010
9-30-10-13	Amended	7	07/01/2010	28-2010
9-30-10-15	Amended	8	07/01/2010	28-2010
9-30-10-17.5	New	9	07/01/2010	28-2010
9-30-10-18	Amended	10	07/01/2010	28-2010
9-31-2-30	Amended	5	07/01/2010	6-2010
9-31-3-6	Amended	16	07/01/2010	93-2010

Title 10

10-11-2-26	Amended	1	07/01/2010	26-2010
10-11-2-32	New	2	07/01/2010	27-2010
10-11-9	New	3	07/01/2010	27-2010
10-12-2-5	Amended	52	03/12/2010	1-2010
10-13-2-13	New	14	07/01/2010	80-2010
10-13-3-13	Amended	53	03/12/2010	1-2010
10-13-3-38.5	Amended	71	07/01/2010	113-2010
10-14-3-10.6	Amended	54	03/12/2010	1-2010
10-14-3-10.6	Amended	1	07/01/2010	19-2010
10-14-3-10.7	Amended	2	07/01/2010	19-2010
10-14-3-12	Amended	1	07/01/2010	90-2010
10-14-3-33.5	New	2	07/01/2010	90-2010
10-14-8-1	Amended	2	07/01/2010	26-2010
10-14-8-2	Amended	3	07/01/2010	26-2010
10-14-8-2.3	New	4	07/01/2010	26-2010
10-14-8-2.5	New	5	07/01/2010	26-2010
10-14-8-2.7	New	6	07/01/2010	26-2010
10-14-8-2.9	New	7	07/01/2010	26-2010
10-14-8-3	Amended	8	07/01/2010	26-2010
10-14-8-3.1	Amended	9	07/01/2010	26-2010
10-14-8-4	Amended	10	07/01/2010	26-2010
10-14-8-5	Amended	11	07/01/2010	26-2010
10-14-8-6	Amended	12	07/01/2010	26-2010
10-14-8-9	Amended	13	07/01/2010	26-2010

Affected Provisions	Type	SEC.	Effective	P.L.
10-14-8-10	New	14	07/01/2010	26-2010
10-14-8-11	New	15	07/01/2010	26-2010
10-14-8-12	New	16	07/01/2010	26-2010
10-15-2-10	Amended	55	03/12/2010	1-2010
10-16-2-7	Amended	1	07/01/2010	15-2010
10-16-7-24	New	1	07/01/2010	54-2010
10-17-1-1.5	New	72	07/01/2010	113-2010
10-17-1-2	Amended	73	07/01/2010	113-2010
10-17-1-3	Repealed	170	07/01/2010	113-2010
10-17-9-7	Amended	74	07/01/2010	113-2010
10-17-11-2	Amended	75	07/01/2010	113-2010
10-17-12-3	Repealed	170	07/01/2010	113-2010
10-17-12-3.5	New	76	07/01/2010	113-2010
10-17-12-8	Amended	77	07/01/2010	113-2010
10-17-12-9	Amended	78	07/01/2010	113-2010
10-17-12-10	Amended	79	07/01/2010	113-2010
10-17-12-11	Amended	80	07/01/2010	113-2010
10-17-13-1	Repealed	170	07/01/2010	113-2010
10-17-13-1.5	New	81	07/01/2010	113-2010
10-17-13-4	Amended	82	07/01/2010	113-2010
10-17-13-5	Amended	83	07/01/2010	113-2010
10-17-13-6	Amended	84	07/01/2010	113-2010
10-17-13-7	Amended	85	07/01/2010	113-2010
10-17-13-8	Amended	86	07/01/2010	113-2010
10-17-13-9	Amended	87	07/01/2010	113-2010
10-17-13-10	Amended	88	07/01/2010	113-2010
10-17-13-11	Amended	89	07/01/2010	113-2010
10-17-13-13	Amended	90	07/01/2010	113-2010
10-17-13-14	Amended	91	07/01/2010	113-2010
10-19-1-5	Repealed	6	07/01/2010	27-2010
10-19-3-3	Amended	4	07/01/2010	27-2010
10-19-8-2	Amended	5	07/01/2010	27-2010
10-19-10	Repealed	6	07/01/2010	27-2010

Title 11

11-8-8-22	Amended	2	03/24/2010	103-2010
11-11-5-1	Amended	1	07/01/2010	105-2010
11-12-2-1	Amended	2	07/01/2010	105-2010
11-12-2-3	Amended	1	07/01/2010	108-2010
11-12-2-4	Amended	3	07/01/2010	105-2010
11-12-2-5	Amended	4	07/01/2010	105-2010
11-12-2-9	Repealed	18	07/01/2010	105-2010

Affected Provisions	Type	SEC.	Effective	P.L.
11-12-3.7-7	Amended	2	07/01/2010	108-2010
11-13-3-3	Amended	5	07/01/2010	105-2010
11-13-9-2	Amended	1	07/01/2010	42-2010

Title 12

12-7-2-26.5	Amended	3	07/01/2010	108-2010
12-7-2-43.5	New	15	07/01/2010	80-2010
12-7-2-56.5	Repealed	156	03/12/2010	1-2010
12-7-2-64	Amended	17	03/25/2010	110-2010
12-7-2-73.5	Repealed	10	07/01/2010	108-2010
12-7-2-118.5	Repealed	156	03/12/2010	1-2010
12-7-2-146	Amended	18	03/25/2010	110-2010
12-7-2-154.8	Amended	56	03/12/2010	1-2010
12-7-2-184.3	New	19	03/25/2010	110-2010
12-7-2-189.7	Amended	20	03/25/2010	110-2010
12-7-2-200.4	New	1	03/12/2010	11-2010
12-8-12.5	New	21	03/25/2010	110-2010
12-11-1.1-1	Amended	1	03/12/2010	22-2010
12-14-2-18	Amended	16	07/01/2010	80-2010
12-14-2-24	Amended	17	07/01/2010	80-2010
12-14-7-2	Amended	18	07/01/2010	80-2010
12-14-7-3	Amended	19	07/01/2010	80-2010
12-15-1-20.4	Amended	57	03/12/2010	1-2010
12-15-2-0.5	Amended	58	03/12/2010	1-2010
12-15-29-10	Amended	20	07/01/2010	80-2010
12-15-35.5-2.6	New	2	03/12/2010	11-2010
12-15-35.5-8	New	3	03/12/2010	11-2010
12-15-44.2-19	Amended	59	03/12/2010	1-2010
12-20-1-5	New	7	07/01/2010	20-2010
12-20-25-45	Amended	92	07/01/2010	113-2010
12-20-25-46	Amended	93	07/01/2010	113-2010
12-23-14.5	Repealed	10	07/01/2010	108-2010

Title 13

13-11-2-203.5	Amended	60	03/12/2010	1-2010
13-14-2-8	Amended	61	03/12/2010	1-2010
13-18-10-1	Amended	62	03/12/2010	1-2010
13-18-10-1.9	New	63	05/12/2009	1-2010
13-21-3-20	Amended	94	03/25/2010	113-2010
13-25-1-6	Amended	17	07/01/2010	26-2010

Affected Provisions	Type	SEC.	Effective	P.L.
Title 14				
14-8-2-5.7	New	2	07/01/2010	86-2010
14-8-2-42.2	New	1	03/17/2010	78-2010
14-8-2-47	Amended	2	03/17/2010	78-2010
14-8-2-67	Amended	95	07/01/2010	113-2010
14-8-2-185	Amended	3	07/01/2010	86-2010
14-8-2-233.5	New	4	07/01/2010	86-2010
14-8-2-317	Amended	3	03/17/2010	78-2010
14-9-5-4	Amended	1	07/01/2010	46-2010
14-16-1-1.8	New	5	07/01/2010	86-2010
14-16-1-8	Amended	6	07/01/2010	86-2010
14-16-1-22	Amended	7	07/01/2010	86-2010
14-16-1-31	New	8	07/01/2010	86-2010
14-19-3-4	Amended	40	07/01/2010	87-2010
14-22-12-1	Amended	2	07/01/2010	46-2010
14-23-3-3	Repealed	156	03/12/2010	1-2010
14-25-15-13	Amended	64	03/12/2010	1-2010
14-28-1-22	Amended	1	07/01/2010	76-2010
14-32-4-24	New	1	07/01/2010	52-2010
14-33-5-5	Amended	1	03/12/2010	16-2010
14-33-5-11.5	New	2	07/01/2010	16-2010
14-33-5-18	Amended	3	07/01/2010	16-2010
14-33-5.4-3.5	New	4	03/12/2010	16-2010
14-33-5.4-7.5	New	5	07/01/2010	16-2010
14-33-10-3	Amended	96	03/25/2010	113-2010
14-37-4-1	Amended	4	03/17/2010	78-2010
Title 15				
15-11-2-3	Amended	2	01/01/2010	95-2010
15-11-11-0.3	New	3	01/01/2010	95-2010
15-11-11-0.7	New	4	01/01/2010	95-2010
15-11-11-3	Amended	5	01/01/2010	95-2010
15-11-11-4.3	New	6	01/01/2010	95-2010
15-11-11-4.7	New	7	01/01/2010	95-2010
15-11-11-5	Amended	8	01/01/2010	95-2010
15-11-11-7	Amended	9	01/01/2010	95-2010
15-11-11-8	Amended	10	01/01/2010	95-2010
15-11-11-11	Amended	11	01/01/2010	95-2010
15-12-3-2	Amended	9	07/01/2010	86-2010
15-13-8-3	Amended	65	03/12/2010	1-2010
15-13-9	Repealed	156	03/12/2010	1-2010

Affected Provisions	Type	SEC.	Effective	P.L.
15-15-1-2	Amended	1	03/17/2010	75-2010
15-15-1-5.5	New	2	03/17/2010	75-2010
15-15-1-15.5	New	3	03/17/2010	75-2010
15-15-1-20.5	New	4	03/17/2010	75-2010
15-15-1-27	Amended	5	03/17/2010	75-2010
15-15-1-32	Amended	6	03/17/2010	75-2010
15-15-1-33	Amended	7	03/17/2010	75-2010
15-15-1-34	Amended	8	03/17/2010	75-2010
15-15-1-41	Amended	9	03/17/2010	75-2010
15-17-2-87	Amended	1	01/01/2011	50-2010
15-17-3-13	Amended	2	01/01/2011	50-2010
15-17-3-23	New	3	01/01/2011	50-2010
15-21-1-1	Amended	66	03/12/2010	1-2010

Title 16

16-18-2-0.5	Amended	67	03/12/2010	1-2010
16-18-2-9	Repealed	170	07/01/2010	113-2010
16-18-2-54.3	New	68	03/12/2010	1-2010
16-18-2-96	Amended	1	07/01/2010	38-2010
16-18-2-143	Amended	69	03/12/2010	1-2010
16-18-2-236	Amended	2	07/01/2010	38-2010
16-18-2-254.5	Amended	3	07/01/2010	38-2010
16-18-2-328.2	New	70	03/12/2010	1-2010
16-19-3-4.4	Amended	71	03/12/2010	1-2010
16-19-6-9	Repealed	170	07/01/2010	113-2010
16-19-14	New	4	07/01/2010	38-2010
16-21-6-4	Repealed	156	03/12/2010	1-2010
16-27-2-0.5	New	2	07/01/2010	84-2010
16-27-2-2.1	Amended	3	06/30/2010	84-2010
16-27-2-4	Amended	4	06/30/2010	84-2010
16-27-2-5	Amended	5	06/30/2010	84-2010
16-36-1-3	Amended	1	07/01/2010	4-2010
16-37-2-2.1	Amended	1	07/01/2010	25-2010
16-41-6-1	Amended	4	07/01/2010	94-2010
16-41-8-4	Amended	72	03/12/2010	1-2010
16-41-8-5	Amended	5	07/01/2010	94-2010
16-41-8-6	New	6	03/18/2010	94-2010
16-41-35-2	Repealed	170	07/01/2010	113-2010
16-41-35-16	Repealed	170	07/01/2010	113-2010
16-41-35-17	Repealed	170	07/01/2010	113-2010
16-41-35-18	Repealed	170	07/01/2010	113-2010
16-41-35-19	Repealed	170	07/01/2010	113-2010

Affected Provisions	Type	SEC.	Effective	P.L.
16-41-35-20	Repealed	170	07/01/2010	113-2010
16-41-35-21	Repealed	170	07/01/2010	113-2010
16-41-35-22	Repealed	170	07/01/2010	113-2010
16-41-35-23	Repealed	170	07/01/2010	113-2010
16-41-35-24	Repealed	170	07/01/2010	113-2010
16-41-39.8-6	Amended	73	03/12/2010	1-2010
16-46-11-1	Amended	5	07/01/2010	38-2010

Title 20

20-19-3-9	Repealed	156	03/12/2010	1-2010
20-19-3-9.2	New	74	03/12/2010	1-2010
20-19-3-9.4	New	75	03/12/2010	1-2010
20-19-3-10	New	1	07/01/2010	83-2010
20-23-6-18	Amended	76	03/12/2010	1-2010
20-23-16-3	Amended	77	03/12/2010	1-2010
20-24-7-13	Amended	78	03/12/2010	1-2010
20-26-11-6	Amended	1	07/01/2010	30-2010
20-26-14-5.5	New	1	07/01/2010	92-2010
20-26-14-6	Amended	2	07/01/2010	92-2010
20-26-14-7	New	3	07/01/2010	92-2010
20-28-2-6	Amended	2	07/01/2010	30-2010
20-28-6-8	Amended	1	07/01/2010	43-2010
20-30-6-16	New	3	07/01/2010	103-2010
20-30-7-7	Amended	79	03/12/2010	1-2010
20-32-2-2.5	New	1	07/01/2010	91-2010
20-32-3-10	Amended	2	07/01/2010	91-2010
20-32-8-9	Amended	2	07/01/2010	109-2010
20-32-8.5	New	3	07/01/2010	109-2010
20-33-2-9	Amended	80	03/12/2010	1-2010
20-34-6	New	3	07/01/2010	74-2010
20-36-1-4	New	3	07/01/2010	91-2010
20-36-3-6	Amended	4	07/01/2010	91-2010
20-36-3-11	Amended	5	07/01/2010	91-2010
20-38-3-3	Amended	81	03/12/2010	1-2010
20-38-3-13	Amended	82	03/12/2010	1-2010
20-40-16	New	4	07/01/2010	109-2010
20-42.5-4	New	5	03/24/2010	109-2010
20-43-3-3	Repealed	156	03/12/2010	1-2010
20-43-12-2	Amended	6	01/01/2010	109-2010
20-46-1-7	Amended	5	07/01/2010	41-2010
20-46-1-8	Amended	6	07/01/2010	41-2010
20-46-1-10	Amended	97	03/25/2010	113-2010

Affected Provisions	Type	SEC.	Effective	P.L.
20-46-1-14	Amended	98	03/25/2010	113-2010
20-46-5-6	Repealed	156	03/12/2010	1-2010
20-46-5-6.1	Amended	3	07/01/2010	111-2010
20-46-5-7	Amended	4	07/01/2010	111-2010
20-46-6-8	Repealed	156	03/12/2010	1-2010
20-46-6-8.1	Amended	5	07/01/2010	111-2010
20-46-6-9	Amended	6	07/01/2010	111-2010
20-48-1-2	Amended	83	03/12/2010	1-2010
20-49-4-7	Amended	99	03/25/2010	113-2010

Title 21

21-12-6-14	Amended	1	07/01/2010	39-2010
21-12-6-15	New	2	07/01/2010	39-2010
21-18-3-2	Amended	1	07/01/2010	31-2010
21-27-2-2	Amended	2	07/01/2010	31-2010
21-28-6	New	1	07/01/2010	12-2010
21-29-2-3	Amended	84	03/12/2010	1-2010
21-29-3-2	Amended	1	03/17/2010	79-2010
21-32-2-2	Amended	2	03/17/2010	79-2010
21-32-3-7	Amended	3	03/17/2010	79-2010
21-33-3-3	Amended	3	07/01/2010	31-2010
21-33-3-5	Amended	4	07/01/2010	31-2010
21-33-3-6	Amended	5	07/01/2010	31-2010
21-33-3-7	Amended	6	07/01/2010	31-2010
21-34-1-13	Amended	4	03/17/2010	79-2010
21-34-1-14.2	New	5	03/17/2010	79-2010
21-34-7-2	Amended	6	03/17/2010	79-2010
21-43-5-13	Amended	7	07/01/2010	31-2010

Title 22

22-2-15	New	22	07/01/2010	110-2010
22-3-3-4	Amended	1	07/01/2010	67-2010
22-3-3-13	Amended	2	07/01/2010	67-2010
22-3-4-13	Amended	85	03/12/2010	1-2010
22-3-7-17	Amended	3	07/01/2010	67-2010
22-4-4-2	Amended	23	01/01/2010	110-2010
22-4-5-1	Amended	24	03/25/2010	110-2010
22-4-10-3	Amended	25	01/01/2010	110-2010
22-4-10-5.5	Repealed	38	01/01/2010	110-2010
22-4-11-2	Amended	26	01/01/2010	110-2010
22-4-11-2	Amended	86	03/12/2010	1-2010

Affected Provisions	Type	SEC.	Effective	P.L.
22-4-11-3	Amended	27	01/01/2010	110-2010
22-4-11-3	Amended	87	03/12/2010	1-2010
22-4-11-3.3	Amended	28	01/01/2010	110-2010
22-4-11-3.5	Amended	29	01/01/2010	110-2010
22-4-14-3	Amended	30	07/01/2010	110-2010
22-4-17-2	Amended	88	03/12/2010	1-2010
22-4-17-2	Amended	31	01/01/2010	110-2010
22-4-18-4.2	New	32	07/01/2010	110-2010
22-4-19-6	Amended	33	03/25/2010	110-2010
22-4.1-17	New	34	03/25/2010	110-2010
22-8-1.1-35.7	Amended	89	03/12/2010	1-2010
22-9-1-3	Amended	3	07/01/2010	35-2010
22-12-3-2	Amended	18	07/01/2010	26-2010
22-12-6-15	Amended	90	03/12/2010	1-2010

Title 23

23-1-17-3	Amended	91	03/12/2010	1-2010
23-1-35-5	Amended	92	03/12/2010	1-2010
23-2-5-3	Amended	4	07/01/2010	35-2010
23-2-5-11	Amended	6	07/01/2010	114-2010
23-2-5-11.5	New	7	07/01/2010	114-2010
23-2-5-20	Amended	8	07/01/2010	114-2010
23-14-31-26	Amended	1	03/24/2010	101-2010
23-14-55-2	Amended	2	03/24/2010	101-2010
23-17-1-1	Amended	93	03/12/2010	1-2010
23-19-4-6	Amended	9	07/01/2010	114-2010
23-19-4-11	Amended	94	03/12/2010	1-2010
23-19-6-1	Amended	10	07/01/2010	114-2010
23-19-6-12	New	11	07/01/2010	114-2010
23-20	New	12	07/01/2010	114-2010

Title 24

24-3-5.4-5.5	New	1	07/01/2010	24-2010
24-3-5.4-6.5	New	2	07/01/2010	24-2010
24-3-5.4-13	Amended	3	07/01/2010	24-2010
24-3-5.4-13.5	New	4	07/01/2010	24-2010
24-3-5.4-13.6	New	5	07/01/2010	24-2010
24-3-5.4-14	Amended	6	07/01/2010	24-2010
24-4-17-9	Amended	95	03/12/2010	1-2010
24-4-17-10	Amended	96	03/12/2010	1-2010
24-4-17-11	Amended	97	03/12/2010	1-2010

Affected Provisions	Type	SEC.	Effective	P.L.
24-4.4-1-102	Amended	5	07/01/2010	35-2010
24-4.4-1-202	Amended	6	07/01/2010	35-2010
24-4.4-1-202.5	New	7	07/01/2010	35-2010
24-4.4-1-203	Repealed	209	07/01/2010	35-2010
24-4.4-1-204	New	8	07/01/2010	35-2010
24-4.4-1-301	Amended	9	07/01/2010	35-2010
24-4.4-2-201	Amended	10	07/01/2010	35-2010
24-4.4-2-401	Amended	11	07/01/2010	35-2010
24-4.4-2-402	Amended	12	07/01/2010	35-2010
24-4.4-2-402.1	New	13	07/01/2010	35-2010
24-4.4-2-402.2	New	14	07/01/2010	35-2010
24-4.4-2-402.3	New	15	07/01/2010	35-2010
24-4.4-2-402.4	New	16	07/01/2010	35-2010
24-4.4-2-403	Amended	17	07/01/2010	35-2010
24-4.4-2-404	Amended	18	07/01/2010	35-2010
24-4.4-2-404.1	New	19	07/01/2010	35-2010
24-4.4-2-404.2	New	20	07/01/2010	35-2010
24-4.4-2-404.3	New	21	07/01/2010	35-2010
24-4.4-2-404.4	New	22	07/01/2010	35-2010
24-4.4-2-404.5	New	23	07/01/2010	35-2010
24-4.4-2-404.6	New	24	07/01/2010	35-2010
24-4.4-2-404.7	New	25	07/01/2010	35-2010
24-4.4-2-405	Amended	26	07/01/2010	35-2010
24-4.4-2-503	New	27	07/01/2010	35-2010
24-4.4-3-102	Amended	28	07/01/2010	35-2010
24-4.4-3-104	Amended	29	07/01/2010	35-2010
24-4.4-3-104.5	New	30	07/01/2010	35-2010
24-4.4-3-104.6	New	31	07/01/2010	35-2010
24-4.4-3-105	Amended	32	03/12/2010	35-2010
24-4.4-3-106	Amended	33	07/01/2010	35-2010
24-4.4-3-108	Amended	34	07/01/2010	35-2010
24-4.4-3-111	Amended	35	07/01/2010	35-2010
24-4.4-3-112	Repealed	209	07/01/2010	35-2010
24-4.5-1-102	Amended	36	07/01/2010	35-2010
24-4.5-1-108	Amended	37	07/01/2010	35-2010
24-4.5-1-109	Amended	38	07/01/2010	35-2010
24-4.5-1-202	Amended	39	07/01/2010	35-2010
24-4.5-1-203	Repealed	209	07/01/2010	35-2010
24-4.5-1-204	New	40	07/01/2010	35-2010
24-4.5-1-301	Repealed	209	07/01/2010	35-2010
24-4.5-1-301.5	New	41	07/01/2010	35-2010
24-4.5-1-303	Repealed	209	07/01/2010	35-2010
24-4.5-2-102	Amended	42	07/01/2010	35-2010

Affected Provisions	Type	SEC.	Effective	P.L.
24-4.5-2-104	Repealed	209	07/01/2010	35-2010
24-4.5-2-202	Amended	43	07/01/2010	35-2010
24-4.5-2-209	Amended	44	07/01/2010	35-2010
24-4.5-2-301	Amended	45	07/01/2010	35-2010
24-4.5-2-407	Amended	46	07/01/2010	35-2010
24-4.5-3-102	Amended	47	07/01/2010	35-2010
24-4.5-3-103	Repealed	209	07/01/2010	35-2010
24-4.5-3-104	Repealed	209	07/01/2010	35-2010
24-4.5-3-105	Amended	48	07/01/2010	35-2010
24-4.5-3-209	Amended	49	07/01/2010	35-2010
24-4.5-3-301	Amended	50	07/01/2010	35-2010
24-4.5-3-502	Amended	51	07/01/2010	35-2010
24-4.5-3-502.1	New	52	07/01/2010	35-2010
24-4.5-3-503	Amended	53	07/01/2010	35-2010
24-4.5-3-503.1	New	54	07/01/2010	35-2010
24-4.5-3-503.2	New	55	07/01/2010	35-2010
24-4.5-3-503.3	New	56	07/01/2010	35-2010
24-4.5-3-503.4	New	57	07/01/2010	35-2010
24-4.5-3-503.5	Repealed	209	07/01/2010	35-2010
24-4.5-3-503.6	New	58	07/01/2010	35-2010
24-4.5-3-504	Amended	59	07/01/2010	35-2010
24-4.5-3-505	Amended	60	07/01/2010	35-2010
24-4.5-3-506	Repealed	209	07/01/2010	35-2010
24-4.5-3-507	Repealed	209	07/01/2010	35-2010
24-4.5-4-102	Amended	61	07/01/2010	35-2010
24-4.5-5-201	Amended	62	07/01/2010	35-2010
24-4.5-5-301	Amended	63	07/01/2010	35-2010
24-4.5-6-102	Amended	64	07/01/2010	35-2010
24-4.5-6-103.5	Repealed	209	07/01/2010	35-2010
24-4.5-6-105	Amended	65	07/01/2010	35-2010
24-4.5-6-106	Amended	66	07/01/2010	35-2010
24-4.5-6-106.5	New	67	07/01/2010	35-2010
24-4.5-6-107	Amended	68	03/12/2010	35-2010
24-4.5-6-107.5	New	69	07/01/2010	35-2010
24-4.5-6-108	Amended	70	07/01/2010	35-2010
24-4.5-6-110	Amended	71	07/01/2010	35-2010
24-4.5-6-113	Amended	72	07/01/2010	35-2010
24-4.5-6-114	Repealed	209	07/01/2010	35-2010
24-4.5-6-119	New	73	07/01/2010	35-2010
24-4.5-6-120	New	74	07/01/2010	35-2010
24-4.5-6-121	New	75	07/01/2010	35-2010
24-4.5-6-122	New	76	07/01/2010	35-2010
24-4.5-6-123	New	77	07/01/2010	35-2010

Affected Provisions	Type	SEC.	Effective	P.L.
24-4.5-6-124	New	78	07/01/2010	35-2010
24-4.5-6-125	New	79	07/01/2010	35-2010
24-4.5-6-201	Amended	80	07/01/2010	35-2010
24-4.5-6-202	Amended	81	07/01/2010	35-2010
24-4.5-7-102	Amended	82	07/01/2010	35-2010
24-4.5-7-301	Amended	83	07/01/2010	35-2010
24-4.5-7-402	Amended	84	07/01/2010	35-2010
24-4.5-7-404	Amended	85	07/01/2010	35-2010
24-4.5-7-412	Amended	86	07/01/2010	35-2010
24-4.5-7-413	Amended	87	07/01/2010	35-2010
24-4.6-1-202	Amended	98	03/12/2010	1-2010
24-5-15-2	Amended	13	07/01/2010	114-2010
24-5-15-2.5	New	14	07/01/2010	114-2010
24-5-15-6	Amended	15	07/01/2010	114-2010
24-5-15-8	Amended	16	07/01/2010	114-2010
24-5-23.5-4	Amended	88	07/01/2010	35-2010
24-5-23.6	New	20	03/25/2010	115-2010
24-5.5-1-1	Amended	1	07/01/2010	68-2010
24-5.5-3	Repealed	5	07/01/2010	68-2010
24-5.5-6-1	Amended	17	07/01/2010	114-2010
24-7-1-6	Amended	89	07/01/2010	35-2010
24-7-4-13	New	90	07/01/2010	35-2010
24-7-7-1	Amended	91	07/01/2010	35-2010
24-7-7-2	Amended	92	07/01/2010	35-2010
24-7-8-2	Amended	93	07/01/2010	35-2010
24-7-8-4	Amended	94	07/01/2010	35-2010
24-9-3-7	Amended	18	07/01/2010	114-2010
24-9-5-4	Amended	19	07/01/2010	114-2010
24-9-8-1	Amended	20	07/01/2010	114-2010
24-9-8-3	Amended	21	07/01/2010	114-2010
24-9-9-2	Amended	99	03/12/2010	1-2010

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25-1-2-2.1	Amended	6	07/01/2010	84-2010
25-1-2-6	Amended	7	07/01/2010	84-2010
25-1-2-6	Amended	100	03/12/2010	1-2010
25-1-2-6	Amended	100	07/01/2010	113-2010
25-1-4-0.3	Amended	8	07/01/2010	84-2010
25-1-4-0.3	Amended	101	03/12/2010	1-2010
25-1-5-3	Amended	9	07/01/2010	84-2010
25-1-5-10	Amended	10	07/01/2010	84-2010
25-1-6-3	Amended	11	07/01/2010	84-2010

Affected Provisions	Type	SEC.	Effective	P.L.
25-1-7-1	Amended	101	07/01/2010	113-2010
25-1-7-1	Amended	12	07/01/2010	84-2010
25-1-7-1	Amended	102	03/12/2010	1-2010
25-1-7-14	New	13	07/01/2010	84-2010
25-1-8-1	Amended	14	07/01/2010	84-2010
25-1-8-1	Amended	103	03/12/2010	1-2010
25-1-8-1	Amended	102	07/01/2010	113-2010
25-1-8-6	Amended	15	07/01/2010	84-2010
25-1-8-6	Amended	104	03/12/2010	1-2010
25-1-9-1	Amended	16	07/01/2010	84-2010
25-1-9-17	Amended	17	07/01/2010	84-2010
25-1-11-1	Amended	103	07/01/2010	113-2010
25-1-11-1	Amended	18	07/01/2010	84-2010
25-1-14-2	Amended	104	07/01/2010	113-2010
25-1-16	New	19	07/01/2010	84-2010
25-2.1-9-3	Amended	20	07/01/2010	84-2010
25-7	Repealed	102	07/01/2010	84-2010
25-8-2-2.1	New	21	07/01/2010	84-2010
25-8-2-2.2	New	22	07/01/2010	84-2010
25-8-2-2.3	New	23	07/01/2010	84-2010
25-8-2-2.4	New	24	07/01/2010	84-2010
25-8-2-2.6	Amended	26	07/01/2010	84-2010
25-8-2-2.7	New	25	07/01/2010	84-2010
25-8-2-3	Amended	27	07/01/2010	84-2010
25-8-2-10	Amended	28	07/01/2010	84-2010
25-8-3-1	Amended	29	07/01/2010	84-2010
25-8-3-3	Repealed	102	07/01/2010	84-2010
25-8-3-4	Repealed	102	07/01/2010	84-2010
25-8-3-5	Amended	30	07/01/2010	84-2010
25-8-3-6	Amended	31	07/01/2010	84-2010
25-8-3-23	Amended	32	07/01/2010	84-2010
25-8-3-26	Amended	33	07/01/2010	84-2010
25-8-3-27	Amended	34	07/01/2010	84-2010
25-8-3-28	Amended	35	07/01/2010	84-2010
25-8-3-29	New	36	07/01/2010	84-2010
25-8-4-1	Amended	37	07/01/2010	84-2010
25-8-4-2	Amended	38	07/01/2010	84-2010
25-8-4-4	Amended	39	07/01/2010	84-2010
25-8-4-7	Amended	40	07/01/2010	84-2010
25-8-4-8	Amended	41	07/01/2010	84-2010
25-8-4-11	Amended	42	07/01/2010	84-2010
25-8-4-13	Amended	43	07/01/2010	84-2010
25-8-4-17	Amended	44	07/01/2010	84-2010

Affected Provisions	Type	SEC.	Effective	P.L.
25-8-6.3	New	45	07/01/2010	84-2010
25-8-6.4	New	46	07/01/2010	84-2010
25-8-8.1	New	47	07/01/2010	84-2010
25-8-12.1	New	48	07/01/2010	84-2010
25-8-13-2	Amended	49	07/01/2010	84-2010
25-8-13-3	Amended	50	07/01/2010	84-2010
25-8-13-4	Amended	51	07/01/2010	84-2010
25-8-13-5	Amended	52	07/01/2010	84-2010
25-8-13-12.1	New	53	07/01/2010	84-2010
25-8-14-6	Amended	54	07/01/2010	84-2010
25-9-1	Repealed	170	07/01/2010	113-2010
25-9-1-0.7	Amended	1	03/12/2010	32-2010
25-9-1-1.5	Amended	2	03/12/2010	32-2010
25-9-1-4.5	Amended	105	03/12/2010	1-2010
25-9-1-22	Amended	3	03/12/2010	32-2010
25-9-1-22.5	Amended	4	03/12/2010	32-2010
25-14-5-6	Amended	106	03/12/2010	1-2010
25-15-2-24	New	7	07/01/2010	94-2010
25-15-9-18	Amended	3	03/24/2010	101-2010
25-15-9-18	Amended	8	07/01/2010	94-2010
25-17.3-4-2	Amended	107	03/12/2010	1-2010
25-20.5-1	Repealed	102	07/01/2010	84-2010
25-23.6-4-1	Amended	55	07/01/2010	84-2010
25-23.6-4.5-1	Amended	56	07/01/2010	84-2010
25-23.6-4.5-3	Amended	57	07/01/2010	84-2010
25-23.6-8.5-1	Amended	58	07/01/2010	84-2010
25-23.6-8.5-1.5	New	59	07/01/2010	84-2010
25-23.6-8.5-1.7	New	60	07/01/2010	84-2010
25-23.6-8.5-2	Amended	61	07/01/2010	84-2010
25-23.6-8.5-3	Amended	62	07/01/2010	84-2010
25-23.6-8.5-4	Amended	63	07/01/2010	84-2010
25-23.6-8.5-5	Amended	64	07/01/2010	84-2010
25-23.6-8.5-7	Amended	65	07/01/2010	84-2010
25-23.6-8.5-8	Amended	66	07/01/2010	84-2010
25-23.6-8.5-8.5	New	67	07/01/2010	84-2010
25-23.6-8.5-9	Amended	68	07/01/2010	84-2010
25-23.6-8.5-13	New	69	07/01/2010	84-2010
25-26-13-4.3	New	70	07/01/2010	84-2010
25-32-1	Repealed	102	07/01/2010	84-2010
25-34.1-4-5	Amended	22	07/01/2010	114-2010
25-34.1-6-2	Amended	71	07/01/2010	84-2010
25-34.1-6-2.5	Amended	23	07/01/2010	114-2010
25-34.1-8-7.5	Amended	1	07/01/2010	77-2010

Affected Provisions	Type	SEC.	Effective	P.L.
25-34.1-8-12	Amended	72	07/01/2010	84-2010
25-34.1-11	New	2	07/01/2010	77-2010
25-39-1.5-1	Amended	73	07/01/2010	84-2010
25-39-1.5-2	Amended	74	07/01/2010	84-2010
25-39-1.5-3	Amended	75	07/01/2010	84-2010
25-39-1.5-4	Amended	76	07/01/2010	84-2010
25-39-2-12	Amended	77	07/01/2010	84-2010
25-39-2-12.5	New	78	07/01/2010	84-2010
25-39-2-15.5	New	79	07/01/2010	84-2010
25-39-3-1	Amended	80	07/01/2010	84-2010
25-39-3-2	Amended	81	07/01/2010	84-2010
25-39-3-3	Amended	82	07/01/2010	84-2010
25-39-3-3.5	New	83	07/01/2010	84-2010
25-39-3-4	Amended	84	07/01/2010	84-2010
25-39-4-1	Amended	85	07/01/2010	84-2010
25-39-4-2	Amended	86	07/01/2010	84-2010
25-39-4-7	Amended	87	07/01/2010	84-2010
25-39-4-8	Amended	88	07/01/2010	84-2010
25-39-4-10	Amended	89	07/01/2010	84-2010
25-39-6	New	90	07/01/2010	84-2010

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26-1-4-102.5	Amended	95	07/01/2010	35-2010
26-1-9.1-509	Amended	108	03/12/2010	1-2010
26-3-7-2	Amended	10	03/17/2010	75-2010
26-3-7-3	Amended	11	03/17/2010	75-2010
26-3-7-6	Amended	12	03/17/2010	75-2010
26-3-7-16.5	Amended	13	03/17/2010	75-2010
26-3-7-16.8	Amended	14	03/17/2010	75-2010
26-4-1-5	Amended	15	03/17/2010	75-2010
26-4-1-8	Amended	16	03/17/2010	75-2010
26-4-1-10	Amended	17	03/17/2010	75-2010
26-4-1-13	Amended	18	03/17/2010	75-2010
26-4-1-14	Amended	19	03/17/2010	75-2010
26-4-1-20	Amended	20	03/17/2010	75-2010
26-4-1-22	Repealed	35	03/17/2010	75-2010
26-4-1-23	Amended	21	03/17/2010	75-2010
26-4-1-24	Amended	22	03/17/2010	75-2010
26-4-2-1	Repealed	35	03/17/2010	75-2010
26-4-2-2	Repealed	35	03/17/2010	75-2010
26-4-2-3	Repealed	35	03/17/2010	75-2010
26-4-2-4	Repealed	35	03/17/2010	75-2010

Affected Provisions	Type	SEC.	Effective	P.L.
26-4-2-5	Repealed	35	03/17/2010	75-2010
26-4-3-5	Amended	23	03/17/2010	75-2010
26-4-4-1	Amended	24	03/17/2010	75-2010
26-4-4-5	Amended	25	03/17/2010	75-2010
26-4-4-9	Amended	26	03/17/2010	75-2010
26-4-5-3	Repealed	35	03/17/2010	75-2010
26-4-6-1	Amended	27	03/17/2010	75-2010
26-4-6-3	Amended	28	03/17/2010	75-2010
26-4-6-4	Amended	29	03/17/2010	75-2010
26-4-6-5	Repealed	35	03/17/2010	75-2010
26-4-6-6	Amended	30	03/17/2010	75-2010
26-4-6-8	Amended	31	03/17/2010	75-2010
26-4-7-2	Amended	32	03/17/2010	75-2010
26-4-7-3	Amended	33	03/17/2010	75-2010

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27-1-12.7-10	Amended	109	03/12/2010	1-2010
27-1-13-15	Amended	110	03/12/2010	1-2010
27-7-3-15.5	Amended	96	03/12/2010	35-2010
27-8-9-7	Amended	17	07/01/2010	93-2010
27-8-11-2	Amended	111	03/12/2010	1-2010
27-8-22-1	Amended	112	03/12/2010	1-2010
27-10-2-3	Amended	6	07/01/2010	105-2010
27-10-2-8	Amended	7	07/01/2010	105-2010
27-10-2-12	Amended	8	07/01/2010	105-2010
27-14-7-9	Amended	113	03/12/2010	1-2010

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28-1-2-23	Amended	97	07/01/2010	35-2010
28-1-2-30.5	Amended	98	07/01/2010	35-2010
28-1-2-40	New	21	07/01/2010	115-2010
28-1-3.1-4	Amended	99	07/01/2010	35-2010
28-1-3.1-5	Amended	100	07/01/2010	35-2010
28-1-3.1-6	Amended	101	07/01/2010	35-2010
28-1-3.1-7	Amended	102	07/01/2010	35-2010
28-1-3.1-8	Amended	103	07/01/2010	35-2010
28-1-3.1-9	Amended	104	07/01/2010	35-2010
28-1-3.1-10.1	Amended	105	07/01/2010	35-2010
28-1-3.1-11	Amended	106	07/01/2010	35-2010
28-1-3.1-13	Amended	107	07/01/2010	35-2010
28-1-3.1-14	Amended	108	07/01/2010	35-2010

Affected Provisions	Type	SEC.	Effective	P.L.
28-1-3.1-16	Amended	109	07/01/2010	35-2010
28-1-3.1-21	Amended	110	07/01/2010	35-2010
28-1-5-2	Amended	111	07/01/2010	35-2010
28-1-7-1	Amended	112	03/12/2010	35-2010
28-1-7-4	Amended	113	03/12/2010	35-2010
28-1-8-3	Amended	114	03/12/2010	35-2010
28-1-9-11	Amended	115	07/01/2010	35-2010
28-1-11-3.1	Amended	116	07/01/2010	35-2010
28-1-11-3.2	Amended	117	07/01/2010	35-2010
28-1-29-0.5	New	118	07/01/2010	35-2010
28-1-29-1	Amended	119	07/01/2010	35-2010
28-1-29-3	Amended	120	07/01/2010	35-2010
28-1-29-4	Amended	121	07/01/2010	35-2010
28-1-29-4.1	Amended	122	07/01/2010	35-2010
28-1-29-5	Amended	123	07/01/2010	35-2010
28-1-29-6	Amended	124	07/01/2010	35-2010
28-1-29-7	Repealed	209	07/01/2010	35-2010
28-1-29-7.5	Amended	125	07/01/2010	35-2010
28-1-29-7.7	New	126	07/01/2010	35-2010
28-1-29-8	Amended	127	07/01/2010	35-2010
28-1-29-8.3	New	128	07/01/2010	35-2010
28-1-29-8.6	New	129	07/01/2010	35-2010
28-1-29-8.8	New	130	07/01/2010	35-2010
28-1-29-9	Amended	131	07/01/2010	35-2010
28-1-29-9.5	New	132	07/01/2010	35-2010
28-1-29-9.7	New	133	07/01/2010	35-2010
28-1-29-10	Repealed	209	07/01/2010	35-2010
28-1-29-10.5	New	134	07/01/2010	35-2010
28-1-29-12	Repealed	209	07/01/2010	35-2010
28-1-29-13	Amended	135	07/01/2010	35-2010
28-1-29-14	Amended	136	03/12/2010	35-2010
28-1-29-15	New	137	07/01/2010	35-2010
28-1-29-16	New	138	07/01/2010	35-2010
28-1-29-17	New	139	07/01/2010	35-2010
28-1-29-18	New	140	07/01/2010	35-2010
28-2-13-7	Amended	141	07/01/2010	35-2010
28-2-13-20.5	Amended	142	07/01/2010	35-2010
28-5-1-6.3	Amended	143	07/01/2010	35-2010
28-5-1-15	Amended	144	07/01/2010	35-2010
28-6.1-6-10	Amended	145	07/01/2010	35-2010
28-6.1-6-24	Amended	146	07/01/2010	35-2010
28-7-1-0.5	Amended	147	07/01/2010	35-2010
28-7-1-9	Amended	148	07/01/2010	35-2010

Affected Provisions	Type	SEC.	Effective	P.L.
28-7-1-9.2	Amended	149	07/01/2010	35-2010
28-7-1-10	Amended	150	07/01/2010	35-2010
28-7-1-10.1	New	151	07/01/2010	35-2010
28-7-1-10.5	New	152	07/01/2010	35-2010
28-7-1-12	Amended	153	07/01/2010	35-2010
28-7-1-15	Amended	154	07/01/2010	35-2010
28-7-1-16	Amended	155	07/01/2010	35-2010
28-7-1-16.5	New	156	07/01/2010	35-2010
28-7-1-17	Amended	157	07/01/2010	35-2010
28-7-1-17.1	Amended	158	07/01/2010	35-2010
28-7-1-18	Amended	159	07/01/2010	35-2010
28-7-1-19	Amended	160	07/01/2010	35-2010
28-7-1-20.1	Amended	161	07/01/2010	35-2010
28-7-1-22	Amended	162	07/01/2010	35-2010
28-7-1-24	Amended	163	07/01/2010	35-2010
28-7-1-24.1	New	164	07/01/2010	35-2010
28-7-1-26	Repealed	209	07/01/2010	35-2010
28-7-1-26.3	New	165	07/01/2010	35-2010
28-7-1-26.5	New	166	07/01/2010	35-2010
28-7-1-31	Amended	167	07/01/2010	35-2010
28-7-1-31.3	New	168	07/01/2010	35-2010
28-7-1-33	Amended	169	07/01/2010	35-2010
28-7-5-4	Amended	170	07/01/2010	35-2010
28-7-5-8	Amended	171	07/01/2010	35-2010
28-7-5-10.1	Amended	172	07/01/2010	35-2010
28-7-5-10.6	Amended	173	07/01/2010	35-2010
28-7-5-11	Amended	174	03/12/2010	35-2010
28-7-5-15.1	New	175	03/12/2010	35-2010
28-7-5-16	Amended	176	07/01/2010	35-2010
28-7-5-22	Amended	177	07/01/2010	35-2010
28-7-5-23	Amended	178	07/01/2010	35-2010
28-7-5-38.1	Amended	179	07/01/2010	35-2010
28-8-4-20	Amended	180	07/01/2010	35-2010
28-8-4-32	Amended	181	07/01/2010	35-2010
28-8-4-40.6	Amended	182	07/01/2010	35-2010
28-8-4-41	Amended	183	07/01/2010	35-2010
28-8-4-52	Amended	184	03/12/2010	35-2010
28-8-5-11	Amended	185	07/01/2010	35-2010
28-8-5-12	Amended	186	07/01/2010	35-2010
28-8-5-15	Amended	187	07/01/2010	35-2010
28-8-5-18.4	Amended	188	07/01/2010	35-2010
28-8-5-19	Amended	189	07/01/2010	35-2010
28-8-5-21.1	New	190	03/12/2010	35-2010

Affected Provisions	Type	SEC.	Effective	P.L.
28-8-5-22.5	Amended	191	07/01/2010	35-2010
28-10-1-1	Amended	192	07/01/2010	35-2010
28-11-1-5	Amended	193	07/01/2010	35-2010
28-11-1-9.1	New	194	07/01/2010	35-2010
28-11-1-15	Amended	195	07/01/2010	35-2010
28-11-3-1	Amended	196	07/01/2010	35-2010
28-11-3-5	Amended	197	07/01/2010	35-2010
28-11-4-3	Amended	198	07/01/2010	35-2010
28-11-4-4	Amended	199	07/01/2010	35-2010
28-11-4-6	Amended	200	07/01/2010	35-2010
28-11-4-7	Amended	201	07/01/2010	35-2010
28-11-4-10	Amended	202	07/01/2010	35-2010
28-11-4-11	Amended	203	07/01/2010	35-2010
28-13-12-3	Amended	204	07/01/2010	35-2010
28-14-5-6	Amended	205	07/01/2010	35-2010
28-15-2-2	Amended	206	07/01/2010	35-2010
28-15-11-13	Repealed	209	07/01/2010	35-2010

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29-1-6-1	Amended	6	12/01/2009	6-2010
29-1-7-4.5	New	7	07/01/2010	6-2010
29-1-10-6.5	Amended	8	07/01/2010	6-2010
29-2-16.1-13	Amended	114	03/12/2010	1-2010
29-2-19-17	Amended	4	03/24/2010	101-2010
29-3-1-15.5	Amended	1	07/01/2010	72-2010
29-3-1-16	Amended	2	07/01/2010	72-2010
29-3-1-17	New	3	07/01/2010	72-2010
29-3-1-18	New	4	07/01/2010	72-2010
29-3-4-1	Amended	9	07/01/2010	6-2010
29-3-5-1	Amended	10	07/01/2010	6-2010
29-3-6-2	Amended	11	07/01/2010	6-2010
29-3-8.5-1	Amended	5	07/01/2010	72-2010
29-3-8.5-2	Amended	6	07/01/2010	72-2010
29-3-8.5-3	Amended	7	07/01/2010	72-2010
29-3-8.5-4	Amended	8	07/01/2010	72-2010
29-3-8.5-5	Amended	9	07/01/2010	72-2010
29-3-8.5-6	Amended	10	07/01/2010	72-2010
29-3-8.5-9	Amended	11	07/01/2010	72-2010
29-3-8.5-9.5	New	12	07/01/2010	72-2010
29-3-8.5-10	New	13	07/01/2010	72-2010
29-3-8.5-11	New	14	07/01/2010	72-2010
29-3-8.5-12	New	15	07/01/2010	72-2010

Affected Provisions	Type	SEC.	Effective	P.L.
29-3-9-4	Repealed	40	07/01/2010	6-2010
29-3-9-4.5	New	12	07/01/2010	6-2010

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30-2-13-9	Amended	5	03/24/2010	101-2010
30-4-2.1-13	New	13	12/01/2009	6-2010
30-4-2.1-14	New	14	07/01/2010	6-2010
30-4-2.1-15	New	15	07/01/2010	6-2010
30-4-2.1-16	New	16	07/01/2010	6-2010
30-4-2.1-17	New	17	07/01/2010	6-2010
30-4-3-35	New	18	07/01/2010	6-2010
30-4-3-36	New	19	07/01/2010	6-2010
30-4-3-37	New	20	07/01/2010	6-2010
30-5-4-4	Amended	21	07/01/2010	6-2010

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31-9-2-0.8	New	21	07/01/2010	80-2010
31-9-2-50	Amended	115	03/12/2010	1-2010
31-9-2-52	Amended	116	03/12/2010	1-2010
31-9-2-122	Repealed	156	03/12/2010	1-2010
31-14-5-9	New	1	03/12/2010	21-2010
31-14-11-2	Amended	22	07/01/2010	80-2010
31-14-11-3	Amended	23	07/01/2010	80-2010
31-14-11-14	Amended	24	07/01/2010	80-2010
31-14-12-6	Amended	25	07/01/2010	80-2010
31-14-12-10	New	26	07/01/2010	80-2010
31-14-12-11	New	27	07/01/2010	80-2010
31-14-13-1	Amended	2	07/01/2010	25-2010
31-14-13-6.3	New	28	07/01/2010	80-2010
31-16-2-1	Amended	117	03/12/2010	1-2010
31-16-2-7	Amended	118	03/12/2010	1-2010
31-16-2-8	Amended	119	03/12/2010	1-2010
31-16-6-4	Amended	29	07/01/2010	80-2010
31-16-6-6	Amended	30	07/01/2010	80-2010
31-16-6-9	New	31	07/01/2010	80-2010
31-16-6-10	New	32	07/01/2010	80-2010
31-16-8-2	Amended	33	07/01/2010	80-2010
31-16-12-9	Amended	34	07/01/2010	80-2010
31-16-12-13	New	35	07/01/2010	80-2010
31-16-12-14	New	36	07/01/2010	80-2010
31-16-15-0.3	New	37	07/01/2010	80-2010

Affected Provisions	Type	SEC.	Effective	P.L.
31-16-15-0.5	Amended	38	07/01/2010	80-2010
31-16-15-2.7	Amended	39	07/01/2010	80-2010
31-16-15-4.5	Amended	40	07/01/2010	80-2010
31-16-15-7.5	Amended	41	07/01/2010	80-2010
31-16-15-17	Amended	42	07/01/2010	80-2010
31-16-15-23.5	New	43	07/01/2010	80-2010
31-16-15-23.7	New	44	07/01/2010	80-2010
31-17-2-21.3	New	45	07/01/2010	80-2010
31-19-2-5	Amended	120	03/12/2010	1-2010
31-19-4-4	Amended	2	03/12/2010	21-2010
31-19-4-5	Amended	3	03/12/2010	21-2010
31-19-5-1	Amended	4	03/12/2010	21-2010
31-19-5-3	Amended	121	03/12/2010	1-2010
31-19-5-15	Amended	122	03/12/2010	1-2010
31-19-5-16	Amended	123	03/12/2010	1-2010
31-19-9-2	Amended	5	03/12/2010	21-2010
31-19-9-12	Amended	6	03/12/2010	21-2010
31-19-11-1	Amended	7	03/12/2010	21-2010
31-19-17-3	Amended	124	03/12/2010	1-2010
31-19-17-5	Amended	125	03/12/2010	1-2010
31-25-3-2	Amended	46	07/01/2010	80-2010
31-25-3-4	New	47	07/01/2010	80-2010
31-25-4-8.5	New	48	07/01/2010	80-2010
31-25-4-17	Amended	49	07/01/2010	80-2010
31-25-4-32	Amended	50	07/01/2010	80-2010
31-25-4-34	Amended	51	07/01/2010	80-2010
31-35-1-4.5	Amended	126	03/12/2010	1-2010
31-35-2-4	Amended	8	03/12/2010	21-2010
31-35-3-5	Amended	9	03/12/2010	21-2010
31-37-17-1	Amended	127	03/12/2010	1-2010

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32-17-13-1	Amended	22	07/01/2010	6-2010
32-17-13-7	Amended	23	07/01/2010	6-2010
32-17-13-8	Amended	24	07/01/2010	6-2010
32-17-14-2	Amended	25	07/01/2009	6-2010
32-17-14-3	Amended	26	07/01/2010	6-2010
32-17-14-7	Amended	27	07/01/2010	6-2010
32-17-14-9	Amended	28	07/01/2010	6-2010
32-17-14-10	Amended	29	07/01/2010	6-2010
32-17-14-11	Amended	30	07/01/2010	6-2010
32-17-14-14	Amended	31	07/01/2010	6-2010

Affected Provisions	Type	SEC.	Effective	P.L.
32-17-14-16	Amended	32	07/01/2010	6-2010
32-17-14-25	Amended	33	07/01/2010	6-2010
32-17-14-26	Amended	34	07/01/2010	6-2010
32-17-14-28	Amended	35	07/01/2010	6-2010
32-17.5-1-1	Amended	36	07/01/2010	6-2010
32-17.5-1-2	Amended	37	07/01/2010	6-2010
32-17.5-4-1	Amended	38	07/01/2010	6-2010
32-17.5-5-1	Amended	39	07/01/2010	6-2010
32-17.5-8-2.5	New	52	07/01/2010	80-2010
32-21-13	New	1	07/01/2010	5-2010
32-25.5-3-2	Amended	128	03/12/2010	1-2010
32-28-3-5	Amended	207	07/01/2010	35-2010
32-28-3-9	Amended	129	03/12/2010	1-2010
32-29-7-3	Amended	2	07/01/2010	68-2010
32-29-7-8.5	New	8	07/01/2010	73-2010
32-30-10-14	Amended	9	07/01/2010	73-2010
32-30-10.5-8	Amended	3	01/01/2011	68-2010
32-33-20-5	Amended	130	03/12/2010	1-2010
32-34-1-17	Amended	1	07/01/2010	64-2010
32-34-1-20	Amended	2	07/01/2010	64-2010

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33-23-14	Repealed	10	07/01/2010	108-2010
33-23-15-3	Amended	131	03/12/2010	1-2010
33-23-16	New	4	07/01/2010	108-2010
33-24-4-9	New	1	07/01/2010	60-2010
33-24-6-3	Amended	132	03/12/2010	1-2010
33-27-4-3	Amended	1	07/01/2010	3-2010
33-27-4-3	Amended	1	07/01/2010	71-2010
33-32-2-9	New	1	07/01/2010	45-2010
33-32-2-9.2	New	2	07/01/2010	60-2010
33-33-22-1	Amended	1	03/18/2010	82-2010
33-33-22-2	Amended	2	03/18/2010	82-2010
33-33-22-3	Amended	3	03/18/2010	82-2010
33-33-22-4	Amended	4	03/18/2010	82-2010
33-33-22-5	Amended	5	03/18/2010	82-2010
33-33-22-7	Amended	6	03/18/2010	82-2010
33-33-44-3	Amended	133	03/12/2010	1-2010
33-33-49-15	Amended	2	01/01/2011	71-2010
33-35-1-6	New	1	07/01/2010	55-2010
33-35-2-3	Amended	2	07/01/2010	55-2010
33-35-2-8	Amended	3	07/01/2010	55-2010

Affected Provisions	Type	SEC.	Effective	P.L.
33-36-2-4	New	4	07/01/2010	55-2010
33-36-3-6	Amended	134	03/12/2010	1-2010
33-36-3-7	Amended	5	07/01/2010	55-2010
33-37-1-3	Amended	5	07/01/2010	106-2010
33-37-5-24	Amended	5	07/01/2010	108-2010
33-37-5-29	Repealed	10	07/01/2010	108-2010
33-38-6-23	Amended	9	07/01/2010	99-2010
33-38-9-9	Amended	6	07/01/2010	108-2010
33-38-9-10	New	7	07/01/2010	108-2010
33-39-7-11	Amended	10	07/01/2010	99-2010

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34-6-2-30.5	New	6	07/01/2010	106-2010
34-6-2-46.7	Amended	3	07/01/2010	90-2010
34-6-2-48.3	Amended	1	07/01/2010	63-2010
34-6-2-49	Amended	4	07/01/2010	90-2010
34-6-2-80	Amended	8	07/01/2010	108-2010
34-6-2-103	Amended	5	07/01/2010	90-2010
34-6-2-140	Amended	6	07/01/2010	90-2010
34-13-3-3	Amended	10	07/01/2010	86-2010
34-14-1-11	Amended	1	07/01/2010	40-2010
34-26-5-9	Amended	135	03/12/2010	1-2010
34-26-5-18	Amended	136	03/12/2010	1-2010
34-28-2-2	Amended	1	07/01/2010	61-2010
34-28-2-2.5	New	2	07/01/2010	61-2010
34-28-2-3	Amended	3	07/01/2010	61-2010
34-28-2-4	Amended	4	07/01/2010	61-2010
34-28-5-4	Amended	7	07/01/2010	106-2010
34-28-5-4	Amended	3	01/01/2011	71-2010
34-28-5-5	Amended	4	01/01/2011	71-2010
34-28-5-5	Amended	8	01/01/2011	106-2010
34-28-6-1	Amended	137	03/12/2010	1-2010
34-28-7	New	7	07/01/2010	90-2010
34-30-2-6.5	New	53	07/01/2010	80-2010
34-30-2-6.7	New	54	07/01/2010	80-2010
34-30-2-14.6	New	105	03/25/2010	113-2010
34-30-2-45.2	Repealed	156	03/12/2010	1-2010
34-30-2-47.7	Repealed	10	07/01/2010	108-2010
34-30-2-96.6	New	138	03/12/2010	1-2010
34-30-2-133.1	New	55	07/01/2010	80-2010
34-30-2-133.8	New	56	07/01/2010	80-2010
34-30-2-140.5	Repealed	10	07/01/2010	108-2010

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34-30-2-140.7	New	9	07/01/2010	108-2010
34-30-2-140.8	New	3	07/01/2010	60-2010
34-30-2-144.2	New	4	07/01/2010	60-2010
34-30-2-152.5	Amended	91	07/01/2010	84-2010
34-30-2-156.2	New	106	07/01/2010	113-2010
34-33.1	New	2	07/01/2010	40-2010
34-44-1-2	Amended	139	03/12/2010	1-2010
34-44.5	New	1	07/01/2010	57-2010
34-52-2-1	Amended	140	03/12/2010	1-2010
34-54-11-1	Amended	2	07/01/2010	63-2010
34-54-11-2	Amended	3	07/01/2010	63-2010
34-54-11-6	New	4	07/01/2010	63-2010
34-54-11-7	New	5	07/01/2010	63-2010
34-55-10-2	Amended	1	07/01/2010	44-2010
34-55-10-2	Amended	1	07/01/2010	53-2010
34-59	New	2	07/01/2010	57-2010

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35-32-1-2	New	8	07/01/2010	20-2010
35-33-8-3.2	Amended	9	07/01/2010	94-2010
35-33-8-3.6	New	10	07/01/2010	94-2010
35-33-8-7	Amended	9	07/01/2010	105-2010
35-33-8-11	New	11	07/01/2010	94-2010
35-33-8.5-11	Amended	10	07/01/2010	106-2010
35-33.5-5-4	Amended	9	07/01/2010	106-2010
35-38-1-5	Amended	10	07/01/2010	105-2010
35-38-1-17	Amended	141	03/12/2010	1-2010
35-38-2-2.4	Amended	142	03/12/2010	1-2010
35-38-2-3	Amended	11	07/01/2010	106-2010
35-38-2.5-2	Amended	11	07/01/2010	105-2010
35-38-2.6-4.2	New	12	07/01/2010	105-2010
35-38-2.6-4.5	Amended	13	07/01/2010	105-2010
35-38-2.6-6	Amended	14	07/01/2010	105-2010
35-38-3-2	Amended	12	07/01/2010	106-2010
35-38-4-6	Amended	13	07/01/2010	106-2010
35-41-1-3.1	Repealed	156	03/12/2010	1-2010
35-41-1-3.3	Repealed	156	03/12/2010	1-2010
35-41-1-3.4	New	143	03/12/2010	1-2010
35-41-1-10.3	New	144	03/12/2010	1-2010
35-41-1-26.8	Repealed	18	07/01/2010	105-2010
35-41-2-3	Amended	14	07/01/2010	106-2010
35-42-1-4	Amended	1	07/01/2010	7-2010

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35-42-3.5-3	Amended	15	07/01/2010	106-2010
35-44-3-3	Amended	2	07/01/2010	102-2010
35-44-3-3	Amended	6	07/01/2010	100-2010
35-44-3-9.6	New	1	07/01/2010	51-2010
35-45-7-3	Amended	208	07/01/2010	35-2010
35-45-13-8	Amended	16	07/01/2010	106-2010
35-45-18-1	Amended	107	07/01/2010	113-2010
35-46-1-15.1	Amended	12	07/01/2010	94-2010
35-46-1-21	Amended	10	07/01/2010	21-2010
35-46-1-22	Amended	11	07/01/2010	21-2010
35-47-2-3	Amended	4	07/01/2010	34-2010
35-47-2-3	Amended	1	07/01/2010	47-2010
35-47-2-6	Amended	2	07/01/2010	47-2010
35-47-11-1	Amended	8	07/01/2010	90-2010
35-47-11-2	Amended	9	07/01/2010	90-2010
35-47-11-3	Repealed	10	07/01/2010	90-2010
35-47-11-4	Repealed	10	07/01/2010	90-2010
35-47-11-5	Repealed	10	07/01/2010	90-2010
35-47-11-6	Repealed	10	07/01/2010	90-2010
35-48-1-4	Repealed	102	07/01/2010	84-2010
35-48-2-1	Amended	92	07/01/2010	84-2010
35-48-2-1.5	Repealed	102	07/01/2010	84-2010
35-48-3-2	Amended	93	07/01/2010	84-2010
35-48-3-4	Amended	94	07/01/2010	84-2010
35-48-3-5	Amended	95	07/01/2010	84-2010
35-48-3-6	Amended	96	07/01/2010	84-2010
35-48-4-14.7	Amended	1	07/01/2010	97-2010
35-48-7-1	Repealed	102	07/01/2010	84-2010
35-48-7-8.1	Amended	13	07/01/2010	94-2010
35-48-7-8.1	Amended	97	07/01/2010	84-2010
35-48-7-10.1	Amended	98	07/01/2010	84-2010
35-48-7-11.1	Amended	99	07/01/2010	84-2010
35-48-7-11.5	New	100	07/01/2010	84-2010
35-48-7-12.1	Amended	101	07/01/2010	84-2010
35-50-5-4	Amended	17	07/01/2010	106-2010
35-50-6-1	Amended	15	07/01/2010	105-2010
35-50-6-3.3	Amended	2	07/01/2010	42-2010
35-50-6-5	Amended	16	07/01/2010	105-2010
35-50-9	New	14	07/01/2010	94-2010

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36-1-12-1	Amended	145	03/12/2010	1-2010

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36-1-12-4	Amended	108	07/01/2010	113-2010
36-1-12.5-2.5	Amended	146	03/12/2010	1-2010
36-1.5-4-5	Amended	109	01/01/2010	113-2010
36-1.5-4-18	Amended	110	03/25/2010	113-2010
36-1.5-4-27	Amended	111	03/25/2010	113-2010
36-1.5-4-36	Amended	112	03/25/2010	113-2010
36-2-1-2	Amended	113	01/01/2010	113-2010
36-2-7-10	Amended	2	07/01/2010	45-2010
36-2-7-19	New	3	07/01/2010	45-2010
36-2-7.5-6	Amended	4	07/01/2010	45-2010
36-2-7.5-11	Amended	5	07/01/2010	45-2010
36-2-10-16	Amended	147	03/12/2010	1-2010
36-3-2-7	Amended	114	01/01/2010	113-2010
36-4-2-9	Amended	115	01/01/2010	113-2010
36-4-3-2.2	Amended	2	07/01/2010	69-2010
36-4-3-7	Amended	116	01/01/2010	113-2010
36-4-3-12	Amended	117	01/01/2010	113-2010
36-4-3-15.5	Amended	118	01/01/2010	113-2010
36-4-3-19	Amended	119	01/01/2010	113-2010
36-4-3-23	New	120	01/01/2010	113-2010
36-4-6-5	Amended	121	07/01/2010	113-2010
36-4-7-11	Amended	122	07/01/2010	113-2010
36-4-9-8	Amended	1	07/01/2010	33-2010
36-5-1-10.1	Amended	123	01/01/2010	113-2010
36-5-1-18	Amended	124	01/01/2010	113-2010
36-5-1.1-9	Amended	125	01/01/2010	113-2010
36-5-1.1-10	Amended	126	01/01/2010	113-2010
36-5-1.1-10.5	Amended	127	01/01/2010	113-2010
36-5-1.1-10.6	Amended	128	01/01/2010	113-2010
36-5-7-7	New	5	07/01/2010	34-2010
36-6-1-3	Amended	129	01/01/2010	113-2010
36-6-4-16	Amended	148	03/12/2010	1-2010
36-7-9-2	Amended	10	07/01/2010	73-2010
36-7-9-5	Amended	149	03/12/2010	1-2010
36-7-9-12	Amended	4	07/01/2010	68-2010
36-7-10.1-3	Amended	130	07/01/2010	113-2010
36-7-11.5-11	Amended	5	03/18/2010	96-2010
36-7-13-12	Amended	131	03/25/2010	113-2010
36-7-13-14	Amended	132	03/25/2010	113-2010
36-7-13-15	Amended	133	03/25/2010	113-2010
36-7-13-23	New	134	03/25/2010	113-2010
36-7-14-1.3	New	9	07/01/2010	20-2010
36-7-14.5-12.5	Amended	1	03/24/2010	104-2010

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36-7-15.1-1.3	New	10	07/01/2010	20-2010
36-7-22-7	Amended	135	07/01/2010	113-2010
36-7-22-11	Amended	136	03/25/2010	113-2010
36-7-22-12	Amended	137	03/25/2010	113-2010
36-7-22-18	Amended	150	03/12/2010	1-2010
36-7-30-25	Amended	2	03/24/2010	104-2010
36-7-30-34	New	3	03/24/2010	104-2010
36-7-30-35	New	4	03/24/2010	104-2010
36-7-32-11	Amended	138	07/01/2010	113-2010
36-8-3-3	Amended	2	07/01/2010	33-2010
36-8-3-4.3	New	1	07/01/2010	13-2010
36-8-3-5	Amended	2	07/01/2010	13-2010
36-8-3.5-1	Amended	3	07/01/2010	13-2010
36-8-3.5-19.3	New	4	07/01/2010	13-2010
36-8-4-4.5	Amended	6	07/01/2010	34-2010
36-8-4-10	Amended	35	03/25/2010	110-2010
36-8-4-11	Amended	1	07/01/2010	56-2010
36-8-8-5	Amended	11	07/01/2010	99-2010
36-8-8-8.5	New	1	07/01/2010	70-2010
36-8-8-8.8	New	1	07/01/2010	88-2010
36-8-8-11	Amended	12	07/01/2010	99-2010
36-8-8-13.8	Amended	1	07/01/2009	62-2010
36-8-8-13.8	Amended	1	03/12/2010	23-2010
36-8-8-13.9	Amended	2	07/01/2009	62-2010
36-8-8-13.9	Amended	2	03/12/2010	23-2010
36-8-8-14.1	Amended	3	07/01/2009	62-2010
36-8-8-14.1	Amended	3	03/12/2010	23-2010
36-8-8-15	Amended	13	07/01/2010	99-2010
36-8-8-19	Amended	14	07/01/2010	99-2010
36-8-8-24	New	4	07/01/2009	23-2010
36-8-8-24	New	4	07/01/2009	62-2010
36-8-8-24.8	New	15	07/01/2010	99-2010
36-8-9-9	New	7	07/01/2010	34-2010
36-8-10-4.5	New	8	07/01/2010	34-2010
36-8-10-10.4	Amended	36	03/25/2010	110-2010
36-8-10-11.1	Amended	2	07/01/2010	56-2010
36-8-10-15	Amended	151	03/12/2010	1-2010
36-8-10.5-7	Amended	152	03/12/2010	1-2010
36-8-12-10.9	Amended	153	03/12/2010	1-2010
36-8-12-13	Amended	154	03/12/2010	1-2010
36-8-12-19	New	5	07/01/2010	13-2010
36-8-13-3	Amended	37	03/25/2010	110-2010
36-8-16.5-14	Repealed	169	07/01/2010	113-2010

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36-8-16.5-14.5	Amended	139	07/01/2010	113-2010
36-8-16.5-14.7	Amended	140	07/01/2010	113-2010
36-8-16.5-22	Amended	141	07/01/2010	113-2010
36-8-16.5-25.5	Amended	142	07/01/2010	113-2010
36-8-16.5-29	Amended	143	07/01/2010	113-2010
36-8-16.5-30.5	Amended	144	07/01/2010	113-2010
36-8-16.5-31	Amended	145	07/01/2010	113-2010
36-8-16.5-32	Amended	146	07/01/2010	113-2010
36-8-16.5-34	Amended	147	07/01/2010	113-2010
36-8-16.5-35	Amended	148	07/01/2010	113-2010
36-8-16.5-39	Amended	149	07/01/2010	113-2010
36-8-16.5-45	Amended	150	07/01/2010	113-2010
36-8-16.6	New	151	07/01/2010	113-2010
36-9-16-2	Amended	152	03/25/2010	113-2010
36-9-16-2	Amended	9	07/01/2010	34-2010
36-9-16-3	Amended	10	07/01/2010	34-2010
36-9-23-32	Amended	153	07/01/2010	113-2010
36-9-36-37	Amended	154	03/25/2010	113-2010
36-9-36-55	Amended	155	03/25/2010	113-2010
36-9-37-19	Amended	156	03/25/2010	113-2010
36-9-37-20	Amended	157	03/25/2010	113-2010
36-12-2-8	Amended	158	03/25/2010	113-2010
36-12-2-18	Amended	159	07/01/2010	113-2010
36-12-2-25	Amended	160	07/01/2010	113-2010
36-12-2-26	New	161	07/01/2010	113-2010
36-12-3-16.5	New	162	07/01/2010	113-2010
36-12-3-18	Amended	163	07/01/2010	113-2010
36-12-7-3	Amended	164	07/01/2010	113-2010
36-12-7-8	Amended	155	03/12/2010	1-2010
36-12-7-9	New	165	07/01/2010	113-2010
36-12-7-10	New	166	07/01/2010	113-2010
36-12-7-11	New	167	07/01/2010	113-2010

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200 West Washington Street, Suite 301

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