

Second Regular Session of the 123rd General Assembly (2024)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2023 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1336

AN ACT to amend the Indiana Code concerning business and other associations.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 23-2.5-1-5, AS ADDED BY P.L.175-2019, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 5. "Branch manager" means a mortgage loan originator or **principal manager individual** who is:

- (1) licensed under this article; and
- (2) designated by a loan broker to supervise and oversee mortgage loan origination activities conducted at a branch office.

SECTION 2. IC 23-2.5-1-11.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: **Sec. 11.5. "Individual" means a natural person.**

SECTION 3. IC 23-2.5-1-15, AS ADDED BY P.L.175-2019, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 15. "Loan broker employee" means an individual:

- (1) who is an employee of a single loan broker who is licensed under this article;
- (2) for whom the loan broker, in addition to providing a wage or salary:
 - (A) pays Social Security and unemployment taxes; and
 - (B) withholds local, state, and federal income taxes;
- (3) who acts at the direction of, and subject to the supervision of,

HEA 1336



the loan broker; ~~or a principal manager employed by the loan broker;~~ and

(4) who performs loan processing activities on behalf of the loan broker.

SECTION 4. IC 23-2.5-1-27, AS ADDED BY P.L.175-2019, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 27. ~~"Principal manager"~~ **"Manager"** means an individual who has at least three (3) years of experience as a mortgage loan originator and is principally responsible for the supervision and management of the employees and business affairs of not more than five (5) loan broker offices **under one (1) company.**

SECTION 5. IC 23-2.5-1-28 IS REPEALED [EFFECTIVE JULY 1, 2024]. Sec. 28. ~~"Principal manager license"~~ means a license issued by the commissioner authorizing an individual to act as:

- (1) a principal manager; and
- (2) a mortgage loan originator;

~~on behalf of a loan broker.~~

SECTION 6. IC 23-2.5-1-39, AS ADDED BY P.L.175-2019, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 39. "Unique identifier" means a number or other identifier that:

- (1) permanently identifies a:
 - (A) loan broker;
 - ~~(B) principal manager;~~
 - ~~(C) (B) mortgage loan originator;~~ or
 - ~~(D) (C) branch office;~~ and
 - (2) is assigned by protocols established by the Nationwide Mortgage Licensing System and the federal financial institutions regulatory agencies (as defined in 12 U.S.C. 3350(6)) to facilitate the:
 - (A) electronic tracking of; and
 - (B) uniform identification of, and public access to:
 - (i) the employment history of; and
 - (ii) any publicly adjudicated disciplinary and enforcement actions against;
- a person described in subdivision (1).

SECTION 7. IC 23-2.5-2-1, AS ADDED BY P.L.175-2019, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 1. (a) The loan broker regulation account is created in the state general fund. The money in the loan broker regulation account may be used only for the regulation of loan brokers **and mortgage loan originators and principal managers** under this

HEA 1336



article.

(b) The loan broker regulation account shall be administered by the treasurer of state. Except as provided in subsection (d), all fees and funds accruing from the administration of this article shall be accounted for by the commissioner and shall be deposited with the treasurer of state who shall deposit them in the loan broker regulation account in the state general fund.

(c) The money in the loan broker regulation account:

- (1) is continuously appropriated for the purposes of this article; and
- (2) does not revert to any other account within the state general fund at the end of a state fiscal year.

(d) All expenses incurred in the administration of this article shall be paid from appropriations made from the state general fund. However, costs of investigations incurred under this article shall be paid from, and disgorgements of profits and civil penalties recovered under this article shall be deposited in, the securities division enforcement account established by IC 23-19-6-1(f). The funds in the securities division enforcement account shall be available, with the approval of the budget agency, to augment and supplement the funds appropriated for the administration of this article.

SECTION 8. IC 23-2.5-3-2, AS ADDED BY P.L.175-2019, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 2. (a) An individual may not act as a ~~principal~~ manager in Indiana unless the individual first obtains a:

- (1) unique identifier from the Nationwide Multistate Licensing System; and
- (2) ~~principal manager license from the commissioner.~~ **license under this article.**

(b) An individual may not act as a mortgage loan originator in Indiana unless the individual first obtains a:

- (1) unique identifier from the Nationwide Multistate Licensing System; and
- (2) mortgage loan originator license from the commissioner.

(c) An individual desiring to act as a ~~principal~~ manager or mortgage loan originator on behalf of a loan broker shall apply to the commissioner for a ~~principal manager license or a mortgage loan originator license under this article.~~ **as applicable.**

SECTION 9. IC 23-2.5-4-1, AS ADDED BY P.L.175-2019, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 1. (a) An application for issuance or renewal of a loan broker license must contain the following:

HEA 1336



- (1) Consent to service of process under section 9 of this chapter.
- (2) Evidence of the bond required by section 12 of this chapter.
- (3) An application fee of two hundred dollars (\$200), plus one hundred dollars (\$100) for each ultimate equitable owner.
- (4) An affidavit affirming that none of the applicant's ultimate equitable owners, directors, managers, or officers have been convicted, in any jurisdiction, of:

- (A) a felony during the previous seven (7) years; or

- (B) an offense involving fraud or deception that is punishable by at least one (1) year of imprisonment;

unless the affidavit is waived by the commissioner under subsection (b).

- (5) Evidence that the applicant, if the applicant is an individual, has completed the education requirements under IC 23-2.5-6.

- (6) The name and license number of each mortgage loan originator to be employed by the loan broker.

- (7) The name and license number of each ~~principal~~ manager to be employed by the loan broker.

- (8) The location of each loan broker office to be operated by the loan broker. If the loan broker operates only one (1) loan broker office or one (1) location at which mortgage loan origination activities occur, that location must be designated as the loan broker's principal place of business.

- (9) The name of the individual employed by the loan broker who will serve as branch manager for any branch office operated by the loan broker.

- (10) For each ultimate equitable owner, the following information:

- (A) The name of the ultimate equitable owner.

- (B) The address of the ultimate equitable owner, including the home address of the ultimate equitable owner if the ultimate equitable owner is an individual.

- (C) The telephone number of the ultimate equitable owner, including the home telephone number if the ultimate equitable owner is an individual.

- (D) The ultimate equitable owner's Social Security number and date of birth, if the ultimate equitable owner is an individual.

(b) Upon good cause shown, the commissioner may waive the requirements of subsection (a)(4) for one (1) or more of an applicant's ultimate equitable owners, directors, managers, or officers.

SECTION 10. IC 23-2.5-4-2 IS REPEALED [EFFECTIVE JULY 1, 2024]. Sec. 2: (a) ~~An application for issuance or renewal of a~~

HEA 1336



principal manager license must be made on a form prescribed by the commissioner:

(b) An application under subsection (a) must include the following information for the individual who seeks to be licensed as a principal manager:

- (1) The name of the individual;
- (2) The home address of the individual;
- (3) The home telephone number of the individual;
- (4) The individual's Social Security number and date of birth;
- (5) The name of the:
 - (A) loan broker; or
 - (B) applicant for a loan broker license;
 by whom the individual seeks to be employed as a principal manager;
- (6) Consent to service of process under section 9 of this chapter;
- (7) Evidence that the individual has completed the education requirements described in IC 23-2.5-6;
- (8) Evidence that the individual:
 - (A) has, in addition to the education requirements described in subdivision (7), completed an additional sixteen (16) hours of education acceptable to the commissioner, including four (4) hours on the topic of ethics; and
 - (B) has been a registered mortgage loan originator or state licensed mortgage loan originator through the Nationwide Multistate Licensing System for at least three (3) of the five (5) years immediately preceding the date of application under this section;
- (9) An application fee of one hundred dollars (\$100);
- (10) All:
 - (A) registration numbers previously issued to the individual under IC 23-2-5 if the applicant was registered as an originator or a principal manager under IC 23-2-5 before its repeal on July 1, 2019; and
 - (B) license numbers previously issued to the individual under IC 23-2-5 (before its repeal) or this article;
- (11) The name of each individual who is a mortgage loan originator and the location of any loan broker offices for which the individual is designated by the loan broker as supervising principal manager;
- (12) Written authorization for the commissioner or an agent of the commissioner to obtain a consumer report (as defined in IC 24-5-24-2) concerning the individual;



SECTION 11. IC 23-2.5-4-3, AS ADDED BY P.L.175-2019, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 3. (a) An application for issuance or renewal of a mortgage loan originator license must be made on a form prescribed by the commissioner.

(b) An application under subsection (a) must include the following information for the individual who seeks to be licensed as a mortgage loan originator:

- (1) The name of the individual.
- (2) The home address of the individual.
- (3) The home telephone number of the individual.
- (4) The individual's Social Security number and date of birth.
- (5) The name of the:
 - (A) loan broker; or
 - (B) applicant for a loan broker license;
 for whom the individual will act as a mortgage loan originator.
- (6) Consent to service of process under section 9 of this chapter.
- (7) Evidence that the individual has completed the education requirements described in IC 23-2.5-6.
- (8) An affidavit completed in the manner prescribed by the commissioner stating the address of each location where the individual intends to habitually or repeatedly conduct mortgage loan origination activities.
- (9) An application fee of fifty dollars (\$50).
- (10) All:
 - (A) registration numbers previously issued to the individual under IC 23-2-5, if the applicant was registered as an originator or a ~~principal manager~~ under IC 23-2-5 before its repeal on July 1, 2019; and
 - (B) license numbers previously issued to the individual under IC 23-2-5 (before its repeal) or this article.
- (11) An indication as to whether the mortgage loan originator is the branch manager of a loan broker office and the address of the loan broker office.
- (12) Written authorization for the commissioner or an agent of the commissioner to obtain a consumer report (as defined in IC 24-5-24-2) concerning the individual.

SECTION 12. IC 23-2.5-4-4, AS ADDED BY P.L.175-2019, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 4. (a) An application for issuance or renewal of a branch office license must be made on a form prescribed by the commissioner.

HEA 1336



(b) An application under subsection (a) must include the following information for the location for which licensure as a branch office is sought:

- (1) The address of the branch office.
- (2) The name and license number of the ~~principal~~ manager who will be designated by the loan broker to supervise the branch office.
- (3) The name and license number of the individual who will be designated to act as branch manager of the branch office.
- (4) An application fee of seventy-five dollars (\$75).

SECTION 13. IC 23-2.5-4-6, AS AMENDED BY P.L.158-2022, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 6. (a) A licensee under this chapter may not continue to:

- (1) act as a loan broker ~~principal manager~~; or mortgage loan originator; or
- (2) operate as a branch office;

unless the licensee annually renews the license.

(b) A licensee under this chapter shall renew the license by:

- (1) filing with the commissioner, before the date on which the license expires, an application containing any information the commissioner requires to indicate any material change from the information contained in the applicant's original application or any previous application; and
- (2) including, with the filing under subdivision (1), the applicable application fee specified in this chapter.

SECTION 14. IC 23-2.5-4-7, AS ADDED BY P.L.175-2019, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 7. (a) The license of a ~~principal manager or a mortgage loan originator~~ is not effective during any period during which the mortgage loan originator ~~or principal manager~~ is not employed by a loan broker that is licensed under this article.

(b) If a licensed ~~principal manager or mortgage loan originator~~ seeks to transfer the licensee's license to another loan broker who desires to have the licensee act as a ~~principal~~ manager or mortgage loan originator, whichever applies, the licensee shall, before acting as a ~~principal~~ manager or mortgage loan originator for the new employer, submit to the commissioner, on a form prescribed by the commissioner, a license application required by section ~~2 or 3~~ of this chapter. ~~whichever applies.~~

(c) If the employment of a ~~principal~~ manager or mortgage loan originator by a loan broker is terminated:

HEA 1336



(1) voluntarily by the ~~principal~~ manager or mortgage loan originator; or

(2) by the loan broker employing the ~~principal~~ manager or mortgage loan originator;

the loan broker shall, not later than five (5) days after the date of the termination, notify the commissioner of the termination and the reasons for the termination.

SECTION 15. IC 23-2.5-4-10, AS ADDED BY P.L.175-2019, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 10. (a) At the time of application for an initial license under this chapter, the commissioner shall require the following to submit fingerprints for a national criminal history background check (as defined in IC 10-13-3-12) for use by the commissioner in determining whether the equitable owner of a loan broker, an individual described in subdivision (1), or the applicant should be denied issuance of a license under this chapter for a reason set forth in IC 23-2.5-11-1 or IC 23-2.5-11-2:

(1) In the case of an applicant for licensure as a loan broker, each ultimate equitable owner, equitable owner, director, manager, and officer.

~~(2) An applicant for licensure as a principal manager.~~

~~(3)~~ (2) An applicant for licensure as a mortgage loan originator.

(b) Every three (3) years at the time of application for renewal of a license issued under this chapter, beginning with the third calendar year following the calendar year during which the initial license is issued, the commissioner shall require the following to submit fingerprints for a national criminal history background check (as defined in IC 10-13-3-12) for use by the commissioner in determining whether the equitable owner of a loan broker, an individual described in subdivision (1), or the applicant should be denied renewal of a license under this chapter for a reason set forth in IC 23-2.5-11-1 or IC 23-2.5-11-2:

(1) In the case of an applicant for licensure as a loan broker, each ultimate equitable owner, equitable owner, director, manager, and officer.

~~(2) An applicant for licensure as a principal manager.~~

~~(3)~~ (2) An applicant for licensure as a mortgage loan originator.

(c) The individual whose fingerprints are submitted under this section shall pay any fees or costs associated with the fingerprints and background check required by this section.

(d) The commissioner may not release the results of a background check required by this section to any private entity.

HEA 1336



SECTION 16. IC 23-2.5-4-11, AS ADDED BY P.L.175-2019, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 11. In reviewing a consumer report obtained under section ~~2(b)(12)~~ or 3(b)(12) of this chapter, the commissioner may consider one (1) or more of the following in determining whether the individual applicant has demonstrated financial responsibility:

- (1) Bankruptcies filed by the individual during the most recent ten (10) years.
- (2) Current outstanding civil judgments against the individual, except judgments resulting solely from medical expenses owed by the individual.
- (3) Current outstanding tax liens or other government liens or filings.
- (4) Foreclosure actions filed during the most recent three (3) years against property owned by the individual.
- (5) Any pattern of seriously delinquent accounts associated with the individual during the most recent three (3) years.

SECTION 17. IC 23-2.5-4-12, AS ADDED BY P.L.175-2019, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 12. A loan broker shall maintain an electronic surety bond that:

- (1) is satisfactory to the commissioner;
- (2) is in the amount of sixty thousand dollars (\$60,000); and
- (3) covers the activities of each ~~principal~~ manager and mortgage loan originator employed by the loan broker.

SECTION 18. IC 23-2.5-6-5, AS ADDED BY P.L.175-2019, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 5. (a) The commissioner shall require an applicant for licensure as a

- ~~(1) principal manager; or~~
- ~~(2) mortgage loan originator~~

under IC 23-2.5-4 to pass a written examination prepared and administered by the commissioner or an agent appointed by the commissioner and approved by the Nationwide Multistate Licensing System.

(b) The written examination required by this section must measure the applicant's knowledge and comprehension in appropriate subject areas, including the following:

- (1) Ethics.
- (2) Federal laws and regulations concerning the origination of residential mortgage loans.
- (3) State laws and rules concerning the origination of residential

HEA 1336



mortgage loans.

(c) An individual who answers at least seventy-five percent (75%) of the questions on the written examination correctly is considered to have passed the examination.

(d) An individual who does not pass the written examination may retake the examination not more than two (2) additional times, with each subsequent attempt occurring at least thirty (30) days after the date on which the individual last sat for the examination.

(e) If an individual fails three (3) consecutive examinations, the individual must wait to retake the examination until at least six (6) months after the date on which the individual sat for the third examination.

SECTION 19. IC 23-2.5-6-6, AS ADDED BY P.L.175-2019, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 6. If an individual who has been issued a ~~principal manager license~~ or mortgage loan originator license under this article, or a license or registration issued by another state or jurisdiction allowing the individual to perform mortgage loan origination activities:

- (1) allows the individual's license or registration to lapse; or
- (2) otherwise has not been a registered mortgage loan originator, **been** issued a mortgage loan originator license, ~~issued a principal manager license~~, or otherwise maintained a license or registration to perform mortgage loan origination activities;

for a period of at least five (5) years, the individual must pass the written examination required by this chapter as a condition of relicensure or reregistration.

SECTION 20. IC 23-2.5-7-1, AS ADDED BY P.L.175-2019, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 1. A loan broker shall not employ an individual to act as a ~~principal~~ manager or mortgage loan originator unless the individual is licensed under this article as a ~~principal manager~~ or mortgage loan originator. ~~as applicable~~.

SECTION 21. IC 23-2.5-7-4, AS ADDED BY P.L.175-2019, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 4. A loan broker shall, in accordance with section 5 of this chapter, employ and designate a ~~principal~~ manager who is responsible for supervising the:

- (1) mortgage loan originators employed by the loan broker; and
- (2) loan broker offices operated by the loan broker;

to ensure compliance with this article.

SECTION 22. IC 23-2.5-7-5, AS ADDED BY P.L.175-2019, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

HEA 1336



JULY 1, 2024]: Sec. 5. (a) A ~~principal~~ manager designated by a loan broker under section 4 of this chapter may supervise not more than five (5) loan broker offices operated by the loan broker, including the principal place of business and any branch offices **of the same company.**

(b) A loan broker shall employ a sufficient number of additional ~~principal~~ managers designated as supervisors to accommodate any branch offices:

- (1) operated by the loan broker; and
- (2) in excess of the number permitted under subsection (a).

SECTION 23. IC 23-2.5-7-6, AS ADDED BY P.L.175-2019, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 6. (a) A ~~principal~~ manager shall complete at least one (1) compliance examination per year of each loan broker office for which the ~~principal~~ manager is the supervisor designated under section 4 of this chapter.

(b) A loan broker shall maintain complete documentation of each examination conducted by a ~~principal~~ manager under subsection (a):

- (1) at the principal place of business; and
- (2) for a minimum of five (5) years after the calendar year in which the examination is completed.

SECTION 24. IC 23-2.5-7-7, AS ADDED BY P.L.175-2019, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 7. (a) A loan broker that operates a branch office shall designate a unique individual to act as branch manager of the branch office.

(b) A branch manager designated under subsection (a) shall be licensed under this article as **either a principal manager or a mortgage loan originator.**

SECTION 25. IC 23-2.5-7-8, AS ADDED BY P.L.175-2019, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 8. A loan broker that fails to take reasonable steps to prevent a violation of this article by a ~~principal manager~~, mortgage loan originator or other individual employed by the loan broker may subject the loan broker to discipline under IC 23-2.5-11.

SECTION 26. IC 23-2.5-7-9, AS ADDED BY P.L.175-2019, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 9. A ~~principal~~ manager who fails to take reasonable steps to prevent a violation of this article:

- (1) by a mortgage loan originator who is supervised by the ~~principal~~ manager; or
- (2) that occurs at a branch office that is supervised by the

HEA 1336



~~principal~~ manager;
 may subject the ~~principal~~ manager to discipline under IC 23-2.5-11.
 SECTION 27. IC 23-2.5-9-1, AS ADDED BY P.L.175-2019, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 1. A loan broker agreement that is delivered or required to be delivered by a licensee to a borrower or prospective borrower must contain the license number of:

- (1) the loan broker; and
- (2) each
 - ~~(A) mortgage loan originator; and~~
 - ~~(B) principal manager;~~

who had contact with the file.

SECTION 28. IC 23-2.5-11-1, AS ADDED BY P.L.175-2019, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 1. The commissioner may deny an application for an initial or a renewal license under this article, and may suspend or revoke the license of a licensee, if the applicant, the licensee, or an ultimate equitable owner of a loan broker or an applicant for a loan broker license:

- (1) has, within the most recent ten (10) years:
 - (A) been the subject of an adjudication or a determination by:
 - (i) a court with jurisdiction; or
 - (ii) an agency or administrator that regulates securities, commodities, banking, financial services, insurance, real estate, or the real estate appraisal industry;
 - in Indiana or any other jurisdiction; and
 - (B) been found, after notice and opportunity for hearing, to have violated the securities, commodities, banking, financial services, insurance, real estate, or real estate appraisal laws of the state or any other jurisdiction;
 - (2) except as provided in section 2(1) of this chapter with respect to the activities of a loan broker, has:
 - (A) been denied the right to do business in the securities, commodities, banking, financial services, insurance, real estate, or real estate appraisal industry; or
 - (B) had the person's authority to do business in the securities, commodities, banking, financial services, insurance, real estate, or real estate appraisal industry revoked or suspended; by the state or another state, federal, or foreign governmental agency or self-regulatory organization;
 - (3) is insolvent;
 - (4) has violated this article;

HEA 1336



(5) has knowingly filed with the commissioner a document or statement that:

(A) contains a false representation of a material fact;

(B) fails to state a material fact; or

(C) contains a representation that becomes false:

(i) after the filing; and

(ii) during the term of the license;

and does not notify the commissioner as required by IC 23-2.5-4-8;

(6) has been convicted, during the ten (10) years preceding the date of the application, renewal, or review, of a crime, other than a felony, involving fraud or deceit;

(7) if the person is a loan broker, ~~or a principal manager~~, has failed to reasonably supervise the person's mortgage loan originators, loan processors or underwriters, or employees to ensure compliance with this article;

(8) is on the most recent tax warrant list supplied to the commissioner by the department of state revenue;

(9) has engaged in dishonest or unethical practices, as determined by the commissioner; or

(10) has, after receiving a request from the securities division for additional documentation or information in connection with an application for an initial or renewal license, failed to properly respond to the request within thirty (30) days after the date on which the person receives the request.

SECTION 29. IC 23-2.5-11-2, AS ADDED BY P.L.175-2019, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 2. The commissioner shall deny an application for an initial or a renewal license under this article, and shall revoke the license of a licensee, if the applicant, the licensee, or an ultimate equitable owner of a loan broker or an applicant for a loan broker license:

(1) has had a:

(A) loan broker license issued under this article;

(B) mortgage loan originator license issued under this article;

or

~~(C) principal manager license issued under this article; or~~

~~(D)~~ (C) license that is:

(i) equivalent to a license described in clause (A) ~~(B)~~; or ~~(C)~~; **(B)**; and

(ii) issued by another jurisdiction;

revoked by the commissioner or the appropriate regulatory agency

HEA 1336



- in another jurisdiction, whichever applies;
- (2) has been convicted of or pleaded guilty or nolo contendere to a felony in a domestic, foreign, or military court:
- (A) during the seven (7) year period immediately preceding the date of the application or renewal; or
 - (B) at a time preceding the date of the application or renewal if the felony involved an act of fraud or dishonesty, a breach of trust, or money laundering;
- (3) fails to maintain the bond required by IC 23-2.5-4-12;
- (4) fails to demonstrate the financial responsibility, character, and general fitness necessary to:
- (A) command the confidence of the community in which the applicant or licensee engages or will engage in the activities of a loan broker; and
 - (B) warrant a determination by the commissioner that the applicant or licensee will operate honestly, fairly, and efficiently according to the requirements of this article;
- (5) has failed to meet the education requirements set forth in IC 23-2.5-6;
- (6) has failed to pass the written examination required by IC 23-2.5-6; or
- (7) fails to:
- (A) keep or maintain records in accordance with IC 23-2.5-8; or
 - (B) allow the commissioner or an agent appointed by the commissioner to inspect or examine a loan broker's books and records to determine compliance with IC 23-2.5-8.

SECTION 30. IC 23-2.5-11-3, AS ADDED BY P.L.175-2019, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 3. (a) If the commissioner determines that a person has engaged in or is about to engage in an act or a practice that violates this article or a rule or an order under this article, the commissioner may investigate and issue:

- (1) with a prior hearing if there exists no substantial threat of immediate irreparable harm; or
- (2) without a prior hearing if there exists a substantial threat of immediate irreparable harm;

orders and notices determined by the commissioner to be in the public interest, including cease and desist orders, orders to show cause, and notices.

(b) After notice and hearing, the commissioner may enter an order of rescission, restitution, or disgorgement, including interest at the rate

HEA 1336



of eight percent (8%) per year, directed to a person who the commissioner determines has violated this article or a rule or an order under this article.

(c) If the commissioner determines, after a hearing, that a person has violated this article or a rule or an order under this article, the commissioner may, in addition to other remedies, impose a civil penalty on the person in an amount not to exceed ten thousand dollars (\$10,000) for each violation.

(d) Upon the commissioner's issuance under subsection (a) of an order or notice without a prior hearing, the commissioner shall promptly notify:

- (1) the respondent; and
- (2) if the subject of the order or notice is a mortgage loan originator or a ~~principal~~ manager, the loan broker for whom the mortgage loan originator or ~~principal~~ manager is employed; of the issuance of the order or notice.

(e) The notification required by subsection (d) must include the following:

- (1) Notice that the order or notice has been issued.
- (2) Notice of the reasons the order or notice has been issued.
- (3) Notice that upon the commissioner's receipt of a written request from the person against which the order or notice is issued, the matter will be set for a hearing to commence not later than:

- (A) fifteen (15) business days after the commissioner's receipt of the request if the original order or notice issued by the commissioner was a summary suspension, summary revocation, or denial of a license; and
- (B) forty-five (45) business days after the commissioner's receipt of the request for any other order or notice, unless the respondent consents to a later date.

(f) If a hearing:

- (1) is not requested under subsection (e); and
- (2) is not ordered by the commissioner;

an order or notice issued under this section remains in effect until the order or notice is modified or vacated by the commissioner.

(g) If a hearing is requested under subsection (e) or ordered by the commissioner, the commissioner, after notice of an opportunity for hearing, may modify or vacate the order or notice or extend the order or notice until final determination.

SECTION 31. IC 23-2.5-11-12, AS ADDED BY P.L.175-2019, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

HEA 1336



JULY 1, 2024]: Sec. 12. (a) An appeal may be taken, to the Marion circuit court or the circuit or superior court of the county where the person taking the appeal resides or maintains a place of business, by the following:

- (1) A person whose application for issuance or renewal of a license under this article is granted or denied, from any final order of the commissioner concerning the application.
- (2) An applicant for issuance or renewal of a license as a ~~principal manager~~ or a mortgage loan originator, from any final order of the commissioner affecting the application.
- (3) An applicant for issuance or renewal of a license for a loan broker office from any final order of the commissioner affecting the application.
- (4) A person against whom a civil penalty is imposed under section 3(c) of this chapter, from the final order of the commissioner imposing the civil penalty.
- (5) A person who is named as a respondent, from any final order of the commissioner under this article.

(b) Not later than twenty (20) days after the entry of the order under subsection (a), the commissioner must be served with:

- (1) a written notice of the appeal specifying the court to which the appeal will be taken and the grounds on which a reversal of the final order is sought;
- (2) a demand in writing from the appellant for a certified transcript of the record and all papers on file in the commissioner's office that affect or relate to the order; and
- (3) a bond in the penal sum of five hundred dollars (\$500) to the state with sufficient surety to be approved by the commissioner, conditioned on the faithful prosecution of the appeal to final judgment and the payment of all costs that are adjudged against the appellant.

(c) Not later than ten (10) days after the date on which the commissioner is served with the items listed in subsection (b), the commissioner shall make, certify, and deliver to the appellant the transcript, and the appellant shall, not later than five (5) days after the date on which the appellant receives the transcript, file the transcript and a copy of the notice of appeal with the clerk of the court. The notice of appeal serves as the appellant's complaint. The commissioner may appear and file a motion or pleading and form the issue. The cause must be entered on the trial calendar for trial de novo and given precedence over all matters pending in the court.

(d) The court shall receive and consider any pertinent oral or written



evidence concerning the order of the commissioner from which an appeal under this section is taken. If the order of the commissioner is reversed, the court shall in the court's mandate specifically direct the commissioner concerning the commissioner's further action in the matter. The commissioner is not barred from revoking or altering the order for proper cause that accrues or is discovered after the order is entered. If the order is affirmed, the appellant is not barred after thirty (30) days after the date on which the order is affirmed from filing a new application if the application is not otherwise barred or limited. During the pendency of the appeal, the order from which the appeal is taken is not suspended but remains in effect unless otherwise ordered by the court. An appeal may be taken from the judgment of the court on the same terms and conditions as an appeal is taken in civil actions.

SECTION 32. IC 24-4.4-1-202.5, AS AMENDED BY P.L.158-2022, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 202.5. (1) If a person licensed or required to be licensed by the department to engage in mortgage transactions also engages in activities of a loan broker described in IC 23-2.5, the activities of a loan broker are subject to the following sections of the Indiana Code and any rules adopted to implement these sections:

- (a) IC 23-2.5-8-1, except for IC 23-2.5-8-1(b)(2).
- (b) IC 23-2.5-8-2.
- (c) IC 23-2.5-11-15(b) and IC 23-2.5-11-15(c).
- (d) IC 23-2.5-11-17.
- (e) IC 23-2.5-8-3.
- (f) IC 23-2.5-8-4 through IC 23-2.5-8-9.
- (g) IC 23-2.5-8-10.
- (h) IC 23-2.5-10-1.
- (i) IC 23-2.5-9-1. ~~except for IC 23-2.5-9-1(2)(B).~~
- (j) IC 23-2.5-11-16.

(2) Loan broker business transactions engaged in by persons licensed or required to be licensed by the department to engage in mortgage transactions are subject to examination by the department and to the examination fees described in IC 24-4.4-2-402(8)(c). The department may cooperate with the securities division of the office of the secretary of state in the department's examination of loan broker business transactions and may use the securities division's examiners to conduct examinations.

SECTION 33. IC 24-4.5-3-501.5, AS AMENDED BY P.L.158-2022, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 501.5. (1) If a person

HEA 1336



licensed or required to be licensed under section 502.1 of this chapter also engages in activities of a loan broker described in IC 23-2.5, the activities of a loan broker are subject to the following sections of the Indiana Code and any rules adopted to implement these sections:

- (a) IC 23-2.5-8-1, except for IC 23-2.5-8-1(b)(2).
- (b) IC 23-2.5-8-2.
- (c) IC 23-2.5-11-15(b) and IC 23-2.5-11-15(c).
- (d) IC 23-2.5-11-17.
- (e) IC 23-2.5-8-3.
- (f) IC 23-2.5-8-4 through IC 23-2.5-8-9.
- (g) IC 23-2.5-8-10.
- (h) IC 23-2.5-10-1.
- (i) IC 23-2.5-9-1, ~~except for IC 23-2.5-9-1(2)(B)~~.
- (j) IC 23-2.5-11-16.

(2) Loan broker business transactions engaged in by persons licensed or required to be licensed under section 502.1 of this chapter are subject to examination by the department and to the examination fees described in section 503(8)(b) of this chapter. The department may cooperate with the securities division of the office of the secretary of state in the department's examination of loan broker business transactions and may use the securities division's examiners to conduct examinations.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

HEA 1336

