

October 31, 2024

**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, 2024.

**Overview**

The Mortgage Lending and Fraud Prevention Task Force (“Task Force”) held quarterly meetings during 2023 and 2024 corresponding with the state’s fiscal year. The meetings were held in person in September 2023, December 2023, March 2024, and June 2024. Representatives from the Indiana Department of Financial Institutions, the Indiana Office of the Attorney General Homeowner Protection Unit, 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.

The duties of the Task Force were enacted by HEA 1526 (Pub. L. 158-2017) and are outlined in IC 4-23-30-4. 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.

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

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

**The Office of the Indiana Attorney General**

The Office of the Indiana Attorney General’s Homeowner Protection Unit investigates and makes referrals to Licensing Enforcement where professional licensees violate the rules, regulations, and statutes governing their profession in connection with mortgage or real estate transactions. HPU also investigates the following types of cases:

1. Non-licensees that engage in real estate activities that require a professional license.
2. Persons that commit deceptive, abusive, or unfair acts in connection with real estate transactions or mortgage transactions.

3. 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.
4. Persons that violate the real property tax sale surplus statute and the requirements found in Ind. Code § 6-1.1-24-7.5.
5. Mortgage rescue fraud scams, mortgage fraud, and real estate deed fraud.
6. Violations of the Homeowner’s Association Act that include allegations of misappropriation of funds, fraud or criminal misconduct of board members, violations of proxy voting rules, or violations regarding the disclosure of documents or information to HOA members.

When HPU takes enforcement action, respondents may face one or more of the following sanctions: imposition of civil penalties, consumer restitution, costs of prosecuting the lawsuit in question, and injunctive relief. A knowing or intentional violation of the Home Loan Practices Act is a Class A misdemeanor. The Homeowner Protection Unit filed the following enforcement actions during fiscal year 2024:

**Civil Complaints Filed, Assurances of Voluntary Compliance and Judgments Entered  
July 1, 2023 – June 30, 2024**

<u>Case</u>	<u>Filing Date</u>	<u>County of Filing</u>	<u>Disposition</u>	<u>Disposition Date</u>	<u>Brief Case Summary</u>
INOAG v. Middletown Property Group, LLC (AVC only)  <b>49D05-2308-MI-033556</b>	August 28, 2023	Marion	Assurance of Voluntary Compliance wherein Respondent agreed to cease the use of the BSU Rentals trade name, make affirmative changes to lease agreements related to quiet enjoyment, cease the use of a “redecorating fee,” and affirmatively change language related to a landlord’s duty to repair to comply with Indiana law. Respondent also agreed to pay \$35,000.00 in consumer restitution and \$10,000.00 in costs of the investigation. Respondent agreed to a two-year period of compliance requiring quarterly reports.	AVC entered August 28, 2023	Respondents were alleged to have engaged in misleading marketing with the use of the BSU Rentals trade name, entered leased properties without sufficient notice, used a redecoration fee to improperly assess costs for normal wear and tear, failed to deliver leased properties in a safe, clean, and livable condition, and used leases with terms that otherwise did not conform to Indiana law.
INOAG v. DC Capital II Multi, Supreme Property Management, LLC  <b>49D13-2309-MI-037655</b>	September 25, 2023	Marion	Assurance of Voluntary Compliance wherein Respondent agreed to pay \$1,250.00 in costs related to the investigation.	AVC entered September 28, 2023	Respondents were alleged to have obtained title to property and improperly noticed tenants and otherwise mishandled the transfer, resulting in the constructive eviction of at least one consumer.
INOAG v. TRI-TWG Lakewoods Holdings, LLC  <b>49D11-2310-MI-039929</b>	October 11, 2023	Marion	Assurance of Voluntary Compliance wherein Respondent agreed to affirmative changes to policies and procedures and staff training relating to working with victims of domestic violence in connection with servicing of leases in compliance with Ind. Code § 32-31-9.	AVC entered October 16, 2023	Respondent was alleged to have given inaccurate or misleading information to a tenant in connection with her ability to terminate her lease under Indiana law, which placed the tenant in additional danger of abuse from her abuser.

INOAG v. Willow Brook Gardens, LLC, Beztak Management Company, U.S. Bank, N.A., as Trustee for the Registered Holders, Briergate Apartments, LLC, Apartments at Wellington, LLC <b>49D13-2307-PL-027288</b>	February 1, 2024 Motion for Joinder	Marion	Assurance of Voluntary Compliance wherein Respondent owners were joined as a party to an existing lawsuit for entry of the AVC. Willow Brook Gardens, LLC, Apartments at Wellington, LLC, and Briergate Apartments, LLC agreed to provide rent credits in the amount of \$70,000.00, additional restitution of \$20,000.00, and reimbursement of costs to HPU in the amount of \$20,000.00. Respondents also agreed to set aside, dismiss, and request to seal 160+ prior eviction records.	AVC entered February 2, 2024	Respondents were alleged to have supported the unlicensed practice of real estate, to have failed to supply reasonable accommodations to persons with disabilities, and failed to meaningfully respond to requests for repairs by and through their agent property manager.
INOAG v. Leland Baptist, Lee-Chandler Enterprises, LLC, Lee Chandler, LLC, Carnegie Green, LLC, 1130 N. Bauman Land Trust, Silpa Tupuola, and Blitz Investment Group, LLC. <b>49D01-2311-PL-045856</b>	11/28/2023	Marion	INOAG filed a civil action against the defendants and obtained a default judgment, which is pending a motion to set aside default.	<i>pending</i>	Respondents were alleged to have engaged in an unlawful scheme to approach real estate owners struggling with foreclosure and engage in "subject-to" transactions that violated multiple state statutes and harmed the consumers financial interests.
INOAG v. MV Realty of Indiana, LLC, MV Realty Holdings, LLC, MV Realty Brokerage, LLC, MV Realty PBC, LLC, Amanda Zachman, Antony Mitchell, David Manchester <b>1:23-cv-01578-MPB-MG</b>	September 5, 2023	US District Court Southern District of Indiana – Indianapolis Division	INOAG filed civil action against the Defendants for alleged violations of multiple violations of state and federal law. Litigation remains pending.	<i>pending</i>	Respondents are alleged to have engaged in unfair and deceptive acts in connection with a business in which they paid consumers for the right to serve as the consumer's future real estate broker. The contract contained a 40-year commitment as well as a document filed in the county recorder's office that would serve as a cloud on title.
INOAG v. Steven Kollar, American Realty Investments, LLC, GR Housing LLC, RCN Capital, LLC <b>71C01-2305-MI-000182</b>	November 30, 2023	St. Joseph	Obtained Consent Judgment against American Realty Investments, LLC and GR Housing, LLC, totaling \$80,000.00 in restitution to the consumer and \$8,000.00 in costs to HPU.  Obtained default judgment against Steven Kollar for \$252,837.50, which was upheld on appeal in 24A-MI-00591	<i>various</i>	Defendant Kollar approached the consumer who was subject to a tax sale and promised to split the proceeds of a sale with her in exchange for his redemption of the property from tax sale. Kollar subsequently transferred the property to an LLC that was a joint enterprise between himself and attorney Gary Griner. The LLC subsequently used the property as collateral for a commercial loan, without having paid the consumer any compensation for her interest in the property.
INOAG v. MBNS, LLC, MBNS Invest, LLC, and My Bricks and Sticks, LLC <b>49D12-2405-PL-024232</b>	May 30, 2024	Marion	Obtained default judgment against Defendants for \$42,975.00	July 16, 2024	Defendants engaged in a scheme in which they connected investors with hard money lenders to purchase and rehab properties owned by the entities. Once the properties were purchased by investors, Defendants were illegally retained to manage the properties without a broker license. Investors also reported extremely poor workmanship on rehab projects under which Defendants were also retained to perform.

INOAG v. PR Bingham, LLC, PR Madison, LLC, Property Resource Associates, LLC, Gary Plichta, Simmons Bank  <b>49D12-2405-PL-024232</b>	June 13, 2024	Madison	INOAG filed civil action against the Defendants for alleged violations of multiple violations of state law. Matter remains pending.	<i>pending</i>	Defendants are alleged to have engaged in unfair, abusive, or deceptive practices in connection with the abandonment of tenants at Bingham Square Apartments and Madison Square Apartments in Anderson, Indiana.
INOAG v. ROCO Chetrit Entities, LLC, CFR Mezz 3, LLC, CFR Mezz 2, LLC, CFR Mezz 1, LLC, Hickory Ridge Property Owners, LLC  <b>49D12-2405-PL-024232</b>	June 27, 2024	Lake	INOAG filed civil action against the Defendants for alleged violations of multiple violations of state law. Matter remains pending.	<i>pending</i>	Defendants are alleged to have engaged in unfair, abusive, or deceptive practices in connection with tenants who were wrongfully displaced from Hickory Ridge Apartments in Merrillville, Indiana following months of neglect and mismanagement.

## **(B) Criminal Prosecutions Pursued**

In fiscal year 2024, HPU made five criminal referrals. Those referrals resulted in at least 30 felony charges and 11 misdemeanor charges. In addition to these criminal referrals, HPU made a referral to the Civil Rights Commission, the Department of Financial Institutions, and the Department of Insurance. Additionally, HPU has endeavored to develop productive relationships with other state agencies by having periodic round table meetings to discuss trends and goals. These round table meetings include the Indiana Housing and Community Development Authority, the Indiana Civil Rights Commission, and the Indiana Department of Health.

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

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

*Foreclosure Prevention and Awareness Efforts* – The Office of the Indiana Attorney General also dedicates considerable resources to educate and alert consumers, including those practicing within the real estate industry. 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.

#### *Representative News Releases*

- [Attorney General Todd Rokita and team sue Indianapolis apartment complex over negligent disregard of tenants' living conditions;](#)
- [Attorney General Todd Rokita acts to protect Lugar Tower residents and to hold the Indianapolis Housing Agency accountable;](#)
- [Attorney General Todd Rokita steps in to protect tenants from Muncie landlord's alleged misconduct;](#)
- [Attorney General Todd Rokita protects homeowners from deceptive practices by MV Realty;](#)
- [Attorney General Todd Rokita takes action against alleged manufactured-home fraudsters;](#)
- [Attorney General Todd Rokita secures restitution from landlord from survivor of domestic violence;](#)
- [Attorney General Todd Rokita opens doors for neglected Hoosier tenants;](#)
- [Attorney General Todd Rokita stands up for Hoosier homeowners;](#)
- [Attorney General Todd Rokita sues unlicensed Indy real estate manager for allegedly duping investors;](#)
- [Attorney General Todd Rokita sues Anderson apartment owners for allegedly abandoning tenants, forcing families to fend for themselves;](#)
- [Ex-Merrillville landlords & NY real estate financiers sued by Attorney General Todd Rokita over alleged displacement, forced evacuation of elderly tenants.](#)

## **(D) Legislative Recommendations Made**

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

At the close of Fiscal Year 2024, the Homeowner Protection Unit made the following recommendations for legislation:

#### **a. Deed Fraud**

Property deed fraud is a serious issue that can cause significant harm to individuals and communities. It often involves the creation of false or altered documents that purport to transfer ownership of real property illegally.

Some Indiana counties allow homeowners to access [free property fraud alerts](#) that will notify them if there are any filings related to parcels that they own. While these programs may be useful in identifying issues when they arise, they are not universally accessible in all Indiana counties and they are purely remedial in

nature since they do not prevent the misconduct from occurring in the first place or otherwise act as a deterrent to criminal behavior.

Indiana should consider a new criminal statute modeled after Michigan penal code 750.248b<sup>1</sup> that more directly relates to real estate fraud. Under this statute, it is a felony offense to falsely create, alter, forge, or counterfeit a document affecting an interest in real property (such as a deed or discharge of mortgage) with the intent to injure or defraud another person. This offense is punishable by up to 14 years in prison.

The current system for addressing real estate fraud in Indiana has several gaps that may make it difficult to effectively investigate and prosecute deed fraud. Using theft, forgery, and receiving stolen property statutes to address real estate fraud may not adequately capture the full scope of these crimes, may not provide sufficient penalties, and may be difficult to prove beyond a reasonable doubt. Additionally, there are few procedural safeguards in place to ensure the authenticity of documents or capture the identity of document filers. To address these issues, Indiana should consider implementing a new criminal statute specifically addressing real estate fraud, as well as implementing additional procedural safeguards to ensure the authenticity of documents and capture the identity of document filers. These measures will help to better protect consumers and ensure that those who engage in fraudulent activities are held accountable for their actions.

## **b. Foreclosure surplus sales**

When a real property is sold at sheriff sale following the execution of a foreclosure judgment, there are times where the auction results in surplus proceeds that exceed the amount owed to the creditor. In these circumstances, Indiana law provides that the mortgage debtor, their heirs, or assigns at the time of the sale is entitled to the sale proceeds pursuant to Ind. Code § 32-30-10-14.

HPU has observed companies approaching homeowners or their heirs and offering cash in exchange for their interest in the real property, at times *prior* to the sale actually taking place, in order to speculate on difference in the probable value of the property and the amount owed to the judgment creditor. HPU has observed this resulting in significant windfalls to the companies, some of which have been accused by complainants of misrepresenting the nature of the agreement to the probability of the sale resulting in surplus proceeds.

Similar behavior was noticed and resulted in enforcement action by the INOAG in connection with tax sale surplus proceeds, which subsequently resulted in the creation of Ind. Code § 6-1.1-24-7.5, *Limitations on Agreements for Recovery of Money Deposited in the Tax Sale Surplus Fund*. It requires such agreements to be in writing, to identify the amount of the surplus, the value of the owner's share, etc. No such protection exists in connection with foreclosure surplus proceeds, which appears to be resulting in speculation that is harmful to consumers. A statute curbing this behavior could be modeled after the tax sale surplus statute, creating rules of the road for similar contracts and prohibiting such contracts from being enforceable until

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<sup>1</sup> [http://www.legislature.mi.gov/\(S\(peaghgzhkviwtwiumvgpyub4\)\)/mileg.aspx?page=GetObject&objectname=mcl-750-248b](http://www.legislature.mi.gov/(S(peaghgzhkviwtwiumvgpyub4))/mileg.aspx?page=GetObject&objectname=mcl-750-248b)

after a sheriff sale has actually occurred.

### **Indiana Department of Insurance**

The Title Insurance (“Division”) of the Indiana Department of Insurance (“Department”) examines the business practices of resident and non-resident title insurance agents and agencies, 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 by assuring the integrity of the Residential Real Estate Acquisition of Licensee Information and Numbers Database (“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 speaking engagements at the Indiana Land Title Association Annual Convention and the Legislative Advocacy Day events, quarterly work group meetings with the Indiana Land Title Association leadership and industry leaders and communicating daily with licensed title insurance producers and title agencies through phone conversations and emails.

Wire fraud has become the fastest growing real estate cybercrime in the United States. Indiana is similarly facing this challenge, and the Task Force has noted an increase in cybercriminals attempting to breach 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 to breach the system 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 has conducted Business E-mail Compromise (BEC) wire fraud webinars, agency individual training sessions, and developed an agency frequently asked question document.

*Shared Knowledge and the RREAL IN Database* - Pursuant to Indiana Code Sec.27-7-3-15.5,

beginning January 1, 2010, all persons or entities that close certain residential real estate transactions are required to report detailed information regarding professionals, organizations and agencies involved in the transactions to the RREAL IN Database. Users are required to enter information into the RREAL IN Database that includes the type of transaction, buyer(s) and seller(s) as applicable, the lending institution, loan originator, title producer, agency, and underwriter, a mobile notary if applicable, the appraiser and appraisal specifics, the property address, and the title agency closer or attorney who closed the qualifying transaction.

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 the transaction.

Information and user training material on the RREAL IN Database are available to potential users online. Additionally, user training via 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 RREAL IN Database makes information readily available to a variety of state agencies. Current state agencies that have established access to the RREAL IN Database for research, investigative, and reporting purposes include the Department (IDOI), Office of the Attorney General (OAG), the Department of Financial Institutions (DFI), the Secretary of State (SOS), the Indiana Professional Licensing Agency (IPLA), the Real Estate Commission and the Real Estate Appraiser Licensure and Certification Board. With information sharing across these agencies and data collected from the RREAL IN Database, cases of fraud and abuse continue to be identified and investigated to protect Indiana consumers.

**Current RREAL IN Database statistics:**

Registered User Accounts	Transactions Submitted since Inception of the Database
3,987	3,441,471

User Inquiries	User Transaction Edits/Additions Request	User Password Resets	User Transactions Submitted
N/A	391	N/A	237,348

For more information regarding the RREALIN Database, please visit the website at:

[http://in.gov/apps/in\\_real/Login.aspx](http://in.gov/apps/in_real/Login.aspx).



**Title Insurance Administrative Actions and Monies**

**Recovered July 1, 2023 – June 30, 2024**

<b>Final Orders Issued</b>	<b>RREAL IN Fines</b>	<b>Suspension</b>	<b>Fines collected</b>	<b>Consumer Monies Recovered</b>
8	\$30,980	0	\$30,980	\$0

**Title Insurance Agency Examinations July 1, 2023 – July 1, 2024**

<b>Title Insurance Agency Examinations Initiated</b>	<b>Title Insurance Agency Examinations Completed</b>
73	72

<b>Title Insurance Agency Investigations Completed</b>
8

## **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 is in the process of updating and revising technical aspects of relevant administrative functions. During the fiscal year from July 1, 2023 to June 30, 2024, the Indiana Real Estate Commission and the Real Estate Appraiser Licensure and Certification Board promulgated rules regarding convictions of concern, implementing IC 25-1-1.1-6. No other substantive changes to rulemaking were in process during the fiscal year from July 1, 2023 to June 30, 2024.

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 July 1, 2023 through June 30, 2024**

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
18	5	0	1	3	2	12	0

**Real Estate Appraiser Administrative Cases July 1, 2023 through June 30, 2024**

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
3	1	0	0	0	0	0	2

Consumer Restitution Ordered	Civil Penalties Ordered
\$0	\$1,500

\*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**

### GENERAL STATE OF MORTGAGE LENDING MARKET:

In the past year the Department has noted a reduction in mortgage activity being reported on call reports due to increasing interest rates and low housing supply; however, the number of applications for new mortgage lending licenses has remained the same or slightly increased. Many new applicants are “startups” utilizing warehouse lines of credit to fund the loans they originate, and several new entities are working to incorporate Artificial Intelligence (AI) into their underwriting processes. This would tend to indicate that there is still interest in entering the mortgage industry and as interest rates begin to slowly decrease, mortgage activity will continue to increase as well as the number of new license applications. While the number of lenders has remained steady, the number of Mortgage Lending Originators (MLOs) decreased dramatically at the end of 2023 into the first half of 2024 (approximately 25%), indicating that lenders have been tightening their workforces and relying on a smaller staff to continue operations through this lean time. However, recently, the number of new MLO applications have been trending back up, and we expect that growth to continue if the Federal Reserve continues to move interest rates down.

The “startup” licensees discussed above, as well as other lenders experiencing decreased revenue, and are reliant upon warehouse lines of credit (WLOCs) obtained from large banks, investors, or managed funds to fund loans that are then quickly sold to GSEs or private investors on the secondary market. These WLOCs create a pipeline of loan funding that can allow a mortgage lender to fund loans several times the amount of its assets. As long as the lender can sell the loans quickly on the secondary market, the pipeline of loans remains smooth, and the lender can quickly pay off the balances on the WLOCs with negligible interest payments. However, if the secondary market experiences lowered purchasing power, or the lender may begin to struggle to make loans that meet the underwriting standards that will be accepted by investors, funded loans could remain on the WLOC and the lender would have to pay interest on that loan until it can be sold. This could create liquidity issues and revenue losses for lenders.

The WLOCs generally come with minimum liquidity and net worth requirements that, if found to be out of compliance, would allow the holder of the credit line to limit the availability of funds or, in extreme cases, demand immediate repayment of any outstanding amounts from the mortgage lender. Many audited financial statements for new licensees in the past year indicate that the business intends to rely heavily on substantially sized WLOCs for the bulk of loan funding. These financial statements also sometimes include troubling language indicating a risk to the viability of the entity if the warehouse lines are threatened. This reliance on credit appears to be a trend for mortgage lending that has increased steadily over the last decade, becoming more apparent over the past two years as federal interest rates rose.

If this trend were to continue, there may be a cause for concern for the health of the overall housing market. Specifically, market expectations that housing values will reliably increase is once again high, having recovered after the 2007 mortgage crisis. Increased interest rates and homeowner reluctance to sell a home with a mortgage at a historically low rate have caused valuations to continue to rise because competition is fierce for the low number of homes being sold. Exacerbating this concern is a lack of residential housing stock and a historically low level of new construction. As of this writing, the U.S. economy continues to be affected by higher interest rates, leading to a slower growth rate, which both affects and is affected by housing trends. While incoming inflation data is reassuring, under baseline scenarios, a weaker economy and labor market will further cool inflation, though remaining above the Federal Reserve's target rate of 2%. Economists anticipate a rate cut towards the end of this year if the job market cools off enough to keep inflation in check. This rate cut, if it occurs, could lead to a slight easing of mortgage rates in 2024, offering a glimmer of hope for prospective buyers. We expect mortgage rates to decline further in 2025 to below 6.5%, further stimulating the housing market by making homeownership more affordable<sup>2</sup>. The Department will continue to monitor the industry for the continuation or increase in lender reliance on WLOCs and consumer use of home equity for liquidity.

#### IMPACT OF STRATEGIC PLAN IMPLEMENTATION:

The DFI's 5-year strategic plan called for an increased focus on emerging risks in the mortgage industry, as well as an effort to gain accreditation with the Conference of State Bank Supervisors. The Division plans to seek accreditation within the next calendar year and has undergone a full self-evaluation using the standards for accreditation to improve processes and make better use of resources. Over the past year the Consumer Credit Division has made significant strides toward implementation of:

- More targeted licensing and exam standards
- More involvement in the multi-state licensing program
- More involvement in the multi-state examination process
- Better understanding of the financial condition of lenders and servicers
- More consistent review of liquidity risks to licensees and their banking partners

#### LICENSING and EXAMINATION SUMMARY:

##### **Mortgage Lending figures:**

New Company Licenses from July 1, 2023 to June 30, 2024 – 65

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<sup>2</sup> U.S. Economic, Housing and Mortgage Market Outlook – July 2024, <https://www.freddiemac.com/research/forecast/20240719-us-economic-housing-and-mortgage-market-outlook-july-2024-spotlight>

Current Active Company Licenses – 479

New Individual Mortgage Loan Originator (“MLO”): licenses from July 1, 2023 to June 30, 2024 – 3288

Current Active MLO Licenses – 13,509

License Surrenders from July 1, 2023 to June 30, 2024 – 40

Examinations completed during the reporting period – 178

**Mortgage License New-Product Bulletin:** The Department has received inquiries about the need for licensure from start-up companies offering novel and innovative home equity-sharing products. The products are akin to a second mortgage, but instead of making monthly payments with set interest, the homeowner agrees to repay the “loan” in a lump sum upon the sale of the home, along with a percentage of whatever equity has been gained during the loan term. The business plans reviewed thus far seem to fit into a stated exception in the Consumer Finance Protection Bureau’s official commentary to Regulation Z, so licensure has not been required to date. However, if a trend emerges that seems an effort by the industry to circumvent consumer disclosures and protections, further review would be warranted.

**Common Mortgage Examination Findings:** Routine examinations of mortgage lenders in 2023/2024 resulted in the DFI finding some instances where examinations revealed violations of Federal Regulation Z. Common violations include:

- Minor disclosure issues on LEs and CDs.
- Disclosure violations on loan program disclosures for adjustable-rate mortgages (ARMs).
- Incorrectly disclosing the Annual Percentage Rate or Finance Charge on construction loans.
- Advertising violations pertaining to triggering terms and advertisements for credit secured by a dwelling.
- Failure to conduct an independent review of anti-money laundering policy in compliance with a licensee’s AML policy, see below.
- Collecting interest during the rescission period on rescindable transactions.
- Finance charges collected in excess of the amount contracted for, primarily HELOCs.
- Finance charges understated on the first periodic statement.
- Collecting filing fees in excess of the actual amount imposed.
- Assessing delinquency charges in excess of the amount contracted for.
- Delinquency charges in excess of amount permitted for subordinate liens under the UCCC.
- Loans not entered into the Residential Real Estate Acquisition of Licensee Information and Numbers (RREAL IN) Database.
- Indiana Property Tax Benefits Form not provided or no evidence in files that it was provided.

- Failure to provide the Indiana Notice to Borrower/Prospective Borrower form at the time of application.

## EXAMINATION PROCEDURES

The Department has been working to provide additional training for examiners to strengthen review of Licensees' BSA/AML processes. Our Consumer Credit Examination team has met with the Department's newly formed AML/BSA-focused examination team to gain a better understanding of red flags that would potentially trigger a more thorough targeted review by that team. We are working to create a process by which these issues can be elevated to facilitate a more robust review of these policies and how they are implemented. We plan to ensure that Licensees have clarity of the Department's expectations in that implementation to help them avoid future violations and maintain compliance.

The Department maintained its procedures for leveraging other state and federal examinations to avoid duplication of regulation and make the best use of resources. This process utilizes the NMLS Multi-State Networked Supervision agreement. To date the Department has accepted 53 other agency examinations in 2023.

## LEGISLATIVE AND RULE CHANGES

On March 11, 2024, Governor Holcomb signed SEA 220, the financial institutions and consumer credit bill, authored by Senators Bassler and Deery, co-authored by Senator Baldwin, and sponsored by Representatives Teshka and Speedy, into law. The bill includes updated references to federal and state laws and modernization efforts. SEA 220 is effective on July 1, 2024.

## DISCIPLINARY ACTION

In late October 2023, the Department was informed that the surety bond for one its licensees, Hometown Lenders, Inc., had been revoked in its home state of Alabama. Shortly thereafter, the Alabama State Banking Department reached out to all states in which the entity was licensed and informed them that several consumer complaints had been received, and the agency had begun an investigation into allegations of potential fraud. Several states, including Indiana, joined that investigation and discovered that over \$1.3 million in unpaid insurance premiums collected by the Licensee had not been properly distributed to the insurers. The states' investigation discovered that the licensee had mishandled consumer escrow funds, using those funds to pay its ongoing

operational costs, as the company was in dire financial health. The company ceased operations at the end of October, having failed to service release several funded loans still in that pipeline. This left a number of consumers without a functioning servicer that could accept loan payments and disburse funds accordingly.

On November 21, 2023, Director Fite executed an Order to Show Cause to Revoke License, ordering the licensee to appear at a meeting with the Department to show cause why their Indiana Mortgage Lending License should not be revoked. The entity failed to appear at the meeting, and the Department brought the question of revocation before its members at the Board Meeting held December 14, 2023. The members unanimously voted in favor of the revocation, and notice was issued to the entity and entered into the NMLS database.

Following the license revocation, the Department placed a public consumer alert on its website, and sent out an informational communication to all Hoosier homeowners the staff was able to identify as being potentially affected by the failure of the licensee. The Department also informed all potentially affected county property tax assessors about the possibility of delayed taxes for consumers affected by the escrow fund fraud and monitored payment of property taxes to confirm timely payments for all identified properties. Lack of communication and reliable records from the failed lender made it difficult to be confident all affected Hoosiers could be identified. However, after some delay and confusion as investors sorted through the affected loans to get them assigned to a new servicer, we were able to confirm all property taxes were paid for the properties we had suspected may be affected by the licensee's failure. The staff continues to monitor consumer complaints for any continuing issues that may arise over time from the fraud and would consider filing a claim on the former licensee's bond on behalf of affected consumers if additional harm becomes evident before the bond tail expires in October 2025. The former licensee recently filed for bankruptcy protection, and the Department will monitor the progress of those proceedings for potential impact on Hoosier consumers.

### **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 July 1, 2023 – June 30, 2024**

<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	1	0	\$6250

<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.

### **(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).

From July 1, 2023, through June 30, 2024, there were no criminal prosecutions pursued by the Indiana Secretary of State Securities Division.

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

On March 12, 2024, Indiana Governor Eric J. Holcomb signed HEA 1336. The act eliminated the Principal Managers License requirement. As a result, Loan Brokers will no longer be required to sponsor a Principal Manager but will instead be required to designate a Mortgage Loan Originator (“MLO”) to serve as manager. The changes went into effect on July 1, 2024, and all Principal Managers Licenses were automatically converted to Mortgage Loan Originator licenses in the NMLS database.

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

As of June 30, 2024:

- Total Licensed Approved-Active Loan Brokers - 374
- Total License Approved-Active Loan Broker Branches - 60
- Licensed Approved-Active Loan Brokers domiciled in Indiana - 113
- Total Licensed Approved-Active Mortgage Loan Originators - 815
- Total Licensed Approved-Active Principal Managers - 452
- Total Registered Approved-Active Loan Processing Companies – 43
- Examinations completed during the reporting period - 15

There was an increase year over year in each of the areas except for Licensed Approved-Active Loan Brokers domiciled in Indiana, which decreased by 7 Loan Brokers. The decrease is less than 6% of domiciled Loan Brokers in Indiana but will be monitored during the upcoming renewal period beginning November 1, 2024, to identify issues if finding further decreases in domiciled Loan Brokers.

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

HEA 1336 was approved by Governor Eric J. Holcomb on March 12, 2024, and went into effect on July 1, 2024. No other legislative recommendations were made from July 1, 2023, thru June 30, 2024.

### **(B) 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. In 2019, the CFPB's Office of Research issued an article noting the growing size of Non-Depository Mortgage Servicers in the market.<sup>3</sup> Since that time, the DFI has witnessed a continuing trend of large Mortgage Servicers and Sub-Servicers consolidating into larger and fewer entities.<sup>4</sup> Earlier this year, the Financial Stability Oversight Council (FSOC) issued a report identifying concerns about potential increasing risks to nonbank mortgage companies (NMCs) which are increasingly engaged in servicing and subservicing activities.

#### [FSOC Report on Nonbank Mortgage Servicing - 2024](#)

NMCs continue to gain market share of residential servicing portfolios. These servicers are responsible for maintaining, preserving, and disbursing escrow accounts for a growing majority of Hoosier Homeowners, holding those funds and ensuring the timely payment of homeowners' insurance and state property taxes. The consolidation of these entities is predictable, as management of Mortgage Servicing Rights (MSRs) is only profitable when applied to a large portfolio of loans. So long as the housing industry remains strong and defaults are low, the MSR business remains lucrative. However, as these companies grow and consolidate, their risk of liquidity problems in the event of an economic downturn increases exponentially.

Under current Indiana Statute, the Department of Financial Institutions has no jurisdiction to license or regulate Mortgage Servicers and Sub-Servicers that do not also originate loans in the state. We are not aware of any other state regulatory authority with jurisdiction over these entities. This lack of state oversight could create a higher risk to Hoosier homeowners

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<sup>3</sup> "At the end of 2018 six of the ten largest servicers were non-depositories" *Data Point: Servicer Size in the Mortgage Market*, CFPB Office of Research, November 2019.

<sup>4</sup> A recent example of this trend involves Select Portfolio Servicing Inc. (SPS) acquiring Rushmore Loan Management Services (Rushmore). With this acquisition, SPS will grow its servicing capacity by an estimated 33%.

than to consumers in other states that engage in regulation of servicing entities. Should the industry experience a critical downturn resulting in severe liquidity problems, those consumers in states with oversight will be at a lower risk to their escrow accounts, as the entities struggle to cover losses and remain liquid.

**Emerging Current Issues for Ongoing Review and Action if Appropriate**

2. Joint Ventures: Joint Ventures between title agencies/companies and real estate brokers are not new in the United States. However, they are relatively new in Indiana and are quickly gaining in popularity and generating concern in the industry across the state. Currently, Indiana has no statute(s) governing their creation, business structure, or use. There is an exemption in RESPA for Affiliated Business Arrangements like joint ventures, provided three (3) specific criteria are met, however, it is questionable how closely these criteria are adhered to as well as how easily they are circumvented. This is an emerging issue that will require review and consideration going forward.

**(C) 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**

The Mortgage Lending and Fraud Prevention Task Force does not have legislative recommendations at this time that are necessary to assist the Task Force in carrying out the duties set forth in IC 4-23-30-4.

Respectfully Submitted on behalf of the Mortgage Lending and Fraud Prevention Task Force,

Sincerely,



Lindsay Hyer, Executive Director  
Indiana Professional Licensing Agency

Elizabeth Walker, Deputy General Counsel & Operations Director  
Indiana Professional Licensing Agency