

**October 30, 2020**

**MORTGAGE LENDING AND FRAUD PREVENTION TASK FORCE LEGISLATIVE  
REPORT PURSUANT TO IC 4-23-30-6**

The following information is required by IC 4-23-30-6 to be placed into a Legislative Report and submitted to the Legislative Services Agency on or before November 1, 2020.

## **Overview**

The Mortgage Lending and Fraud Prevention Task Force (“Task Force”) held meetings quarterly during the 2020 calendar year. Representatives from the Indiana Department of Financial Institutions, the Indiana Office of the Attorney General, the Indiana Secretary of State-Securities Division, the Indiana Department of Insurance, the Indiana Real Estate Commission and the Real Estate Appraiser Licensure and Certification Board were in attendance. Each meeting included a public session followed by a closed executive session, as needed.

120 General Assembly (2017) House Enrollment Act N. 1526 Section 1. IC 4-23-30-4 outlines the duties of the Task Force. The Task Force shall meet quarterly, with additional meetings scheduled as needed by the Task Force chair to coordinate the State of Indiana’s efforts to regulate the various participants involved in originating, issuing, and closing home loans. The Task Force will strive to enforce state laws and rules concerning mortgage industry practices and mortgage fraud and prevent fraudulent practices in the home loan industry. Information and resources will be shared among the agencies unless prohibited by law.

*Shared Knowledge and the RREAL IN Database* - Pursuant to Indiana Code 27-7-3-15.5, beginning January 1, 2010, all persons or entities that close certain real estate transactions are required to report detailed information regarding professionals, organizations and agencies involved in the transactions to the Residential Real Estate Acquisition of Licensee Information and Numbers (RREAL IN) database. Users required to enter information into the database include lending institutions, title producers, mobile notaries, and attorneys who close qualifying transactions.

All required information must be entered into the RREAL IN database within 20 business days of the transaction closing (signing) date. Currently, there are no exclusions for licensed professionals, companies, agencies, or institutions from providing the required information or being recorded as part of the transaction, if they participated in a professional capacity, associated with said transaction.

Information and user training material on the RREAL IN database are available to potential users online. Additionally, user training via live webinar and conference call is available to resident and non-resident licensees. Ongoing communication to all targeted licensees is necessary to help increase awareness of the RREAL IN database and the subsequent reporting requirements.

The RREALIN database makes information readily available to a variety of state agencies. Current state agencies that have established access to the RREALIN database for research, investigative and reporting purposes include the Department of Insurance, the Attorney General’s Office, the Department of Financial Institutions, the Secretary of State, the Indiana Professional Licensing Agency, the Real Estate Commission and the Real Estate Appraiser Licensure and Certification Board. With the assistance of information sharing across these agencies and data collected from the RREAL IN database, cases of fraud and abuse continue to be identified, investigated and the necessary legal or administrative action taken as necessary to prevent future activity and protect Indiana consumers.

Since the inception of the RREAL IN Database on January 1 2010, an additional \$3,394,535.24 has been invested to improve functionality, enhance reporting capabilities, and add additional transaction forms and data fields in order to meet legislative changes to the initial reporting requirements, which went into effect January 1, 2012, with the passing of HB 1273. In order to support the transactional data’s integrity and security, an additional \$235 was invested monthly for database maintenance throughout the 2020 calendar year. The growth of the database and expansion of the reporting requirements has enabled the agencies comprising the Task Force to cast a wider net, focusing on additional transaction details that represent additional areas of fraud and abuse that are associated with qualifying residential transactions.

Database sweeps and audits conducted by the Department of Insurance of submitted transactions resulted in the deletion of 386,577 duplicate and bogus transactions during the 2020 reporting period. As a result of the 2020 field audits/exams, conducted by the Department of Financial Institutions and the Department of Insurance, many lending institutions, title agencies and other closers retroactively reported an unspecified number of qualifying transactions, which were previously un-submitted for 4<sup>th</sup> quarter 2019 – 2020 year to date reporting periods.

**Current RREAL IN Database statistics:**

Registered User Accounts	Transactions Submitted since Inception of the Database
2,822	1,684,553

YTD Inquiries	YTD Transaction Edits/Additions Request	YTD Password Resets	YTD Transactions Submitted
5,824	5,008	151	243,514

For more information regarding the RREALIN database, please visit the website at: [http://in.gov/apps/in\\_rreal/Login.aspx](http://in.gov/apps/in_rreal/Login.aspx).

**I. Information on the regulatory activities of each agency described in subsection (b), including a description of any:**

**(A) Disciplinary or Enforcement Actions Taken**

**The Office of the Indiana Attorney General**

The Office of the Indiana Attorney General’s Professional Licensing Enforcement & Homeowner Protection Unit has jurisdiction to investigate and prosecute the following parties:

1. Professional licensees who violate the rules, regulations, and statutes governing their profession.
2. Non-licensees that engage in activities that require a professional license.
3. Persons that commit deceptive and/or unconscionable acts during the course of real estate transactions or other consumer transactions.
4. Persons that engage in business transactions with Indiana citizens, or with regard to Indiana property, that otherwise violate the Home Loan Practices Act and/or Deceptive Consumer Sales Act.
5. Out-of-state entities that transact business in the State of Indiana without first obtaining a certificate of authority from the Indiana Secretary of State.

Civil defendants, when prosecuted as detailed above, may face one or more of the following sanctions: imposition of civil penalties, imposition of consumer restitution, imposition of costs of prosecuting the lawsuit in question, and imposition of one or more injunctions related to the action taken against them.

Professional licensees, when prosecuted, may face one or more of the following sanctions pursuant to the Indiana Code:

**IC § 25-1-11-12 – Sanctions for Violations**

Sec. 12. (a) The board may impose any of the following sanctions, singly or in combination, if the board finds that a practitioner is subject to disciplinary sanctions under sections 5 through 9 of this chapter:

- (1) Permanently revoke a practitioner’s license.
- (2) Suspend a practitioner’s license.
- (3) Censure a practitioner.
- (4) Issue a letter of reprimand.

- (5) Place a practitioner on probation status and require the practitioner to:
- a. report regularly to the board upon the matters that are the basis of probation;
  - b. limit practice to those areas prescribed by the board;
  - c. continue or renew professional education approved by the board until a satisfactory degree of skill has been attained in those areas that are the basis of the probation;
  - d. perform or refrain from performing any acts, including community restitution or service without compensation, that the board considers appropriate to the public interest or to the rehabilitation or treatment of the practitioner; or
  - e. satisfactorily complete a peer review specified by the board as a condition for termination of probationary status if the practitioner is a licensee (as defined in IC §25-2.1-1-8).
- (6) Assess a civil penalty against the practitioner for not more than one thousand dollars (\$1,000) for each violation listed in sections 5 through 9 of this chapter except for a finding of incompetency due to a physical or mental disability.
- (7) Order a practitioner 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 board shall consider a practitioner's ability to pay the amount assessed. If the practitioner fails to pay the civil penalty within the time specified by the board, the board may suspend the practitioner's license without additional proceedings. However, a suspension may not be imposed if the sole basis for the suspension is the practitioner's inability to pay a civil penalty.

Additionally, when a licensee's actions do not rise to the level of prosecution, the Office of the Attorney General may resolve the consumer complaint with the issuance of a warning letter or a warning letter with conditions. A warning letter with conditions is an alternative way for a consumer complaint to be resolved for minor violations that would otherwise result in an administrative complaint being filed with the board. This resolution to the consumer complaint provides the Office of the Attorney General an alternative method of resolution to the issues addressed in the consumer complaint without formal action being reflected in the licensee's licensing file. The warning letter with conditions advises the licensee(s) of the potential violation(s) that may have occurred and further requires the licensee to typically complete additional education as a condition precedent to the closing of the consumer complaint. If the licensee does not complete the continuing education coursework within the specified timeframe, the Office of the Indiana Attorney General may file an administrative complaint before the appropriate board.

**Civil Complaints Filed, Assurances of Voluntary Compliance and Consent Judgments  
Entered September 1, 2019 through August 31, 2020**

<u>Case</u>	<u>Filing Date</u>	<u>County of Filing</u>	<u>Disposition</u>	<u>Disposition Date</u>	<u>Brief Case Summary</u>
State of Indiana v. Jessica McHale & Volks Anwalt Law of New York, LLC	11/27/2018	Marion	Default Judgment	9/24/2019 (set aside)  7/7/2020 (granted)	<p>Cause No.: 49D06-1811-PL-046899</p> <p>The State’s Complaint alleged Defendants induced two Indiana consumers to contract with them for foreclosure consultant services, accepted payment up-front, and then failed to complete services.</p> <p>The State’s Complaint alleged violations of the Home Loan Practices Act and Uniform Business Organization Code.</p> <p>The State was granted a default judgment on 9/24/2019 in the total amount of \$52,700. Defendant McHale filed a motion to set aside the judgment on 10/29/2019, which the court granted on 12/30/2019.</p> <p>The State was granted a second default judgment on 7/7/2020 in the total amount of \$53,600.</p>
State v. Michael Reed	10/11/2019	Marion	Pending	N/A	<p>Cause No.: 49D12-1910-PL-042692</p> <p>The State’s Complaint alleged Defendant, a Massachusetts attorney, induced an Indiana consumer to contract with him for foreclosure consultant services, accepted payment up-front, and then failed to complete services.</p>

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					<p>The State’s Complaint alleged violations of the Mortgage Rescue Protection Fraud Act &amp; Deceptive Consumer Sales Act.</p> <p>The State filed a Motion for Default Judgment on 1/2/2020; a hearing was initially set but has been continued due to COVID.</p>
State of Indiana v. Daman Drake & D&L Management LLC	1/17/2020	Marion	Pending	N/A	<p>Cause No.: 49D10-2001-PL-000660</p> <p>The State’s Complaint alleged Defendants entered into a land contract with an Indiana consumer and failed to disclose on two separate occasions, that the property was encumbered by a mortgage. Ultimately, the house was foreclosed upon.</p> <p>The State’s Complaint alleged violations of the Home Loan Practices Act.</p>
State of Indiana v. Mohammad Ali Ahmadi & National Support Group, Inc.	3/24/2020	Marion	Pending	N/A	<p>Cause No.: 49D07-2003-PL-012290</p> <p>The State’s Complaint alleged Defendants induced an Indiana consumer to contract with them for foreclosure consultant services. Defendants contracted with the consumer, required and accepted up-front payment and then failed to complete the contracted services.</p> <p>The State’s Complaint alleged violations of the Mortgage Rescue Protection Fraud Act and the Uniform Business Organization Code.</p>

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<p>State of Indiana v. Cynthia Alexander-Ogele et al.</p>	<p>4/16/2020</p>	<p>Lake</p>	<p>Pending</p>	<p>N/A</p>	<p>Cause No.: 45C01-2004-PL-000263</p> <p>The State’s Complaint alleged that an employee, Cynthia Alexander-Ogele, of an unlicensed real estate broker company, Connect the Dots, recorded a fraudulent lien on a property she was assisting in the sale of.</p> <p>The State’s Complaint alleged four Defendants – Alexander-Ogele, Thomas and Marilyn Wisniewski (owners of company), and Connect the Dots with violations of the Home Loan Practices Act and the Deceptive Consumer Sales Act.</p>
<p>State of Indiana v. Dustin Mendoza &amp; Melrose Legal Services</p>	<p>4/20/2020</p>	<p>Marion</p>	<p>Pending</p>	<p>N/A</p>	<p>Cause No.: 49D12-2004-PL-014166</p> <p>The State’s Complaint alleged Defendants induced an Indiana consumer to contract with them for foreclosure consultant services. Defendants contracted with the consumer, required and accepted up-front payment and then failed to complete the contracted services.</p> <p>The State’s Complaint alleged violations of the Deceptive Consumer Sales Act, pursuant to the Credit Services Organizations Act, the Home Loan Practices Act and violations of Foreign Corporation Statute.</p>
<p>State of Indiana v. Todd Hill</p>	<p>5/11/2020</p>	<p>Marion</p>	<p>Pending</p>	<p>N/A</p>	<p>Cause No.: 49D04-2005-PL-015729</p> <p>The State’s Complaint alleged Defendant contracted with two Indiana consumers for the purpose of</p>

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					<p>the purchase, renovation, and disposition of six properties. Three fraudulent warranty deeds were recorded, transferring ownership of the three properties to Defendant.</p> <p>The State’s Complaint alleged violations of the Home Loan Practices Act.</p>
State of Indiana v. Jack Karpeles & National Civilian Law Center of America, PC	5/15/2020	Marion	Pending	N/A	<p>Cause No.: 49D02-2005-PL-016124</p> <p>The State’s Complaint alleged Defendants entered into a foreclosure consultant agreement with an Indiana consumer. Defendants accepted payment up-front, and then never performed the agreed upon services.</p> <p>The State’s Complaint alleged violations of the Mortgage Rescue Protection Fraud Act, and the Uniform Business Organizations Administrative Provisions Act.</p>
State of Indiana v. Eseoghene Ighofose & ESK International, Inc.	6/26/2020	Marion	Pending	N/A	<p>Cause No.: 49D11-2006-PL-021145</p> <p>The State’s Complaint alleged Defendants fraudulently induced two Indiana consumers to transfer \$284,747.12 to Defendants’ depository account by hacking into the work email account of their real estate broker, sending fraudulent wiring instructions.</p> <p>The State’s Complaint alleged violations of violations of the Home Loan Practices Act.</p>
State of Indiana v. Marshall Welton et al.	8/6/2020	Marion	Pending	N/A	<p>Cause No.: 49D14-2008-PL-026775</p> <p>The State’s Complaint alleged Defendants induced Indiana</p>

					<p>consumers into lease agreement that were deceptive, misrepresentative and omitted material information.</p> <p>The State’s Complaint alleged violations of the Home Loan Practices Act.</p>
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**Consumer Protection Assistance Fund**

In 2011, the Indiana General Assembly passed legislation that created the Consumer Protection Assistance Fund (“CPAF”). CPAF provides relief to consumers who assist the Office of the Attorney General in bringing legal action against businesses preying on the financially vulnerable. The fund is comprised of: appropriations made by the general assembly; grants, gifts, and donations intended for deposit into the fund; and money recovered or received by the Office of the Attorney General for consumer protection purposes. Money in the fund may be used to make payments to qualifying individuals who file qualifying claims with the Office of the Attorney General in connection with a case involving civil actions brought by the State of Indiana, and the Professional Licensing Enforcement & Homeowner Protection Unit for violations of the Home Loan Practices Act, Mortgage Rescue Protection Act, and Credit Services Organization Act. During the fiscal year 2020, the Office of the Attorney General did not process any claims by consumers for assistance from the fund. The Office of the Attorney General continues to contact affected consumers to encourage them to file claims to seek recovery from CPAF. However, affected Indiana consumers are eligible to claim up to \$50,000.00 from judgments obtained during the relevant time period.

**Final Orders for Civil Complaints and Assurances of Voluntary Compliance/Consent Judgments Entered**

**September 1, 2019 through August 31, 2020**

<b>Total Number of Cases with Final Order</b>	<b>Consumer Restitution Ordered</b>	<b>Costs Ordered</b>	<b>Civil Penalties Ordered</b>
1	\$1,500.00	\$2,100.00	\$ 50,000.00

**Real Estate Broker Administrative Litigation Cases  
September 1, 2019 – August 31, 2020**

<b>Total Number of Cases Filed</b>	<b>Cease &amp; Desist Ordered</b>	<b>Revocation Ordered</b>	<b>Suspension Ordered</b>	<b>Probation Ordered</b>	<b>Letter of Reprimand Issued</b>	<b>Dismissal Ordered</b>
35	2	1	6	4	1	4

**Real Estate Appraiser Administrative Litigation Cases  
September 1, 2019 – August 31, 2020**

<b>Total Number of Cases Filed</b>	<b>Cease &amp; Desist Ordered</b>	<b>Revocation Ordered</b>	<b>Suspension Ordered</b>	<b>Probation Ordered</b>	<b>Letter of Reprimand Issued</b>	<b>Dismissal Ordered</b>
6	0	1	0	0	0	1

<b>Consumer Restitution Ordered – Real Estate Broker &amp; Appraiser matters</b>	<b>Civil Penalties Ordered - Real Estate Broker &amp; Appraiser matters</b>
-	\$500.00

The Indiana Office of the Attorney General actively uses the RREAL IN database administered by the Indiana Department of Insurance. The data is used to assist the Office of the Indiana Attorney General in on-going investigations.

The Indiana Office of the Attorney General actively uses the MyLicense Office database administered by the Indiana Professional Licensing Agency. The data is used to assist the Office of the Indiana Attorney General in ongoing investigations.

## **Criminal Prosecutions Pursued**

None.

### **(B) Policies Issued (Rules, Bulletins, Consumer Advisories)**

#### **The Office of the Indiana Attorney General**

The Office of the Indiana Attorney General dedicates a considerable amount of resources to educate and alert consumers, including those practicing within the real estate industry.

*Foreclosure Prevention and Awareness Efforts* – The Office of the Indiana Attorney General continues its mission to educate Hoosiers about foreclosure consultants, credit services organizations, and loan modification schemes. Furthermore, the Office of the Indiana Attorney General takes every opportunity to provide consumers with information concerning legitimate foreclosure assistance. One of those legitimate avenues of assistance is housed within the Professional Licensing Enforcement & Homeowner Protection Unit, who has dedicated staff to mediate loan-servicing issues for struggling Indiana consumers. Those issues include, but are not limited to, loan modifications, escrow issues, misapplied payment issues or concerns, and the home buying/home owning process. Numerous members of the Office of the Indiana Attorney General staff have spoken to groups of individuals inside and outside the real estate industry about these topics.

*Consumer Education* - The Office of the Indiana Attorney General utilizes every means possible to reach out to consumers and warn them of emerging topics and trends. Those means of communication include press releases, the Office of the Indiana Attorney General website, Facebook, Twitter, speaking engagements, and other outreach programs dedicated to educating and assisting the underserved population of Indiana.

### **(C) Legislative Recommendations Made**

#### **The Office of the Indiana Attorney General**

In preparation for the upcoming legislative session, the Professional Licensing Enforcement & Homeowner Protection Unit examined and studied all the laws within its purview and the cases that the Professional Licensing Enforcement & Homeowner Protection Unit litigated utilizing these laws. The purpose of this study was to ascertain whether any legislative changes needed to be made to better enforce those laws.

Upon review, the Professional Licensing Enforcement & Homeowner Protection Unit has not identified any proposals that it believes should definitely be pursued for the 2021 legislative session. The Unit has been advised of concerns relating to statutes regarding land sale contracts and is reviewing those provisions and engaging in discussions with stakeholders. The Professional Licensing Enforcement & Homeowner Unit will continue to monitor and review those and other issues in preparation of the 2021 legislative session.

**Indiana Department of Insurance**

The Title Insurance Division examines the business practices of residential and non-residential title insurance agents, agencies, and underwriters who conduct business in the State of Indiana. The Division also investigates consumer complaints related to title insurance policies, the closing of real estate transactions, and the disbursement of real estate transaction funds. Typically a resolution is attained wherein consumer monies are recovered without Departmental administrative action. The total amount of monies the Title Division participated in recovering for consumers is outlined below.

The Department also assists in the detection of mortgage fraud through enforcing the compliance of title agencies by conducting on-site agency examinations, conducting desk agency examinations, and assuring the integrity of the RREAL IN database. The increased quality and quantity of the data submitted and available in the RREAL IN database should serve to enhance the investigative abilities of member agencies in pursuit of fraudulent and deceptive practices.

The Department has increased efforts to educate the Indiana title insurance industry on title insurance fraud prevention, wire transfer scams involving real estate transactions, real estate escrow misappropriation, violations of the Real Estate Settlement Procedures Act (RESPA) (12 U.S.C. 2601, *et seq.*), and violations related to Marketing Service Agreements, and compliance with Title 27. These efforts include: Departmental speaking engagements at the Indiana Land Title Association Annual Convention and Annual Lobby Day events, quarterly meetings with Indiana Land Title Association leadership and industry leaders, and speaking to licensed title producers through educational seminars and webinars.

**Title Insurance Administrative Actions and Monies**

**Recovered September 1, 2019 – August 31, 2020**

<b>Final Orders Issued</b>	<b>RREAL IN Fines</b>	<b>Suspension</b>	<b>Fines collected</b>	<b>Consumer Monies Recovered</b>
19	\$52,565	0	\$3,783,241	\$4,084,849

**Title Insurance Agency Examinations September 1, 2019 – August 31, 2020**

Title Insurance Agency Examinations Initiated	Title Insurance Agency Examinations Completed
220	220

Title Insurance Agency Investigations Completed
24

**Indiana Professional Licensing Agency**

The Indiana Professional Licensing Agency (“agency”), which staffs and administers the Indiana Real Estate Commission (“Commission”), is charged with maintaining the agency’s licensing information database. This database makes enforcement actions, disciplinary decisions, and practitioner profiles easily accessible to the public. The database is a one-stop-shop for the public to view all accessible information about professionally licensed individuals.

Transparency is fundamental to the agency. All administrative actions discussed and taken by the Commission are publicly available at the Indiana Professional Licensing Agency. With this module, one can easily decipher whether a practitioners has been disciplined and find out the current status of the practitioner’s license. The agency also has dedicated staff to answer questions from the public and to provide them with information, if requested. The agency regularly evaluates ways to make information more readily available and easier to navigate for the public.

The Commission continues to communicate with other states regarding reciprocity agreements. Currently, the only agreement on record is with Illinois. However, the Commission handles applicants from all other states on a case-by-case basis depending on the type and level of the credential provided to the committee. Entering into agreements with other states will open interstate dialogue which will help in the regulation of the profession nationwide.

The Commission is in the process of updating and revising technical aspects of relevant administrative. Not substantive changes to rulemaking are current in process for the Commission.

The licensing system to track continuing education hours is in use for licensees. Each continuing education provider can utilize the system to register each licensee who has participated in a course.

**Real Estate Broker Administrative Cases  
September 1, 2019 through August 31, 2020**

Total Number of Cases Filed	Cease & Desist Ordered	Revocation Ordered	Suspension Ordered	Probation Ordered	Letter of Reprimand Issued	Dismissal Ordered	Warning Letter with Conditions* Issued
42	4	0	6	15	1	0	0

**Real Estate Appraiser Administrative Cases  
September 1, 2019 through August 31, 2020**

Total Number of Cases Filed	Cease & Desist Ordered	Revocation Ordered	Suspension Ordered	Probation Ordered	Letter of Reprimand Issued	Dismissal Ordered	Warning Letter with Conditions* Issued
9	1	0	3	0	5	0	0

Consumer Restitution Ordered	Civil Penalties Ordered
\$0	\$250

\*A warning letter with conditions is an alternative way for a consumer complaint to be resolved for minor violations that would otherwise result in an administrative complaint being filed with the board or commission. This resolution to the consumer complaint provides the Office of the Attorney General an alternative method of resolution to the issues addressed in the consumer complaint without formal action being reflected in their licensing file. The warning letter with conditions advises the licensee(s) of the potential violation(s) that may have occurred and further requires the licensee to typically complete additional education as a condition precedent to the closing of the consumer complaint. If the licensee does not complete the continuing education coursework within the specified timeframe, the Office of the Indiana Attorney General may file an administrative complaint before the appropriate board or commission.

## **Indiana Department of Financial Institutions**

### LICENSING and EXAMINATION SUMMARY:

#### Mortgage Lending License:

Approved Licenses – 18 from September 1, 2019 to August 31, 2020

Current Active Licenses – 383

Examinations completed during the reporting period – 58

#### Mortgage Loan Originator (“MLO”):

Approved licenses – 3,643 from September 1, 2019 to August 31, 2020

Current Active MLO Licenses – 13,119

#### Common Mortgage Examination Errors:

Routine examinations of mortgage lenders in 2019/2020 resulted in the DFI finding some instances of the closing agent not having updated all of the information in the RREAL IN database as required by IC 27-7-3-15.5. Compliance with this requirement continues to improve. Creditors, including state chartered depositories and licensed mortgage lenders, are advised during the examination and in the DFI written examination report of the need for full compliance with this provision and to ensure that their closing agent is complying. Instances were noted where no evidence was found that consumers were provided the “Indiana Property Tax Benefits” form under IC 6-1.1-12-43 and IC 24-4.5-3-701. Failure to provide the form required by the Office of the Attorney General under IC 24-5-23.5-8 as to certain disclosures under the Homeowner Protection Unit was also cited as a violation in multiple instances.

In August of 2019, the Department developed a “Common Violations” letter outlining the areas of violation most commonly cited during examinations. This letter was provided to all new mortgage lending license applicants of the following common violations:

#### ➤ **RReal Database**

- Closing agents are responsible to register all closed real estate loans, including first lien purchase, refinance, land contracts, cash transactions, reverse mortgages, home equity transactions, subordinate lien mortgages, and business and commercial loans secured by personal property, in the Residential Real Estate Acquisition of Licensee Information and Numbers (RReal Indiana) Database maintained by the Indiana Department of Insurance, in accordance with IC 27-7-3-15.5. The RReal Indiana database is administered by the Indiana Department of Insurance. For more information and to register, see the RREAL Database website.

➤ **Property Tax Benefits Form**

- Closing agents are responsible for providing customers with the Indiana Property Tax Benefits form in compliance with IC 6-1.1-12-43, which describes certain deductions and credits that may be available to reduce an Indiana taxpayer's property tax liability. The Indiana Property Tax Benefits form (State Form 51781) is administered by the Indiana Department of Local Government Finance and can be found on its website.

➤ **Notice to Borrower/Prospective Borrower**

- Within three business days after receiving an application for a mortgage loan, IC 24-5-23.5-8(a) requires a creditor to provide the Notice to Borrower/Prospective Borrower form. The Notice to Borrower/Prospective Borrower form is administered by the Office of the Indiana Attorney General - Homeowner Protection Unit. A copy of the form can be found on its website.

➤ **Loan Brokering Activity**

- In addition to mortgage loan origination activity, a mortgage lending license permits mortgage brokering activity. If an entity intends to exclusively engage in loan brokering activity, a loan brokering license with the Indiana Secretary of State's Office may be the more appropriate license. For additional information, please see the State Licensing Requirements page on the NMLS Resource Center, or contact our office.
- Loan Brokering activity that is undertaken as part of the DFI mortgage lending license must comply with Indiana's Loan Brokering Act found at IC 23-2.5. Specifically be aware of the requirement for a company acting as an intermediary to provide a copy of the Indiana Loan Broker Agreement to the borrower as required under the statute when brokering a mortgage transaction.

Mortgage Loan Originators (MLOs) are regulated by DFI under 750 IAC 9. To incorporate federal changes to the SAFE Act, which established criteria by which a mortgage loan originator license applicant is eligible to operate as a mortgage loan originator on temporary authority during pendency of the applicant's mortgage loan originator license application, an emergency rule was filed by DFI and became effective November 24, 2019. In addition, HEA 1353, "Financial institutions and consumer credit (commonly known as the DFI Omnibus Bill), included conforming statutory references into state law as the result of the federal SAFE Act amendment.

In 2018, the U.S. Congress updated the federal SAFE Act as part of the Economic Growth, Regulatory Relief, and Consumer Protection Act. Part of the Act updated the federal regulations related to state

licensing of mortgage loan originators. The updates included a new section of the SAFE Act permitting mortgage loan originators transitioning from a financial institution or who were already licensed elsewhere to have temporary authority to operate as a mortgage loan originator (MLO) while their state licensing application is pending approval. Some minor statutory updates are needed to account for the 2018 federal update, and to conform the agency's rulemaking ([750 IAC 9](#)) that went into effect on November 24, 2019, in line with federal law requirements.

First lien dwelling secured lenders are regulated under IC 24-4.4 and subordinate lien dwelling secured lenders are regulated under IC 24-4.5. A mortgage lending license covers both first and subordinate lien lending transactions. The DFI has limited scope authority, which includes examination authority, over first lien mortgage transactions originated by Indiana chartered banks and credit unions.

**(A) Disciplinary or Enforcement Actions Taken**

The Indiana Secretary of State, Securities Division (“Division”) has jurisdiction concerning administrative enforcement of the Indiana Loan Broker Act (IC 23-2.5) (“Act”). The Act gives the Securities Commissioner the authority to deny, suspend, or revoke the license of any licensee and issue orders such as cease and desist orders, orders requiring loan brokers to appear for a hearing, and other notices. After the opportunity for a hearing, the Commissioner may order other remedies including a civil penalty up to ten thousand dollars (\$10,000), restitution for victims, and other remedies to recoup financial losses for victims if the Commissioner determines that a person has violated the Act.

**Loan Broker and Originator Cases Filed September 1, 2019 – August 31, 2020**

<b>Total Number of Cases Filed</b>	<b>Revocation of Licenses</b>	<b>Denials of Licenses</b>	<b>Cease &amp; Desist Orders<sup>1</sup></b>	<b>Orders to Show Cause<sup>2</sup></b>	<b>Consent Agreements<sup>3</sup></b>	<b>Other Orders</b>	<b>Civil Penalties Ordered</b>
1	0	0	0	0	0	0	\$1,500

**(B) Criminal Prosecutions Pursued**

The Division created the Prosecution Assistance Unit (“PAU”) in 2004, as a unit of investigators and attorneys with law enforcement experience. These investigators and attorneys investigate violations of the Indiana Uniform Securities Act and Loan Broker Act with a goal of presenting those cases for criminal prosecution to county prosecutors or United States Department of Justice. Most violations

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<sup>1</sup>Cease and Desist Orders are orders issued by the Securities Commissioner for the Respondent to immediately cease and desist from violating the Indiana Loan Broker Act.

<sup>2</sup> Order to Show Cause is an order issued by the Securities Commissioner for the Respondent to appear at a hearing and show cause why a loan broker or originator license should not be revoked or why civil penalties should not be levied against the Respondent.

<sup>3</sup> Consent Agreement is an order signed by the Securities Commissioner outlining an agreement between the Securities Division and a Respondent in response to potential violations; frequently includes civil penalties from the Respondent.

of the Loan Broker Act are a Level 5 felony, but it is a Level 4 felony if the violation occurs against an individual over the age of sixty (60).

The Division hired a new PAU Attorney in December, 2018. This highly experienced person, formerly with the Office of the Attorney General, has brought an increased level of capability to the Unit, as well as service and assistance to any county in Indiana that needs it.

<b>Defendant Name</b>	<b>Prosecuting Agency</b>	<b>Indictment Date</b>	<b>Case Status</b>	<b>Sentence</b>
N/A	N/A	N/A	N/A	N/A

**(C) Policies Issued (Rules, Bulletins, Consumer Advisories)**

On October 1, 2019, the Division issued a Statement of Policy Regarding Employment Transition of Mortgage Loan Originators. This is commonly referred to as Temporary Authority under federal Public Law 115-174 passed by Congress in 2018. On July 13, 2020, The Division issued a Statement of Policy Regarding Abandoned Applications Under the Indiana Loan Broker Act and Collection Agency Act. Through the Nationwide Mortgage Licensing System (“NMLS”), Division personnel are able to evaluate information submitted with an application for licensure and designate the license status such as “Approved-Deficient” or “Pending-Deficient”. In the case where an applicant has not responded to the Division’s requests for additional information in a timely manner, or has not corrected the deficiencies in the application within a specified time frame, the Division may designate the application as “Withdrawn-Application Abandoned”.

In addition to the Statements of Policy, the Division issued four (4) Compliance Alerts during 2020. Because of the COVID-19 pandemic, the Division sought to provide guidance for licensees whose operations may have been impacted by the pandemic. On March 24, 2020, the Division issued the “Indiana Securities Division Response to the COVID-19 Outbreak” and “Remote Working for a Loan Broker/Collection Agency in Response to the COVID-19 Outbreak” to assist licensees navigating these turbulent times. On July 13, 2020, the Division issued “Abandoned Applications under the Loan Broker Act and Collection Agency Act” to provide additional guidance for licensees that may be subject to abandonment for failure to respond to license deficiencies. On September 30, 2020, the Division issued “Upcoming NMLS Renewal Period and Reminders” to provide reminders that the annual renewal period is upcoming and the duties that licensees have with regards to renewals.

All loan brokers, principal managers, and mortgage loan originators are licensed through the NMLS. The Division has prepared periodic updates to all licensed individuals describing recent changes in state law, federal law, and the industry as a whole.

The Division hired an experienced Loan Broker Examiner, from the industry side, in December, 2018 to evaluate and create a new process for examining licensed Loan Brokers. To date, the results have been very positive and well received by the loan broker community. From September 1, 2019 – August 31, 2020, twenty (20) examinations have been completed. This has helped the Division ensure all Loan Brokers are complying with state and federal laws.

Most common Loan Broker Exam deficiencies identified during exams:

- Missing Affiliated Business Arrangement Disclosure
- Missing or unsigned Rate-Lock Agreement
- Incomplete or wrong Loan Broker Agreement
- Incomplete or missing required financial reports
- Incomplete Compliance Program Policies and Procedures as required by the Consumer Finance Protection Bureau (“CFPB”).

During 2020, the Loan Broker Examiner developed the “Loan Broker Post-Closing File Checklist”. It was approved and posted to the Securities Portal in July, 2020. The checklist was created to assist Loan Brokers and industry with Compliance. So far, it has been well received and is paying dividends.

#### **(D) Indiana Licensed Loan Broker Statistics**

As of August 31, 2020:

- 209 Total Licensed Approved-Active Loan Brokers
- 90 Licensed Approved-Active Loan Brokers domiciled in Indiana
- 300 Total Licensed Approved-Active Mortgage Loan Originators (MLO’s)
- 237 Total Licensed Approved-Active Principal Managers
- 4 Total Registered Approved-Active Loan Processing Companies

Due to the COVID-19 pandemic, and the fact that the entire Secretary of State Securities Division has been working remote since March 17, 2020, the Division did not host and present a Loan Broker Conference this year. We have high hopes that we can resume this annual event in 2021.

#### **(E) Legislative Recommendations Made**

On July 1, 2019, Indiana House Enrolled Act No. 1440 (“HEA 1440”) went into effect. This concluded a long process of rewriting the entire act in 2018, passing it through three (3) readings in both chambers, receiving unanimous approval in both chambers during the 2019 legislative session, and receiving Governor Holcomb’s signature on May 25, 2019. The legislation repeals Ind. Code § 23-2-5 and adds Ind. Code § 23-2.5 as a new Article. The new Article reorganizes current provisions regulating loan brokers and adds or otherwise updates provisions to adapt to progress in

technology and industry practices. This was a major accomplishment for the Division and involved numerous staff members putting in many hours of hard work. Details of the major changes and their impact can be found in the [Compliance Alert](#) dated June 3, 2019, on the Secretary of State, Securities Division website under Resources for *Loan Brokers*.

## **II. Description of Any Challenges Encountered by the Task Force This Year or That Are Anticipated by the Task Force in the Current Fiscal Year**

1. Despite the diverse economic challenges in response to the COVID-19 pandemic at the beginning of 2020, the mortgage industry continues to grow at a rapid pace in large part due to sustained, historically low interest rates. Due to the volatility and unpredictability of the continued rapid growth of the industry as of the time of publication of this report, it is anticipated that both the rapid growth as well as an eventual and perhaps significant market slowdown in the future may provide opportunities and avenues for mortgage related fraud. The Task Force intends to remain diligent in monitoring the status of the mortgage industry and related market as time progresses.
2. The Task Force expects to see new and different attempts to “beat the system” of prudent underwriting of loans and safeguards to ensure all parties are not acting in a concerted, fraudulent, scheme to defraud the lender, the customer, the regulator, or all of the above. As regulators of various participants in the mortgage system, all members of the Task Force will require adaptation to these new schemes and determine the best way to identify and prevent abuses.
3. We continue to face challenges, as in previous years, with obtaining for harmed consumers the consumer restitution awarded by the civil courts, boards, or commissions. To address this issue regarding civil actions brought by the OAG concerning the Home Loan Practices Act, the Mortgage Rescue Protection Fraud Act, and the Credit Services Organizations Act, the General Assembly created the Consumer Protection Assistance Fund. As detailed in Section I (A) above, this Fund has paid out over \$1,417,270 to consumers for real estate related violations since its creation in 2011.
4. Wire fraud has become the fastest growing real estate cybercrime in the U.S. Indiana is similarly facing this challenge and the Task Force has noted an increase in cyber criminals attempting to hack the email accounts of real estate transaction closers and escrow agents. The breach attempts take place during activities to consummate the real estate transactions, and/or during activities to ensure consideration has been passed. In each case

noted attempts took place before all proceeds were accepted and disbursed. In order to educate Indiana real estate transaction closers and escrow agents on this challenge the Department of Insurance conducted semiannual Business E-mail Compromise (BEC) and E-mail Account Compromise Wire Fraud webinars for the industry.

**III. Recommendations by the Task Force for Legislation Necessary to Assist the Task Force in Carrying Out the Duties Set Forth in IC 4-23-30-4**

None.