

November 1, 2008

**MORTGAGE LENDING AND FRAUD PREVENTION TASK FORCE LEGISLATIVE
REPORT PURSUANT TO HEA# 1359, SECTION 35**

Overview

The Task Force met for its first statutorily required meeting on Friday, July 25, 2008 in the Indiana Government Center. 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 present. The meeting was open to the public and then an executive session followed. Since July, the Task Force has met monthly. Some members have participated by phone as permitted by Section 35(e)(2) of HEA # 1359.

On August 17, 2008, the Indiana Department of Financial Institutions coordinated a mortgage fraud seminar which was presented by Richard Hagar. The seminar was also sponsored by the Indiana Department of Insurance, the Indiana Secretary of State, the Indiana Housing and Community Development Association, the Indiana Real Estate Commission and the Real Estate Appraiser Licensure and Certification Board which were represented by the Indiana Professional Licensing Agency and the seminar was attended by the Indiana Office of the Attorney General. In addition, members of the Task Force, other state employees and various law enforcement individuals attended and participated in the seminar.

The following information is required by HEA # 1359, Section 35 (f) to be placed into a Legislative Report and submitted to the Legislative Services Agency on or before November 1, 2008.

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

(A) Disciplinary or Enforcement Actions Taken from January 1, 2008 through October 16, 2008

Please refer to the attachment regarding disciplinary or enforcement actions taken for the period of January 1, 2008 through October 16, 2008.

(B) Criminal Prosecutions Pursued

Please refer to the attachment regarding criminal prosecutions for the period of January 1, 2008 through October 16, 2008.

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

Indiana Real Estate Commission and Real Estate Appraiser Licensure and Certification Board

1. LSA 08-357 is an administrative rule to amend 876 IAC 3-5-1.5 to eliminate the requirement that four hours of a real estate appraiser's continuing education to be in Indiana statutes and rules. It does not diminish the required 28 continuing education hours needed to renew an Appraiser license. The Board made this decision because they wanted appraisers to focus on taking CE courses to improve their competency as an appraiser. This rule is set for a rule hearing in December.

2. Emergency Rule Hearing: At the December Real Estate Commission meeting, the Commission is planning on enacting Emergency Rules to comply with HEA 1359 and begin requiring FBI fingerprint background checks for all new real estate appraiser licensees and also give the Appraisers Board the ability to require FBI Fingerprint background checks on all renewing appraisers.

3. LSA 08-692: The Notice of Intent for this rule has been posted to amend 876 IAC 2-18-1 and 876 IAC 3-2-7 to provide that the Indiana Real Estate Commission and the Real Estate Appraiser Licensure and Certification Board will charge and collect \$20 for the investigative fund under IC 25-34.1-8-7.5 for the issuance and renewal of a real estate salesperson license; real estate broker license; Indiana licensed trainee appraiser license, Indiana licensed residential appraiser license, Indiana certified residential appraiser license, and the Indiana certified general appraiser license. This rule increases the investigative fee from \$10 to the maximum of \$20 as permitted by statute.

Indiana Department of Insurance

1. Bulletin 135 “Title Insurance License Requirements” 10/6/05
2. Bulletin 139 “Title Insurance Enforcement Fund Fee” 7/14/06
3. Bulletin 158 “Prohibition of the Use of Goods and Services to Induce Title Insurance Business” 11/7/07

(D) Legislative Recommendations Made

On September 1, 2008, the Indiana Department of Financial Institutions and the Indiana Secretary of State-Securities Division submitted a joint report addressing the new changes to mortgage brokers and mortgage lending laws that they are charged with enforcing. This report was required by HEA # 1359, Section 37(d). These guidelines were previously submitted to the legislative council as well as posted at the department website for both the Secretary of State, Securities Division as well as the Indiana Department of Financial Institutions.

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. The members from the Indiana Real Estate Commission and the Real Estate Appraiser Licensure and Certification Board are practitioners and hear administrative actions regarding their licensees. It is likely that some information discussed at the meetings could disqualify the board member from an administrative hearing, causing quorum problems.
2. Inter-agency information sharing could be enhanced by tighter confidentiality and protections among all agencies.

III. Recommendations by the Task Force for Legislation Necessary to Assist the Task Force in Carrying Out its Duties

1. Passage of state law statutory changes to ensure the consistency with Title V of the Housing and Economic Recovery Act #3221 of 2008. This is the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE). All states will have to update their mortgage statutes to ensure consistency with the federal law or face pre-emption.
2. Beyond the SAFE Act requirements, the Securities Division is recommending new requirements for books and records that are to be kept by loan brokers, an increase in criminal penalties from a Class D felony to a Class C felony, and a suitability requirement with suitability defined as ability to repay determined at the time of the transaction.

(A) Disciplinary or Enforcement Actions Taken from January 1, 2008 through October 16, 2008

Indiana Office of the Attorney General- Professional Licensing/Homeownership Protection Unit

Civil Complaints Filed January 1, 2008 – October 16, 2008

Case Name	Filing Date	County of Filing	Brief Case Summary
State of Indiana v. Capital Foreclosure, Inc. et. al	1/8/2008	Marion	Capital Foreclosure operated a foreclosure consultant business without complying with Indiana law. Capital Foreclosure failed to possess a surety bond but collected money prior to the completion of the contract, failed to fulfill contract terms, and failed to include legally required provisions in its contracts for foreclosure consulting services.
State of Indiana v. Platinum Financial Services, LLC	5/5/2008	Lake	Platinum Financial Services is a loan broker. The State alleged that an employee or agent of Platinum Financial Services falsified the identifying information of one client's bank statement so the bank statement could be utilized to justify the debt to income ratio of another client.
State of Indiana v. Countrywide Financial Corporation et. al.	8/22/2008	Steuben	The State alleged that Countywide utilized deceptive and misleading practices in the origination of home loans.
State of Indiana v. Ken Wieland d/b/a Nationwide Foreclosure Consultants	9/15/2008	Marion	Wieland was allegedly operating a foreclosure consultant business without complying with Indiana law. The State alleged that Wieland did not possess a surety bond but collected money prior to the completion of the contract, failed to fulfill contract terms, and failed to include legally required provisions in his contracts for foreclosure consulting

			services.
State of Indiana v. Denise B. Murphy	9/17/2008	Lake	The State alleged that Murphy committed the unlicensed practice of real estate. Murphy allegedly received more than \$3,000 in commission fees from the sale of real property in northwest Indiana.
State of Indiana v. Union Financial Services, Inc.	10/10/2008	Delaware	Union Financial Union Financial allegedly deceives consumers through solicitations indicating that the consumers were delinquent on their property taxes and that there were tax liens on the homes. There were neither tax liens nor delinquencies regarding the consumers' property taxes.

Real Estate Appraiser Administrative Activities January 1, 2008 – October 16, 2008¹

Total Number of Cases Filed	Revocation	Suspension	Probation	Civil Penalty	Letter of Reprimand	Pending
32	6	6	28	0	3	33

¹ In the period 2005 – 2007, the Office of the Attorney General filed 235 administrative complaints against real estate appraisers licensed in Indiana. This translates into the Office of the Attorney General seeking discipline on the real estate appraiser licenses of approximately 9% of the entire licensed real estate appraiser population in Indiana between 2005 - 2007.

Real Estate Administrative Activities January 1, 2008 – October 16, 2008²

Total Number of Cases Filed	Revocation	Suspension	Probation	Civil Penalty	Letter of Reprimand	Pending
50	6	5	28	0	4	32

Indiana Secretary of State-Securities Division

The Indiana Secretary of State, Securities Division (“Division”) has jurisdiction for 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 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 Cases Filed January 1, 2008 – October 16, 2008	Revocation	Orders to Show Cause	Denials of Licensure or Registration	Cease & Desist	
(Total # of cases filed)	710	10	5	25	

Mortgage Broker Compliance Examinations Initiated January 1, 2008-October 16, 2008	Completed
93	93

² In the period 2005 – 2007, the Office of the Attorney General filed 104 administrative complaints against real estate licensees in Indiana.

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Indiana Department of Insurance-Title Insurance Division

The Title Insurance Division filed 26 administrative actions from January 1, 2008 through October 16, 2008. Some of these have gone to final disposition and are outlined below. Others are still pending. Of the Final Orders listed below, some of these were originally filed in 2007 and others were filed in 2008.

Title Insurance Final Orders Issued January 1, 2008 – October 16, 2008	Revocation	Suspension	Probation	Civil Penalty	Cease and Desist	
(Total # of cases filed) 28	2	9	2	9	6	

Title Insurance Agency Examinations Initiated January 1, 2008-October 16, 2008	Completed
119	27

(B) Criminal Prosecutions Pursued Resulting in a Formal Indictment or Other Criminal Action from January 1, 2008 through October 16, 2008

Indiana Office of the Attorney General- Professional Licensing/Homeownership Protection

Defendant Name	Prosecuting Agency	Charge Information	Case Status	Sentence (If Applicable)
Linda Riffle	United States Attorney's Office	Indictment was waived. Charged by Information with one count of bank fraud	Pled guilty to one count of bank fraud	Sentencing date is set for December 19, 2008
Vincent Eads	Monroe County Prosecutor	Charges filed on 4/30/2008. Charged with two counts - (1) Fraud On a Financial Institution and (2) Theft.	Pending	
Jennifer Eads	Monroe County Prosecutor	Charge filed on 5/15/2008. Charged with one count of Fraud On a Financial Institution.	Pending	
Beverly Ross	United States Attorney's Office (Southern District of Indiana)	Indictment filed on 1/30/08. Charged with 31 Counts of Wire Fraud and One (1) Count of Conspiracy to Commit Wire Fraud.	Pending	Trial Scheduled 1/05/09
Donella Locke	United States Attorney's Office (Southern District of Indiana)	Indictment filed on 1/30/08. Charged with 14 Counts of Wire Fraud and One (1) Count of Conspiracy to Commit Wire Fraud.	Pending	Trial Scheduled 1/05/09
Jeffrey Faris	Hamilton County Prosecutor's Office	Indictment filed on 1/28/08. Charged with five (5) counts of Fraud on a Financial Institution.	Pled Guilty 6/25/08	Sentencing on 11/12/08
Shane Burns	Hamilton County Prosecutor's Office	Indictment filed on 8/15/08. Charged with six (6) counts of Fraud on a Financial Institution.	Pending	Pending
Tod Owens	Hamilton County Prosecutor's Office	Indictment filed on 8/15/08. Charged with two (2) counts of Fraud on a Financial Institution.	Pending	Pending

Indiana Secretary of State-Securities Division

Secretary of State Todd Rokita created the Prosecution Assistance Unit (“PAU”) in 2004, which is a unit of investigators and attorneys with law enforcement experience, who investigate violations of the Securities Act and Loan Broker Act with a plan to present those cases for criminal prosecution to county prosecutors or United States Department of Justice. Most violations of the Loan Broker Act are a Class D felony, but it is a Class C felony to knowingly make a false statement to the Securities Division in any document or during the course of any investigation.

Defendant Name	Prosecuting Agency	Indictment Date	Case Status	Sentence (If Applicable)
Sheila Victoria Goodner	Hancock County Prosecutor		Final Disposition	4 years in DOC, 7 years on probation, \$50,000.00 in consumer restitution, lifetime bar from working in the mortgage industry
Jason Keigley	Hendricks County Prosecutor		Final Disposition	11 ½ years in DOC

Indiana Department of Insurance- Title Insurance Division

During the relevant time period, there were no criminal prosecutions pursued with the help of the Title Insurance Division that have resulted in an indictment or other criminal action.