

October 31, 2023

**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, 2023.

Overview

The Mortgage Lending and Fraud Prevention Task Force (“Task Force”) held quarterly meetings during 2022 and 2023 corresponding with the state’s fiscal year. The meetings were held in person in September 2022, December 2022, March 2023, and June 2023. 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. Each meeting included a public session followed by a closed executive session, as needed.

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 2023:

**Civil Complaints Filed, Assurances of Voluntary Compliance and Judgments Entered
July 1, 2022 – June 30, 2023**

<u>Case</u>	<u>Filing Date</u>	<u>Count y of Filing</u>	<u>Disposition</u>	<u>Dispositi on Date</u>	<u>Brief Case Summary</u>
In re: James S. Bleier, Jr., Ashley Heindl, Axia Holdings, LLC, Berkeley Asset Fund, LLC, Darko Ventures, LLC, Darko Ventures LLC-S, Midwest Holdings-Indianapolis, LLC 49D05-2303-MI-010869	March 15, 2023	Marion	Assurance of Voluntary compliance wherein Respondent Bleier, Jr. agreed to voluntary surrender of his real estate broker license and a 10-year prohibition against his applying for a broker license. AVC also included an agreement for company respondents to dissolve. \$55,000.00 in total consumer restitution was also agreed and fully refunded/paid.	AVC entered March 15, 2023	Respondents were alleged to have engaged in a real estate fraud scheme wherein they acquired real property by fraudulent means either by the use of forged documents or with the use of falsified heirship affidavits in order to convert the property to their own use.
In re: Joe D. Fall, III 49D11-2303-MI-010839	March 15, 2023	Marion	Assurance of Voluntary Compliance wherein Respondent Fall agreed to a 10-year broker license application prohibition, as well as \$20,000.00 in consumer restitution, which has been fully paid with \$17,000.00 distributed.	AVC entered March 15, 2023	Related to prior matter listed. Respondent was an alleged co-conspirator in the same real estate fraud scheme involving the use of forged deeds and falsified heirship affidavits in order to obtain title to distressed real property in order to convert it to their own use.
In re: Indianapolis Housing Agency 49C01-2308-MI-031784	August 28, 2023	Marion	Assurance of Voluntary Compliance wherein Respondent IHA agreed to resolve complaints relating to their management of Lugar Tower Apartments. IHA agreed to maintain a broker manager, noted repairs to hot water heaters, elevators, locking mechanisms, cleaning of commons areas, and retention of on-site security. Two-year compliance period with quarterly reports due to INOAG.	AVC entered August 28, 2023	While outside of the reporting window for this period, a large percentage of the investigative work related to the AVC was conducted in Q3 and Q4 of fiscal year 2023. Investigation began with the receipt of 41 consumer complaints of Lugar Towers Apartments who complained of negligent maintenance and ongoing and dangerous health and safety issues.
In re: MiddleTown Property Management, LLC and MiddleTown Property Group, LLC a/k/a BSU Rentals 49D05-2308-MI-033556	August 28, 2023	Marion	Assurance of Voluntary Compliance wherein Respondents agreed to provide changes to lease terms, elimination of a "redcoration fee," estop their use of the BSU Rentals trade name to avoid consumer confusion, and provide a total of \$35,000.00 in consumer restitution in addition to the payment of \$10,000 in investigative costs to the Homeowner Protection Unit	AVC entered August 28, 2023	While outside of the reporting window for this period, a large percentage of the investigative work related to the AVC was conducted during the entirety of fiscal year 2023 and into fiscal year 2024. Investigation began with at least two dozen complaints from current or prior tenants who alleged that respondents used confusing lease terms, failed to deliver rental property in a safe, clean, and livable condition, failed to remedy noticed repairs to major systems, and invaded tenant privacy without adequate notice of entry.

(B) Criminal Prosecutions Pursued

At least four matters resulted in criminal referrals for prosecution. Two matters were submitted to local police departments. Two other matters were submitted to the Federal Bureau of Investigation. Charges have not been officially filed in any of those matters so information regarding those referrals will remain excluded from this report as to not interfere with active investigations.

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

The Office of the Indiana Attorney General

Rule Changes – In fiscal year 2023, the Homeowner Protection Unit requested that the Advisory Division draft an intent to repeal 10 IAC 7 regarding the Tax Sale Blight Registry in light of the repeal of IC 4-6-12-3.6 by P.L.52-2017, SECTION 3, effective July 1, 2017. At the time of this report, 10 IAC 7 has been repealed.

Foreclosure Prevention and Awareness Efforts – The Office of the Indiana Attorney General also dedicates a considerable amount of 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 sues Aloft Mgt, Fox Lake over dangerous and unlawful conditions](#)
- [AG Todd Rokita: Investigation and lawsuit spur prospective remedies to dangerous conditions at apartment complexes](#)
- [Attorney General Todd Rokita secures \\$7.25 million in relief in connection with Aloft Mgt., Fox Lake/Lakeside Pointe lawsuit](#)
- [Attorney General Todd Rokita warns Hoosiers of dangers of rent to own](#)
- [Attorney General Todd Rokita persists in fight against dangerous and unlawful conditions at apartment complexes](#)
- [Attorney General Todd Rokita warns consumers of rise in crypto-related real estate scams](#)

(D) 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. At the close of fiscal year 2023, the Homeowner Protection Unit made the following recommendations for legislation:

NTRAP Legislation

Non-Title Recorded Agreements for Personal Services (NTRAPS) is the practice by service providers of offering homeowners nominal upfront monetary compensation in exchange for an agreement for future services. These agreements are recorded in property records and purport to run with the land, binding future successors and adding cost, complexity and barriers to transferring or financing their property. Several state AGs have taken action against entities for unfair NTRAPS, and several states have past legislation to address the issue, many based on a model bill. More information is available at <https://www.alta.org/advocacy/ntraps-faqs.cfm>

Proposed solution:

Pass legislation to prevent NTRAPS entirely or place constraints on their use that fairly protects Indiana consumers.

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, 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 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 Annual Lobby Day events, quarterly meetings with Indiana Land Title Association leadership and industry leaders and communicating daily with licensed title insurance producers 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 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 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 RREAL IN Database. Users are required to enter information into the RREAL IN 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 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, Office of the Attorney General, the Department of Financial Institutions, the Secretary of State, the Indiana Professional Licensing Agency, the Real Estate Commission and the Real Estate Appraiser Licensure and Certification Board. With the assistance of information sharing across these agencies and data collected from the RREAL IN Database, cases of fraud and abuse continue to be identified and investigated to protect Indiana consumers.

Current RREAL IN Database statistics:

Registered User Accounts	Transactions Submitted since Inception of the Database
3,722	3,229,461

User Inquiries	User Transaction Edits/Additions Request	User Password Resets	User Transactions Submitted
617	509	82	206,429

For more information regarding the RREALIN Database, please visit the website at:
http://in.gov/apps/in_real/Login.aspx.

Title Insurance Administrative Actions and Monies

Recovered July 1, 2022 – June 30, 2023

Final Orders Issued	RREAL IN Fines	Suspension	Fines collected	Consumer Monies Recovered
29	\$181,840	0	\$181,840	\$0

Title Insurance Agency Examinations July 1, 2022 – July 1, 2023

Title Insurance Agency Examinations Initiated	Title Insurance Agency Examinations Completed
138	142

Title Insurance Agency Investigations Completed
9

Indiana Professional Licensing Agency

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

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

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

The Commission is in the process of updating and revising technical aspects of relevant administrative functions. No substantive changes to rulemaking were in process during the fiscal year from July 1, 2022 to June 30, 2023 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 July 1, 2022 through June 30, 2023

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
26	1	1	2	23	7	10	0

Real Estate Appraiser Administrative Cases July 1, 2022 through June 30, 2023

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
1	0	0	0	0	0	0	0

Consumer Restitution Ordered	Civil Penalties Ordered
\$0	\$1,000

*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 increased. This would tend to indicate that existing lenders are experiencing lower volume, as well as increased competition with additional/new startup lenders for homes sales and refinances. While the number of lenders has increased, the number of Mortgage Lending Originators (MLOs) has decreased dramatically (approximately 30%). This would tend to indicate that lenders are laying off workers and relying on a smaller staff to continue operations.

Many licensees have experienced decreased revenue and are increasingly relying 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 is struggling to make loans that meet the underwriting standards that will be accepted by investors, funded loans can remain on the WLOC and the lender will have to pay interest on that loan until it can be sold, creating liquidity issues and revenue losses.

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 often 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 and has increased dramatically as federal interest rates have risen.

Should this trend continue to grow, there may be a cause for concern in 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. As of this writing, unemployment rates remain at historic lows, even as concerns linger about the likelihood of a recession. Should unemployment rates begin to rise, many Hoosiers out of work may be tempted to access the perceived equity they have in their homes with high or adjustable interest rates. A steep increase in second mortgages, home equity lines of credit, and other new home equity-sharing products could put homeowner equity in jeopardy. 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, 2022 to June 30, 2023 – 65

Current Active Company Licenses – 464

New Individual Mortgage Loan Originator (“MLO”): licenses from July 1, 2022 to June 30, 2023 – 2,793

Current Active MLO Licenses – 17,632

License Surrenders from July 1, 2022 to June 30, 2023 – 49

Examinations completed during the reporting period – 211

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 2022/2023 resulted in the DFI finding some instances where examinations revealed violations of Federal Regulation Z. Common violations include:

- Fees were not disclosed under the appropriate heading on closing disclosures.
- Required disclosures were missing when triggering terms were included in website advertisements.

Finally, an additional issue of concern has been noted regularly during exams. There is a troubling lack of adherence to the company’s own stated procedures regarding independent reviews of its Bank Secrecy Act and Anti-Money Laundering (BSA/AML) policies and procedures. An example of such a finding is included here:

AML POLICY

The licensee has a written AML policy that includes a designated compliance officer, internal controls, and ongoing employee training.

Failure to Provide for Independent Review of the AML Program

31 CFR, Sec. 1029.210

31 CFR § 1029.210(b)(4) requires a creditor to include independent testing to monitor and maintain an adequate AML program, including testing to determine compliance of the company's agents and brokers with its obligations under the program. The scope and frequency of the testing must be commensurate with the risks posed by the company's products and services. Such testing may be conducted by a third party or by any officer or employee of the loan or finance company, other than the person designated as the AML Compliance Officer.

The licensee's AML written policy states in pertinent part,

Annual testing of XXXXXXX's AML Program will be performed either by a qualified independent third party or by a qualified member of XXXXXXX's staff other than the AML Compliance Officer. The annual testing will include an audit of XXXXXXX's compliance with its AML program.

The licensee has not conducted any independent testing of its AML program or established an internal audit process.

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 2022.

LEGISLATIVE AND RULE CHANGES

Governor Holcomb signed [SEA 452](#), the financial institutions and consumer credit bill (commonly known as the "DFI Omnibus Bill"), authored by Senator Bassler and Senator Gaskill and sponsored by Representative Speedy. The bill includes updated references to federal and state laws, streamlining and modernization efforts, and various technical changes and clarifications. SEA 452 is effective on July 1, 2023.

Governor Holcomb signed [SEA 458](#), the money transmitter bill (commonly known as the “Model Money Transmission Modernization Act”), authored by Senator Bassler and Senator Gaskill, Co-Authored by Senator Randolph, and Sponsored by Representative Speedy. The bill adopts the Model Money Transmission Modernization Act endorsed by the Conference of State Bank Supervisors. SEA 458 is effective on January 1, 2024.

DISCIPLINARY ACTION

The Department issued an Intent to Revoke a Mortgage Lending Originator license for an individual after being informed by the individuals previous sponsoring Mortgage Lender that their records had identified potentially fraudulent activity. Our office engaged in an investigation of the matter and determined that license revocation was warranted. Following a meeting with the individual and her counsel, the Department remains engaged in settlement negotiations that would include Revocation of the License without further administrative action. Discussions on resolution of the matter are ongoing, and the Department is prepared to proceed to issue a formal Order of Revocation in the event the negotiations are not fruitful.

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, 2022 – June 30, 2023

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	1	\$0

(B) Criminal Prosecutions Pursued

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

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.

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).

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)

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

Because of the COVID-19 pandemic, the Division sought to provide guidance for licensees whose operations may have been impacted by the pandemic. Accordingly, the Division issued two (2) COVID-19 Compliance Alerts. On March 24, 2020, the Division issued the “Indiana Securities Division Response to the COVID-19 Outbreak” and “Remote Working for a LoanBroker/Collection Agency in Response to the COVID-19 Outbreak” to assist licensees navigating these turbulent times. These continued into and throughout 2021 as well.

In addition, the Division modified its Loan Broker Examination procedures by temporarily discontinuing the onsite portion of exams. Instead, the onsite face-to-face portion of exams was conducted via Microsoft Teams video conferencing. This worked extremely well as a substitute and by and large, no major issues or problems were encountered. The decision has since been made to resume conducting the face-to-face portion of exams onsite at the loan broker’s main office.

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

The Division hired an experienced Loan Broker Examiner, from the industry side, in December 2018 to evaluate and create a new process for examining licensed Loan Brokers. To date, the results have been very positive and well received by the loan broker community. From July 1, 2022 – June 30, 2023, thirteen (13) examinations were completed. This has helped the Division ensure all Loan Brokers are complying with state and federal mortgage laws.

Most common Loan Broker Exam deficiencies identified during exams:

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

During 2020, the Loan Broker Examiner developed the “Loan Broker Post-Closing File Checklist”. It was approved and posted to the Securities Portal in July 2020. The checklist was created to assist Loan Brokers and industry with Compliance. It was very well received by the loan broker community and is paying dividends to both them and the Division.

During 2021, the Loan Broker Examiner developed the “New Loan Broker Welcome Letter” and an attachment of key loan broker regulatory documents. It was approved by the Securities Commissioner. The Loan Broker Examiner sends this letter and packet to all newly licensed loan brokers in Indiana to assist them in creating a compliant loan brokerage operation from inception. Again, this was very well received by the loan broker community and is paying dividends to both them and the Division.

(D) Indiana Licensed Loan Broker Statistics

As of June 30, 2023:

- 330 Total Licensed Approved-Active Loan Brokers
- 40 Total License Approved-Active Loan Broker Branches
- 120 Licensed Approved-Active Loan Brokers domiciled in Indiana
- 650 Total Licensed Approved-Active Mortgage Loan Originators (MLO’s)
- 375 Total Licensed Approved-Active Principal Managers
- 25 Total Registered Approved-Active Loan Processing Companies

All of these numbers have increased significantly in the last year. Most of these increases are likely due to the residual effect of the mortgage origination boon during 2020 and 2021. As the license renewal period for 2024 begins November 1, 2023, we will be watching to see if the opposite trend occurs as a reaction to the recent severe constricting of the mortgage origination market.

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

(E) Legislative Recommendations Made

On July 1, 2022, Indiana House Enrolled Act No. 1092 (“HEA 1092”) went into effect. Amendments to the law impacting loan brokers included:

- **Section 1** amended IC 23-2.5-4-6(b)(1) to move the annual renewal deadline for loan brokers, principal managers, and mortgage loan originators to December 31.
- **Section 2** amended IC 23-2.5-5-2 to clarify that loan processors are not required to have licenses, and so requires them to provide NMLS unique identifiers as opposed to ‘license’ numbers
- **Section 3** amended IC 23-2.5-5-3 to move the annual deadline to file a loan processing company notice filing to December 31.
- **Section 4** amended IC 23-2.5-8-1 to set out new requirements for loan brokers who are contractually obligated to procure loans exclusively from one lender.
- **Section 5 (3:7 – 3:15)** amended IC 23-2.5-5-4 to correctly outline the examination, education, and NMLS registration requirements for an employee of a loan processing company.

(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.¹ Since that time, the DFI has witnessed a continuing trend of large Mortgage Servicers and Sub-Servicers consolidating into larger and fewer entities.² These entities 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 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.

(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

¹ "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.

² 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%.

Land sale contracts. As documented in the March 2019 Indiana Lawyer article “Legislation aims to tame “Wild West” nature of land contracts”^[1], Hoosier consumers have little protection in private land sale contracts compared with traditional mortgage transactions. HB195 was a bipartisan bill that passed with wide support in the Indiana House but did not get called to the floor for a vote on the last day of session in the Senate. Complaints regarding rent-to-own and land sale contracts remain common. Land contract cases are extremely difficult to investigate, consume significant state investigative resources, and disputes are often borne of poorly drafted contracts, title issues, unrecorded contracts, or undisclosed property defects. The Task Force maintains broad agreement that this issue requires the attention of state legislators, particularly considering the pressures facing current consumers who are seeking to purchase a home and are increasingly unable to obtain traditional mortgage financing.

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

Sincerely,

A handwritten signature in black ink, reading "Todd Rokita". The signature is fluid and cursive, with the first name "Todd" and last name "Rokita" clearly distinguishable.

Todd E. Rokita,
Indiana Attorney General

Chase M. Haller, Section Chief, Homeowner Protection Unit

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