

November 1, 2019

**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, 2019.

Overview

The Mortgage Lending and Fraud Prevention Task Force (“Task Force”) held meetings quarterly during the 2019 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, and the Indiana Professional Licensing Agency; 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 \$3,391,709 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 \$88 was invested monthly for database maintenance throughout the 2019 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, associated with qualifying residential transactions.

As a result of the 2019 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 4th quarter 2018 - 2019 reporting periods.

Current RREAL IN Database statistics:

Registered User Accounts	Transactions Submitted since Inception of the Database
2,486	2,076,101

YTD Inquiries	YTD Transaction Edits/Additions Request	YTD Password Resets	YTD Transactions Submitted
6,120	4,524	147	151,123

For more information regarding the RREALIN database, please visit the website at: 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 July 1, 2018 through October 1, 2019**

<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. Mitigation Center et al. (includes State of Indiana v. Global Retention U.S., and State of Indiana v. Retention Help Center, LLC)	4/13/2015	Marion	Default Judgment - \$ 179,130.06 Assurance of Voluntary Compliance obtained - 5/4/2016	11/26/2018	<p>The State's Complaint alleged Defendants induced multiple consumers to contract with them for foreclosure consultant services, required and accepted up front payment and then failed to complete the contracted services.</p> <p>The State was granted a \$179,130.06 default judgment, comprised of: \$23,455.06 in consumer restitution, \$675.00 in costs and \$155,000.00 in civil penalties.</p> <p>The State entered into an AVC with one Defendant whereby Defendant acknowledged that any future violations would be prima facie evidence of a deceptive act.</p>
State of Indiana v. National Home Advocacy/Nadia Thomas et al.	9/6/2018	Marion	Consent Judgment - \$3,797.50	10/16/2018	The State's Complaint alleged Defendants induced a consumer to contract with them for foreclosure consultant services, without providing the consumer with written notice of her

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					<p>rights under I.C. art. 24-5.5, received payment prior to performing services and engaged in deceptive acts in violation of the Mortgage Rescue Protection Fraud Act.</p> <p>The matter was settled for \$3,797.50 in civil penalties</p>
<p>State of Indiana v. SCS Funding, d/b/a Ellis Funding Group, et al.</p>	<p>5/12/2016</p>	<p>Marion</p>	<p>Default Judgment - \$41,175.00</p> <p>Consent Judgment (Defendant Cory) - \$1,750.00</p> <p>Consent Judgment (Defendant Ellis & Ellis Funding Group) - \$2,800.00</p>	<p>10/17/2018</p>	<p>The State’s Complaint alleged Defendants advertised and negotiated loans with lower interest rates and other attractive terms than competitors to consumers. Defendants were unlicensed, required up front payments for the loans and did not provide consumers with the loans.</p> <p>The matter was settled with Defendant Cory for \$1,750.00 in civil penalties.</p> <p>The matter was settled with Defendants Ellis & Ellis Funding Group for \$2,800.00 in civil penalties.</p> <p>The State was granted a \$45,175.00 default judgment against remaining Defendants, comprised of:</p>

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					\$24,500.00 in consumer restitution, \$675.00 in costs and \$20,000.00 in civil penalties.
State of Indiana v. U.S. Consumer Solutions, a/k/a The Lamb Group, et al.	10/15/2013	Elkhart	Default Judgment - \$ 21,870.00	12/18/2018	<p>The State’s Complaint alleged Defendants induced consumers to contract with them for foreclosure consultant services, without providing the consumers with written notice of their rights under I.C. art. 24-5.5, required up front payment, did not provide the agreed upon services and engaged in deceptive acts in violation of the Mortgage Rescue Protection Fraud Act.</p> <p>The State was granted a \$21,870.00 default judgment against Defendants, comprised of: \$985.00 in consumer restitution, \$975.00 in costs and \$20,000.00 in civil penalties.</p>
State of Indiana v. Freeman Saxton, P.C.	10/26/2018	Marion	Default Judgment - \$51,425.00	2/21/2019	<p>The State’s Complaint alleged Defendant solicited a consumer to contract with them for a loan modification, accepted payment and failed to complete the agreed upon services.</p> <p>The State was granted a \$21,870.00 default judgment against</p>

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					Defendant, comprised of: \$1,425.00 in costs and \$50,000.00 in civil penalties.
State of Indiana v. Angela Mueller	6/22/2015	Switzerland	Default Judgment - \$174,414.73	12/6/2018	<p>The State’s Complaint alleged Defendant induced multiple consumers to contract for foreclosure consultant services, required and accepted up front payment, failed to provide notice provisions required by I.C. § 24-4-15-6 among other notices and then failed to complete the loan modification services.</p> <p>The State was granted a \$103,090.00 default judgment, comprised of: \$2,864.73 in consumer restitution, \$1,050.00 in costs and \$170,500.00 in civil penalties.</p>
State of Indiana v. Jessica McHale, et al.	8/19/2019	Marion	Default Judgment - \$52,700.00	9/24/2019	<p>The State’s Complaint alleged Defendants induced a consumer to contract for foreclosure consultant services, entered into a bankruptcy agreement, required up front payments and did not complete the agreed upon services.</p> <p>The State was granted a \$52,700.00 default judgment, comprised of: \$1,500.00 in consume</p>

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					restitution, \$1,200.00 in costs and \$50,000.00 in civil penalties.
State of Indiana v. Acocella Law Group P.C., a/k/a Acocella & Associates Settlement Corp.	9/26/2018	Marion	Agreed Judgment - \$12,200.00	11/30/2018	<p>The State’s Complaint alleged Defendant violated the Mortgage Rescue Protection Fraud Act, the Indiana Home Loan Practices Act and the Uniform Business Organizations Administrative Provisions Act.</p> <p>An agreed judgment was entered whereby the total awarded to the State was comprised of: \$7,200.00 in consumer restitution and \$5,000.00 in civil penalties.</p>
State of Indiana v. American Retention Services	11/16/2018	Marion	Pending	Pending	<p>The State’s Complaint alleged Defendant violated the Mortgage Rescue Protection Fraud Act and the Indiana Home Loan Practices Act.</p> <p>The matter is still pending.</p>
State of Indiana v. Aldridge Law Group LLC, et al.	6/04/2015	Lake	Default Judgment - \$124,325.00	12/28/2018	The State’s Complaint alleged Defendants violated the Mortgage Rescue Protection Fraud Act, the Indiana Home Loan Practices Act, the Indiana Credit Services Organization Act and the

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					<p>Indiana Deceptive Consumer Sales Act.</p> <p>The default judgment was entered whereby the total awarded to the State was comprised of: \$3,000.00 in consumer restitution, \$825.00 in costs, \$60,000.00 in civil penalties for HPLA violations and \$60,500.00 in civil penalties for violations of the DCSA.</p>
State of Indiana v. The Hoffman Law Group, P.A., f/k/a The Residential Litigation Group, P.A., et al.	12/14/2015	Marion	Pending	Pending	<p>The State’s Complaint alleged Defendants violated the Mortgage Rescue Protection Fraud Act, the Indiana Home Loan Practices Act and the Indiana Credit Services Organization Act.</p> <p>The matter is still pending.</p>
State of Indiana v. Home Solution Partners III REO LLC, Harbour High Yield Fund LLC, et al.	5/12/2016	Marion	Default Judgment - \$33,322.51	1/7/2019	<p>The State’s Complaint alleged Defendants violated the Home Loan Practices Act. A default judgment was obtained whereby the total awarded to the State was comprised of: \$2,272.51 in consumer restitution, \$1,050.00 in costs and \$30,000.00 in civil penalties.</p>

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State of Indiana v. Green Tree Financial Group, et al.	10/16/2015	LaPorte	Default Judgment – \$135,670.00	8/3/2018	<p>The State’s Complaint alleged Defendants committed multiple violations of the Home Loan Practices Act, the Deceptive Consumer Sales Act and the Credit Services Organizations Act.</p> <p>A default judgment was obtained whereby the total awarded to the State comprised of: \$5,495.00 in consumer restitution, \$675.00 in costs and \$129.500 in civil penalties.</p>
State of Indiana v. Preferred Law, PLLC, et al.	1/26/2018	Marion	Pending	Pending	<p>The State’s Complaint alleged Defendants violated the Mortgage Rescue Protection Fraud Act and the Home Loan Practices Act.</p> <p>The matter is still pending.</p>
State of Indiana v. Howard Hoffman	8/14/2018	Marion	Dismissed	1/8/2019	<p>The State’s Complaint alleged Defendant, as a real estate broker, made or advised buyers in a real estate transaction to make a statement with regard to their creditworthiness, credit standing or credit capacity that was false or misleading in violation of the Deceptive Consumer Sales Act.</p>

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					The State agreed to dismiss the civil complaint after a settlement conference whereby the parties agreed to a settlement of the related administrative action against Defendant.
State of Indiana v. Jeffrey Sampson	4/11/2018	Porter	Default Judgment - \$94,499.00	3/22/2019	<p>The State alleged Defendant offered to trade parcels of real property with a consumer, but did not actually own the parcel he offered to trade. Defendant recorded the deed to the consumer's home and then sold it for \$83,000.00; he then did not complete his side of the trade.</p> <p>The State obtained a default judgment of \$94,499.00, which was comprised of: \$82,999.00 in consumer restitution, \$1,500.00 in costs and \$10,000.00 in civil penalties.</p>
State of Indiana v. Lender Pressure	10/9/2013	Marion	Summary Judgment - \$21,250.00	10/18/2018	<p>The State's Complaint alleged Defendant was a foreclosure consultant who violated two foreclosure consultant provisions in its transaction with an Indiana consumer.</p> <p>The State obtained a summary judgment in</p>

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					the amount of \$21,250.00, comprised of: \$20,000.00 in civil penalties and \$1,250.00 in consumer restitution.
State of Indiana v RMA Legal Network	2/14/2014	Lake	Default Judgment - \$231,334.00	11/15/2018	<p>The State’s Complaint alleged Defendants were foreclosure consultants who violated 16 provisions of the Mortgage Rescue Protection Fraud Act and 12 violations of the Credit Services Organization Act in its transactions with Indiana consumers.</p> <p>The State obtained a default judgment in the amount of \$231,334.00, comprised of: \$220,000.00 in civil penalties, \$9,534.00 in consumer restitution and \$1,800.00 in costs.</p>
State of Indiana v. FLRC Land Trust	2/1/2016	Marion	Pending	Pending	<p>The State’s Amended Complaint alleges Defendants deceived consumers into signing away their interests in large tax sale surpluses for severely one-sided terms.</p> <p>The matter is still pending.</p>
State of Indiana v. Roger Shoot	4/16/2013	Madison	Pending	Pending	The State’s Complaint alleges Defendant has engaged in deceptive acts in real estate

					<p>transactions, including accepting payments pursuant to land contracts he knew he could not or would not perform and induced forged notary signatures in relation to real estate transactions</p> <p>The matter is still pending.</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 2019, 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 \$29,872.24 from judgments obtained during the relevant time period.

**Final Orders for Civil Complaints and Assurances of Voluntary Compliance/Consent
Judgments Entered
July 1, 2018 through October 1, 2019**

Total Number of Cases with Final Order	Consumer Restitution Ordered	Costs Ordered	Civil Penalties Ordered
14	\$165,055.30	\$11,850.00	\$ 1,008,847.50

**Real Estate Broker Administrative Cases
July 1, 2018 through October 1, 2019**

Total Number of Cases Filed	Cease & Desist Ordered	Revocation Ordered	Suspension Ordered	Probation Ordered	Letter of Reprimand Issued	Dismissal Ordered
18	4	3	6	6	9	3

**Real Estate Appraiser Administrative Cases
July 1, 2018 through October 1, 2019**

Total Number of Cases Filed	Cease & Desist Ordered	Revocation Ordered	Suspension Ordered	Probation Ordered	Letter of Reprimand Issued	Dismissal Ordered
6	1	0	0	1	0	1

Consumer Restitution Ordered – Real Estate Broker & Appraiser matters	Civil Penalties Ordered - Real Estate Broker & Appraiser matters
\$ 1,850.00	\$ 6,750.00

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 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 2020 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 2020 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.*), 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, quarterly meetings with Indiana Land Title Association leadership and industry leaders, and speaking to newly licensed title producers through educational seminars.

Title Insurance Administrative Actions and Monies

Recovered November 1, 2018 – November 1, 2019

Final Orders Issued	RREAL IN Fines	Suspension	Fines collected	Consumer Monies Recovered
13	\$50,875	0	\$80,808	\$62,291

Title Insurance Agency Examinations October 1, 2018 – October 1, 2019

Title Insurance Agency Examinations Initiated	Title Insurance Agency Examinations Completed
204	204

Title Insurance Agency Investigations Completed
15

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
October 2, 2017 through September 6, 2018**

Total Number of Cases Filed	Cease & Desist Ordered	Revocation Ordered	Suspension Ordered	Probation Ordered	Letter of Reprimand Issued	Dismissal Ordered
49	9	3	7	18	12	0

Consumer Restitution Ordered – Real Estate Broker & Appraiser matters	Civil Penalties Ordered - Real Estate Broker & Appraiser matters
\$ 4,450.00	\$ 10,851.14

Indiana Department of Financial Institutions

LICENSING and EXAMINATION SUMMARY:

Mortgage Lending License:

Approved Licenses – 36 from September 1, 2018 to August 31, 2019

Current Active Licenses – 414

Examinations completed during the reporting period – 110

Mortgage Loan Originator (“MLO”):

Approved licenses – 2,569 from September 1, 2018 to August 31, 2019

Current Active MLO Licenses – 11,792

Common Mortgage Examination Errors:

Routine examinations of mortgage lenders in 2018/19 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 mortgage companies that obtained a new mortgage lending license during 2019. The “Common Violations” letter will be provided to all new mortgage license applicants upon initial application.

The letter advises 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 on August 20, 2019 to become effective November 24, 2019.

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 authority, which includes examination

authority, over first and subordinate lien mortgage transactions originated by Indiana chartered banks and credit unions.

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 October 1, 2018 – September 30, 2019

Total Number of Cases Filed	Revocation of Licenses	Denials of Licenses	Cease & Desist Orders¹	Orders to Show Cause²	Consent Agreements³	Other Orders	Civil Penalties Ordered
0	0	0	0	0	0	0	\$0.00

(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 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.

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

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

¹Cease 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.

² 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.

³ 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.

The Division has not issued any formal policies related to loan broker regulation in 2018-2019. All loan brokers and mortgage loan originators are licensed through the Nationwide Mortgage Licensing System (“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 a new, very experienced Loan Broker Examiner, from the industry side, in December, 2018 to evaluate and create a new process for examining licensed Loan Brokers. So far, it has been paying dividends. From March 1, 2019 – September 30, 2019, sixteen (16) examinations have been completed. There are two (2) more currently scheduled in October, and there will be at least two (2), probably three (3) more each in the months of November and December, 2019, bringing the total for the year to twenty-four (24). This has helped the Division ensure all Loan Brokers are complying with state and federal laws.

Most common Loan Broker Exam deficiencies:

- Missing, incorrect, wrong, or unsigned Loan Broker Agreement
- Missing Loan Note
- Missing or Unsigned Servicing Transfer Disclosure
- Missing or Unsigned Rate-Lock Agreement
- Missing Affiliated Business Disclosure
- Incomplete Compliance Program Policies and Procedures as required by the Consumer Finance Protection Bureau (“CFPB”).

(D) Indiana Licensed Loan Broker Statistics

As of September 30, 2019:

- 186 total licensed loan brokers
- 84 total licensed loan brokers domiciled in Indiana
- 254 total Approved-Active Mortgage Loan Originators (MLO’s)
- 213 total Approved-Active Principal Managers
- 1 Registered Loan Processing Company

The Division held its annual Loan Broker Conference on October 3, 2019. A total of fifty-four (54) people attended, including forty-four (44) loan brokers, four (4) from the Indiana Secretary of State, two (2) from the Office of the Attorney General, three (3) from the Department of Financial Institutions, and one (1) guest speaker. It was a very informative and worthwhile conference, and well received by all the loan brokers. Topics presented included: New Indiana Loan Broker Legislation (IC 23-2.5), Loan Broker Registration and Licensing, State of the Mortgage Industry, and Examination Topics and Industry Updates.

(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 was subsequently signed by Governor Holcomb 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 associates 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. With the mortgage market continuing its slow and steady recovery, 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 have to adapt to these new schemes and determine the best way to identify and prevent abuses.
2. 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.
3. Wire fraud has become the fastest growing real estate cybercrime in the U.S. According to the FBI, the Internet Crime Complaint Center saw a 480 percent increase in the number of complaints filed last year by those in the real estate industry. 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.