

**November 1, 2021**

**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, 2021.

## **Overview**

The Mortgage Lending and Fraud Prevention Task Force (“Task Force”) held quarterly meetings during 2020 and 2021 corresponding with the state’s fiscal year. The meetings were held virtually in September 2020, December 2020, March 2021, and in-person in June 2021. 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 are 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 to protect Indiana consumers.

Since the inception of the RREAL IN Database on January 1 2010, an additional \$3,397,361.48 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. To support the transactional data’s integrity and security, an additional \$235 was invested monthly for database maintenance throughout the 2021 calendar year. 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 resulted in the deletion of 65,560 duplicate and bogus transactions during the 2021 reporting period. As a result of the 2021 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 qualifying transactions.

**Current RREAL IN Database statistics:**

Registered User Accounts	Transactions Submitted since Inception of the Database
2,456	2,801,658

YTD Inquiries	YTD Transaction Edits/Additions Request	YTD Password Resets	YTD Transactions Submitted
6,745	6,157	109	355,979

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).

**(A) 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, mortgage 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. Persons that violate the real property tax sale statute and the requirements found in Ind. Code § 6-1.1-24-7.5.
6. 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, particularly those engaged in mortgage foreclosure rescue fraud.

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, limit practice to those areas prescribed by the board,
  - b. continue or renew professional education approved by the board until asatisfactory degree of skill has been attained in those areas that are the basis ofthe probation,
  - c. perform or refrain from performing any acts, including community restitutionor service without compensation, that the board considers appropriate to the public interest or to the rehabilitation or treatment of the practitioner; or
  - d. satisfactorily complete a peer review specified by the board as a condition fortermination of probationary status if the practitioner is a licensee (as defined inIC §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 asa 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 withinthe 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.

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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 furtherrequires the licensee to typically complete additional education as a condition precedent to the closingof 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 administrativecomplaint before the appropriate board.

**Civil Complaints Filed, Assurances of Voluntary Compliance and Judgments Entered  
September 1, 2020 through August 31, 2021**

<u>Case</u>	<u>Filing Date</u>	<u>Count yof Filing</u>	<u>Disposition</u>	<u>Disposition Date</u>	<u>Brief Case Summary</u>
State v. Help Retention Center LLC, et. al.	4/23/2013	Marion	Judgment of \$345,185.64	9/14/21	Cause No.: 49D05-1304-PL-014619  The State’s Complaint alleged defendant, a California company, induced multiple Indiana consumers to contract with them forforeclosure consultant services, accepted payment up-front, and thenfailed to complete services.  The State’s Complaint alleged violations of the Mortgage Rescue Protection Fraud Act & Deceptive Consumer Sales Act.

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<p>State of Indiana v. Daman Drake &amp; D&amp;L Management LLC</p>	<p>1/17/2020</p>	<p>Marion</p>	<p>Consent Judgment of \$6,000, including \$5,000 in paid restitution.</p>	<p>N/A</p>	<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>
<p>State of Indiana v. Nathan Berzai</p>	<p>9/29/2020</p>	<p>Marion</p>	<p>Pending – court issued Order of Contempt on 11/12/2020, defendant ordered to pay State’s costs of \$1,050.00.</p>	<p>N/A</p>	<p>Cause No.: 49D01-2009-PL-034087</p> <p>The State’s Complaint alleged defendant failed to properly respond to a subpoena duces tecum requesting documentation in furtherance of an investigation.</p>

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<p>State of Indiana v. Michael J. Reed</p>	<p>10/11/2019</p>	<p>Marion</p>	<p>Judgment entered totaling \$61,400.00</p>	<p>11/18/2020</p>	<p>Cause No.: 49D12-1910-PL-042692</p> <p>The State’s Complaint alleged that defendant, purported resident of North Oxford, MA, offered fraudulent foreclosure prevention services.</p> <p>The State’s Complaint alleged violations of the Mortgage Rescue Protection Fraud Act &amp; Deceptive Consumer Sales Act.</p>
<p>State of Indiana v. SE Housing LLC and Tyler Hazel</p>	<p>4/20/2020</p>	<p>Marion</p>	<p>Consent judgment entered ordering payment of \$20,000 in civil penalties</p>	<p>N/A</p>	<p>Cause No.: 49D14-2006-PL-021377</p> <p>The State’s Complaint alleged that defendants engaged in deceptive conduct in connection with a real estate transaction by both selling a property prior to having an ownership interest in it as well as failing to notify a subsequent buyer that the purchase was subject to the existing equitable interest of a land contract purchaser.</p> <p>The State’s Complaint alleged violations of the Home Loan Practices Act.</p>
<p>State of Indiana v. Jack Karpeles and National Civilian Law Center of America a/k/a Samaritan Law Center</p>	<p>5/15/2020</p>	<p>Marion</p>	<p>Judgment entered totaling \$55,350.00</p>	<p>N/A</p>	<p>Cause No.: 49D04-2005-PL-015729</p> <p>The State’s Complaint alleged defendant, a California attorney and associated company, induced a homeowner 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 Mortgage Rescue Protection Fraud Act &amp; Deceptive Consumer Sales Act.</p>

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<p>State of Indiana v. LaShanta Clark and Element Real Estate Professional Services, Corp.</p>	<p>12/14/2020</p>	<p>Marion</p>	<p>Agreed Judgment entered totaling \$2,500.00</p>	<p>5/24/2021</p>	<p>Cause No.: 49D05-2012-PL-043772</p> <p>The State’s Complaint alleged defendants sold a property on land contract without disclosing their interest in the property. The Complaint further alleged a failure to refund a consumer’s earnest money when the transaction fell through.</p> <p>The State’s Complaint alleged violations of the Home Loan Practices Act.</p>
<p>State of Indiana v. Preferred Law, PLLC et. al.</p>	<p>12/14/2020</p>	<p>Marion</p>	<p>Judgment entered totaling \$30,000.00</p>		<p>Cause No.: 49D05-2012-PL-043772</p> <p>The State’s Complaint alleged defendants, Utah-based companies, induced a homeowner 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 Mortgage Rescue Protection Fraud Act &amp; Deceptive Consumer Sales Act.</p>



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<p>State of Indiana v. American Retention Services</p>	<p>11/16/2018</p>	<p>Marion</p>	<p>Judgment entered totaling \$33,040.00</p>		<p>Cause No.: 49D06-1811-PL-046050</p> <p>The State’s Complaint alleged defendant, a California-based company, induced a homeowner 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 Mortgage Rescue Protection Fraud Act &amp; Deceptive Consumer Sales Act.</p>
<p>State of Indiana v. Todd Hill</p>	<p>5/11/2020</p>	<p>Marion</p>	<p>Judgment entered totaling \$30,000.00</p>		<p>Cause No.: 49D04-2005-PL-015729</p> <p>The State’s Complaint alleged defendant, a California-based individual, induced a homeowner 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 Mortgage Rescue Protection Fraud Act &amp; Deceptive Consumer Sales Act.</p>
<p>State of Indiana v. Aaron Wilson</p>	<p>10/14/2020</p>	<p>Marion</p>	<p>Judgment entered totaling \$30,787.00</p>		<p>Cause No.: 49D11-2010-PL-036298</p> <p>The State’s Complaint alleged that the defendant engaged in the unlicensed practice as a real estate broker in at least one transaction.</p> <p>The State’s Complaint alleged violations of the Home Loan Practices Act.</p>

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<p>State of Indiana v. Gene E. Fisher</p>	<p>11/25/2020</p>	<p>Marion, consolidated in Allen Co.</p>	<p>Judgment entered totaling \$23,960.00</p>		<p>Originally filed as Cause No.: 49D06-2011-PL-041864, consolidated by motion into 02D03-2011-PL-000489.</p> <p>The State’s Complaint alleged defendants, an Indiana resident, sold a property by land contract and failed to disclose to the buyer pre-existing liens and encumbrances affecting his ability to deliver good title.</p> <p>The State’s Complaint alleged violations of the Home Loan Practices Act.</p>
<p>State of Indiana v. Laura Lee Rusie and Nicholas Adam Rusie</p>	<p>8/14/2019</p>	<p>Marion</p>	<p>Judgment entered totaling \$55,400.00</p>		<p>Cause No.: 49D05-2012-PL-043772</p> <p>The State’s Complaint alleged defendants, Indiana residents, committed deceptive acts in relation to the purported sale of a parcel of real property to multiple parties. These acts were also criminally prosecuted in Marion County.</p> <p>The State’s Complaint alleged violations of the Home Loan Practices Act.</p>

**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, 2020 through August 31, 2021**

<b>Total Number of Cases with Final Order</b>	<b>Consumer Restitution Ordered</b>	<b>Costs Ordered</b>	<b>Civil Penalties Ordered</b>
1	\$829.28	\$16,277.50	\$ 27,500.00

**Real Estate Broker Administrative Litigation Cases  
September 1, 2020 – August 31, 2021**

<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>
61	4	6	4	44	22	22

**Real Estate Appraiser Administrative Litigation Cases  
September 1, 2020 – August 31, 2021**

<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>
11	2	0	0	2	0	1

<b>Consumer Restitution Ordered – Real Estate Broker &amp; Appraiser Matters</b>	<b>Civil Penalties Ordered – Real Estate Broker &amp; Appraiser matters</b>
\$76,609.69	\$12,700

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**

At least two matters resulted in criminal referrals for prosecution. As charges have not been officially filed in any of those matters, information regarding those referrals will remain confidential in this report.

### **(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 identified a couple of key areas of focus for possible legislation:

- **Land sale contracts.** As documented in the March, 2019 Indiana Lawyer article “Legislation aims to tame “Wild West” nature of land contracts”<sup>1</sup>, Hoosier consumers have little protection in private land sale contracts compared with traditional mortgage transactions. HB195 was a bipartisan bill that passed with wide support in the Indiana House but did not get called to the floor for a vote on the last day of session in the Senate. Complaints regarding rent-to-own and land sale contracts remain common in our Homeowner Protection Unit. Land contract cases are extremely difficult to investigate, consume significant state investigative resources, and disputes are often borne of poorly drafted contracts, title issues, or undisclosed property defects.
- **Tax sale surplus statute.** The Homeowner Protection Unit has become aware of an industry that assists Hoosier homeowners in claiming tax sale surpluses. The legislature has previously made efforts to address this industry by creating a statute that requires disclosures and also requires the company or person assisting the property owner with seeking the surplus funds to have an agreement with the property owner in writing. However, we have discovered that in numerous instances, petitions are being filed in courts to claim those funds without a clear authority on the part of the claimant to claim those funds, without any indication that a third party is directing the claim, and at times with completely incorrect statements of fact. The Homeowner Protection recommends that the statute be amended to include additional disclosures in the surplus petition and to provide additional safeguards against fraudulent claim

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.

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<sup>1</sup> <https://www.theindianalawyer.com/articles/49604-legislation-aims-to-tame-wild-west-nature-of-land-contracts>

## **Indiana Department of Insurance**

The Title Insurance Division examines the business practices of resident and non-resident 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 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.

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 cybercriminals 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 Business E-mail Compromise (BEC) wire fraud webinars, agency individual training sessions, and agency frequently asked question sessions.

**Title Insurance Administrative Actions and Monies**

**Recovered September 1, 2020 – August 31, 2021**

<b>Final Orders Issued</b>	<b>RREAL IN Fines</b>	<b>Suspension</b>	<b>Fines collected</b>	<b>Consumer Monies Recovered</b>
10	\$12,835	0	\$31,178	\$13,032

**Title Insurance Agency Examinations September 1, 2020 – August 31, 2021**

<b>Title Insurance Agency Examinations Initiated</b>	<b>Title Insurance Agency Examinations Completed</b>
190	190

<b>Title Insurance Agency Investigations Completed</b>
25



### **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 practitioner 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 functions. No 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, 2020 through August 31, 2021**

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
63	5	5	5	3	27	21	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
4	0	0	2	4	2	3	0

Consumer Restitution Ordered	Civil Penalties Ordered
\$76,609.69	\$12,850

\*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 – 22 from September 1, 2020 to August 31, 2021

Current Active Licenses – 397

Examinations completed during the reporting period – 187

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

Approved licenses – 7,344 from September 1, 2020 to August 31, 2021

Current Active MLO Licenses – 18,739

### COMMON MORTGAGE EXAMINATION ERRORS:

Routine examinations of mortgage lenders in 2020/2021 resulted in the DFI finding some instances where closing agents were not entering the information in the RREAL IN database as required by IC 27-7-3-15.5. 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 its closing agent is complying. Additionally, instances were noted where no evidence was found that consumers were provided the “Indiana Property Tax Benefits” form required by IC 6-1.1-12-43 and IC 24-4.5-3-701 and/or the “Notice to Borrower/Perspective Borrower” required by the Office of the Attorney General under IC 24-5-23.5-8. For the second year in a row, compliance in these areas continues to improve.

Additionally, examinations revealed violations of Federal Regulation Z. Common violations include:

- Fees (generally title service fees) were not disclosed under the appropriate heading on closing disclosures.
- Required disclosures were missing when triggering terms were included in website advertisements.
- Historical and minimum payment examples were based on out-of-date information on loan program disclosures.

### EXAMINATION PROCEDURES

Due to the Covid-19 outbreak, the Department determined that additional examination procedures should be implemented to determine risk to consumers. Areas of review were determined, and the additional examination procedures were implemented in April 2020. The areas of review included operations, consumer access, and financial condition. The findings for the majority of mortgage lenders were:

- employees quickly shifted to remote operations (if not already in place)
- virtual accessibility was increased for consumers’ convenience
- financial conditions were strong enough to sustain business operations

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The CARES Act, signed into law on March 27, 2020, allowed for federally backed mortgages to enter into a forbearance period due to financial hardship. During such time, a borrower is given a moratorium from making payments. The concern was that the suspended payments would be due in one lump sum at the end of the forbearance. During examinations, it was found that the majority of mortgage servicers used work out agreements to split the amount due into the remaining payments or extend the term and continue to accept payments as originally agreed.

2021 saw a surge in mortgage activity due to low interest rates. To lessen the regulatory burden on the Industry, the Department developed procedures for accepting other state and federal examinations as its own. To date the Department has accepted 45 other agency examinations in 2021.

Over the past year, the Department agreed to participate in 5 multi-state examinations. The examinations focused on mortgage servicing, escrow accounts, financial condition, credit reporting, and reverse mortgages. In continuing to participate in multi-state examinations, it is the Department's goal to continue adapting examination procedures to mitigate risk to consumers, increase efficiencies, and lessen the regulatory burden on the industry.

Finally, many Indiana county courthouses were closed for portions of the prior year because of the pandemic. In some cases, borrowers were delayed in obtaining new loans and refinancing existing loans because title searches could not be conducted when courthouse offices were closed.

#### DISCIPLINARY ACTION

The DFI Members Board have the authority to take disciplinary action against mortgage loan originators. At a meeting on June 10, 2021, the Members Board unanimously voted to revoke the Indiana license of a mortgage loan originator because the licensee failed to meet relevant Indiana licensing qualifications.

**Indiana Secretary of State – Securities Division**

**(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, 2020 – August 31, 2021**

<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	1	\$0

**(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 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”.

Because of the COVID-19 pandemic, the Division sought to provide guidance for licensees whose operations may have been impacted by the pandemic. Accordingly, the Division issued two (2) COVID-19 Compliance Alerts. 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. These continued into and throughout 2021 as well.

In addition, the Division modified its Loan Broker Examination procedures by temporarily discontinuing the onsite portion of exams. Instead, the onsite face-to-face portion of exams was conducted via Microsoft Teams video teleconferencing. This worked extremely well as a substitute and by and large, no major issues or problems were encountered.

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, 2020 – August 31, 2021, fifteen (15) examinations were completed. This has helped the Division ensure all Loan Brokers are complying with state and federal mortgage 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 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. It was very well received by the loan broker community and is paying dividends to both them and the Division.

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

As of August 31, 2021:

- 229 Total Licensed Approved-Active Loan Brokers
- 99 Licensed Approved-Active Loan Brokers domiciled in Indiana
- 379 Total Licensed Approved-Active Mortgage Loan Originators (MLO’s)
- 256 Total Licensed Approved-Active Principal Managers
- 7 Total Registered Approved-Active Loan Processing Companies

Due to the COVID-19 pandemic, and the fact that the entire Secretary of State Securities Division worked remote from March 17, 2020 to July 19, 2021, the Division did not host and present a Loan Broker Conference in 2020 or 2021. We have high hopes that we can resume this annual event in 2022.

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

On July 1, 2021, Indiana House Enrolled Act No. 1440 (“HEA 1462”) went into effect.

- **Section 3 (2:38 – 3:2)** amended IC 23-2.5-3-3 to clarify that loan processors must meet educational and examination requirements of a mortgage loan originator.
- **Section 4 (3:3 – 3:6)** created IC 23-2.5-3-6, a new section, to clarify that a federally registered mortgage loan originator is exempt from state licensure under the Indiana

Loan Broker Act.

- **Section 5 (3:7 – 3:15)** amended IC 23-2.5-5-4 to correctly outline the examination, education, and NMLS registration requirements for an employee of a loan processing company.



**(D) 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 from March 2020 through the present, 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. Over the review period, the Task Force became aware of the need to clarify how Indiana’s laws read in relation to the Federal Real Estate Settlement Procedures Act (RESPA) - 12 U.S.C § 2601, et seq., and how they apply present-day Settlement Service Providers marketing practices. The Department of Insurance noted an increase in the solicitations of title insurance companies from other industry professionals (i.e. real estate brokers, real estate salespeople, mortgage brokers, and residential builders) to pay or contribute towards products, services, advertising/marketing, and sponsorships. As a result, the Department of Insurance, in conjunction with the Indiana Land Title Association and other industry real estate closing professionals, developed a Frequently Asked Questions document for industry settlement service providers. This

Frequently Asked Questions document, which expands on the Department of Insurance Bulletin 158, addresses numerous industry hypothetical scenarios. A few noteworthy scenarios addressed in the document include direct payments for business, open houses, job fairs, holiday parties, golf outings, office rentals, tickets to sporting and other events, continuing education events, advertising cost, and promotions for listed houses.

**(E) 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.

Respectfully Submitted,



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