

HOUSE BILL No. 1326

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-6-12-3; IC 24-5; IC 25-34.1.

Synopsis: Discriminatory lending and appraisal practices. Adds the following to the duties of the homeowner protection unit (unit) of the office of the attorney general: (1) Cooperating with federal, state, and local law enforcement agencies in investigating violations of the federal Fair Housing Act. (2) Investigating and enforcing: (A) existing law prohibiting improperly influencing the preparation of a real estate appraisal; and (B) the bill's provisions prohibiting discriminatory lending and appraisal practices in connection with residential real estate related transactions. Prohibits a person whose business includes engaging in residential real estate related transactions from doing any of the following: (1) Discriminating against any person in: (A) making available a residential real estate transaction; or (B) establishing the terms and conditions of a residential real estate transaction; on the basis of race, color, religion, sex, disability, familial status, or national origin. (2) Denying a creditworthy applicant a mortgage loan on the basis of any of these characteristics of: (A) the applicant; or (B) residents of the neighborhood in which the real estate is located; if the applicant is otherwise eligible for the mortgage loan. (3) Making an excessively low appraisal of the value of the real estate that is the subject of a mortgage loan (as compared to the purchase price) on the basis of any of these characteristics of: (A) the applicant; or (B) residents of the neighborhood in which the real estate is located. Specifies that these prohibitions do not prohibit a person whose business includes engaging in residential real estate related transactions from: (1) either: (A) denying a mortgage loan; or (B) granting a mortgage loan on more stringent terms and conditions; based on the
(Continued next page)

Effective: July 1, 2022.

Pryor

January 11, 2022, read first time and referred to Committee on Financial Institutions and Insurance.



applicant's creditworthiness or other economic factors, and without regard to any of the characteristics set forth in the bill; or (2) taking into consideration factors other than the characteristics set forth in the bill in preparing a real estate appraisal. Establishes the fair housing practices fund (fund), to be administered by the Indiana housing and community development authority (authority), for the purpose of: (1) providing down payment assistance, financial assistance for closing costs, and restitution for individuals determined to have been injured by a violation the bill's provisions prohibiting discriminatory lending and appraisal practices; and (2) providing grants for: (A) community education and outreach efforts; and (B) community reinvestment initiatives; for neighborhoods or communities determined to have been targeted or adversely impacted by a violation of the bill's provisions prohibiting discriminatory lending and appraisal practices. Provides that the fund consists of: (1) civil penalties collected for violations of the bill's provisions prohibiting discriminatory lending and appraisal practices; (2) any amounts deposited in the fund as a result of a settlement agreement or final judgment in an action brought for a violation of these provisions; (3) gifts and grants to the fund; and (4) appropriations from the general assembly. Requires the authority to adopt rules to develop certain criteria and procedures necessary to: (1) administer the fund; and (2) provide assistance from the fund. Requires the unit to: (1) amend the form that creditors are required to provide to mortgage loan applicants to include information about how prospective borrowers can report suspected violations of the bill's provisions prohibiting discriminatory lending and appraisal practices; and (2) accept through the unit's established: (A) electronic mail address; and (B) toll free telephone number; complaints concerning these suspected violations. Provides that a person that knowingly or intentionally violates the bill's provisions prohibiting discriminatory lending and appraisal practices: (1) commits an act that is actionable by an aggrieved individual and the attorney general under the deceptive consumer sales act; and (2) is liable for a civil penalty of \$200 per violation. Provides that any civil penalty collected shall be deposited in the fund. Requires the real estate appraiser licensure and certification board (board) to, not later than January 1, 2023, submit recommendations to the Indiana real estate commission (commission) concerning the following: (1) Rules requiring as a condition of initial licensure or certification at least one hour of instruction in cultural competency training, and at least one hour of instruction in implicit bias training. (2) Rules requiring as a condition of renewal for licensure and certification at least one hour of continuing education instruction in cultural competency training, and at least one hour of continuing education instruction in implicit bias training. (3) Policies to foster diversity in the real estate appraisal profession. Requires the commission to adopt the recommended rules not later than July 1, 2023. Provides that the office of the attorney general and the professional licensing agency (agency) may use an existing investigative fund to investigate and enforce: (1) existing law prohibiting improperly influencing the preparation of a real estate appraisal; and (2) the bill's provisions prohibiting discriminatory lending and appraisal practices. Requires the board to submit, on at least a quarterly basis, a request to the attorney general for certain information concerning complaints filed against real estate appraisers. Requires the agency, on behalf of the board, to publish and update on the board's web page, on at least a quarterly basis: (1) the aggregate complaint data received by the board in the most recent quarterly report from the attorney general; and (2) to the extent not confidential, the names and business locations of all real estate appraisers who have had

(Continued next page)



Digest Continued

complaints filed and prosecuted against them. Beginning in 2024, requires the agency, on behalf of the board, to submit an annual report to the legislative council concerning: (1) the cultural competency and implicit bias training educational requirements adopted by the commission; and (2) the policies to foster diversity in the real estate appraisal profession implemented by the commission, including the board's assessment of the effectiveness of the policies.



Introduced

Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

HOUSE BILL No. 1326

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

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

- 1 SECTION 1. IC 4-6-12-3, AS AMENDED BY P.L.52-2017,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2022]: Sec. 3. (a) The unit shall do the following:
4 (1) Investigate deceptive acts in connection with mortgage
5 lending.
6 (2) Investigate violations of IC 24-9.
7 (3) Institute appropriate administrative and civil actions to
8 redress:
9 (A) deceptive acts in connection with mortgage lending; and
10 (B) violations of IC 24-5-0.5 and IC 24-9.
11 (4) Cooperate with federal, state, and local law enforcement
12 agencies in the investigation of the following:
13 (A) Deceptive acts in connection with mortgage lending.
14 (B) Criminal violations involving deceptive acts in connection
15 with mortgage lending.



1 (C) Violations of IC 24-5-0.5 and IC 24-9.

2 (D) Violations of:

3 (i) the federal Truth in Lending Act (15 U.S.C. 1601 et
4 seq.);

5 (ii) the Real Estate Settlement Procedures Act (12 U.S.C.
6 2601 et seq.); and

7 **(iii) the federal Fair Housing Act (42 U.S.C. 3601 et seq.);**
8 **and**

9 ~~(iii)~~ **(iv)** any other federal laws or regulations concerning
10 mortgage lending.

11 To the extent authorized by federal law, the unit may enforce
12 compliance with the federal statutes or regulations described
13 in this clause or refer suspected violations of the statutes or
14 regulations to the appropriate federal regulatory agencies.

15 (5) Enforce violations of IC 32-25.5-3 by homeowners
16 associations.

17 **(6) Investigate and enforce violations of IC 24-5-23.5-7 and**
18 **IC 24-5-23.5-7.1.**

19 (b) The attorney general shall adopt rules under IC 4-22-2 to the
20 extent necessary to organize the unit.

21 SECTION 2. IC 24-5-0.5-3, AS AMENDED BY P.L.156-2020,
22 SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
23 JULY 1, 2022]: Sec. 3. (a) A supplier may not commit an unfair,
24 abusive, or deceptive act, omission, or practice in connection with a
25 consumer transaction. Such an act, omission, or practice by a supplier
26 is a violation of this chapter whether it occurs before, during, or after
27 the transaction. An act, omission, or practice prohibited by this section
28 includes both implicit and explicit misrepresentations.

29 (b) Without limiting the scope of subsection (a), the following acts,
30 and the following representations as to the subject matter of a
31 consumer transaction, made orally, in writing, or by electronic
32 communication, by a supplier, are deceptive acts:

33 (1) That such subject of a consumer transaction has sponsorship,
34 approval, performance, characteristics, accessories, uses, or
35 benefits it does not have which the supplier knows or should
36 reasonably know it does not have.

37 (2) That such subject of a consumer transaction is of a particular
38 standard, quality, grade, style, or model, if it is not and if the
39 supplier knows or should reasonably know that it is not.

40 (3) That such subject of a consumer transaction is new or unused,
41 if it is not and if the supplier knows or should reasonably know
42 that it is not.



- 1 (4) That such subject of a consumer transaction will be supplied
2 to the public in greater quantity than the supplier intends or
3 reasonably expects.
- 4 (5) That replacement or repair constituting the subject of a
5 consumer transaction is needed, if it is not and if the supplier
6 knows or should reasonably know that it is not.
- 7 (6) That a specific price advantage exists as to such subject of a
8 consumer transaction, if it does not and if the supplier knows or
9 should reasonably know that it does not.
- 10 (7) That the supplier has a sponsorship, approval, or affiliation in
11 such consumer transaction the supplier does not have, and which
12 the supplier knows or should reasonably know that the supplier
13 does not have.
- 14 (8) That such consumer transaction involves or does not involve
15 a warranty, a disclaimer of warranties, or other rights, remedies,
16 or obligations, if the representation is false and if the supplier
17 knows or should reasonably know that the representation is false.
- 18 (9) That the consumer will receive a rebate, discount, or other
19 benefit as an inducement for entering into a sale or lease in return
20 for giving the supplier the names of prospective consumers or
21 otherwise helping the supplier to enter into other consumer
22 transactions, if earning the benefit, rebate, or discount is
23 contingent upon the occurrence of an event subsequent to the time
24 the consumer agrees to the purchase or lease.
- 25 (10) That the supplier is able to deliver or complete the subject of
26 the consumer transaction within a stated period of time, when the
27 supplier knows or should reasonably know the supplier could not.
28 If no time period has been stated by the supplier, there is a
29 presumption that the supplier has represented that the supplier
30 will deliver or complete the subject of the consumer transaction
31 within a reasonable time, according to the course of dealing or the
32 usage of the trade.
- 33 (11) That the consumer will be able to purchase the subject of the
34 consumer transaction as advertised by the supplier, if the supplier
35 does not intend to sell it.
- 36 (12) That the replacement or repair constituting the subject of a
37 consumer transaction can be made by the supplier for the estimate
38 the supplier gives a customer for the replacement or repair, if the
39 specified work is completed and:
- 40 (A) the cost exceeds the estimate by an amount equal to or
41 greater than ten percent (10%) of the estimate;
- 42 (B) the supplier did not obtain written permission from the



- 1 customer to authorize the supplier to complete the work even
 2 if the cost would exceed the amounts specified in clause (A);
 3 (C) the total cost for services and parts for a single transaction
 4 is more than seven hundred fifty dollars (\$750); and
 5 (D) the supplier knew or reasonably should have known that
 6 the cost would exceed the estimate in the amounts specified in
 7 clause (A).
- 8 (13) That the replacement or repair constituting the subject of a
 9 consumer transaction is needed, and that the supplier disposes of
 10 the part repaired or replaced earlier than seventy-two (72) hours
 11 after both:
 12 (A) the customer has been notified that the work has been
 13 completed; and
 14 (B) the part repaired or replaced has been made available for
 15 examination upon the request of the customer.
- 16 (14) Engaging in the replacement or repair of the subject of a
 17 consumer transaction if the consumer has not authorized the
 18 replacement or repair, and if the supplier knows or should
 19 reasonably know that it is not authorized.
- 20 (15) The act of misrepresenting the geographic location of the
 21 supplier by listing an alternate business name or an assumed
 22 business name (as described in IC 23-0.5-3-4) in a local telephone
 23 directory if:
 24 (A) the name misrepresents the supplier's geographic location;
 25 (B) the listing fails to identify the locality and state of the
 26 supplier's business;
 27 (C) calls to the local telephone number are routinely forwarded
 28 or otherwise transferred to a supplier's business location that
 29 is outside the calling area covered by the local telephone
 30 directory; and
 31 (D) the supplier's business location is located in a county that
 32 is not contiguous to a county in the calling area covered by the
 33 local telephone directory.
- 34 (16) The act of listing an alternate business name or assumed
 35 business name (as described in IC 23-0.5-3-4) in a directory
 36 assistance data base if:
 37 (A) the name misrepresents the supplier's geographic location;
 38 (B) calls to the local telephone number are routinely forwarded
 39 or otherwise transferred to a supplier's business location that
 40 is outside the local calling area; and
 41 (C) the supplier's business location is located in a county that
 42 is not contiguous to a county in the local calling area.



- 1 (17) The violation by a supplier of IC 24-3-4 concerning
2 cigarettes for import or export.
- 3 (18) The act of a supplier in knowingly selling or reselling a
4 product to a consumer if the product has been recalled, whether
5 by the order of a court or a regulatory body, or voluntarily by the
6 manufacturer, distributor, or retailer, unless the product has been
7 repaired or modified to correct the defect that was the subject of
8 the recall.
- 9 (19) The violation by a supplier of 47 U.S.C. 227, including any
10 rules or regulations issued under 47 U.S.C. 227.
- 11 (20) The violation by a supplier of the federal Fair Debt
12 Collection Practices Act (15 U.S.C. 1692 et seq.), including any
13 rules or regulations issued under the federal Fair Debt Collection
14 Practices Act (15 U.S.C. 1692 et seq.).
- 15 (21) A violation of IC 24-5-7 (concerning health spa services), as
16 set forth in IC 24-5-7-17.
- 17 (22) A violation of IC 24-5-8 (concerning business opportunity
18 transactions), as set forth in IC 24-5-8-20.
- 19 (23) A violation of IC 24-5-10 (concerning home consumer
20 transactions), as set forth in IC 24-5-10-18.
- 21 (24) A violation of IC 24-5-11 (concerning real property
22 improvement contracts), as set forth in IC 24-5-11-14.
- 23 (25) A violation of IC 24-5-12 (concerning telephone
24 solicitations), as set forth in IC 24-5-12-23.
- 25 (26) A violation of IC 24-5-13.5 (concerning buyback motor
26 vehicles), as set forth in IC 24-5-13.5-14.
- 27 (27) A violation of IC 24-5-14 (concerning automatic
28 dialing-announcing devices), as set forth in IC 24-5-14-13.
- 29 (28) A violation of IC 24-5-15 (concerning credit services
30 organizations), as set forth in IC 24-5-15-11.
- 31 (29) A violation of IC 24-5-16 (concerning unlawful motor
32 vehicle subleasing), as set forth in IC 24-5-16-18.
- 33 (30) A violation of IC 24-5-17 (concerning environmental
34 marketing claims), as set forth in IC 24-5-17-14.
- 35 (31) A violation of IC 24-5-19 (concerning deceptive commercial
36 solicitation), as set forth in IC 24-5-19-11.
- 37 (32) A violation of IC 24-5-21 (concerning prescription drug
38 discount cards), as set forth in IC 24-5-21-7.
- 39 (33) A violation of IC 24-5-23.5-7 (concerning real estate
40 appraisals) or **IC 24-5-23.5-7.1 (concerning discrimination in
41 residential real estate related transactions)**, as set forth in
42 IC 24-5-23.5-9.



- 1 (34) A violation of IC 24-5-26 (concerning identity theft), as set
2 forth in IC 24-5-26-3.
- 3 (35) A violation of IC 24-5.5 (concerning mortgage rescue fraud),
4 as set forth in IC 24-5.5-6-1.
- 5 (36) A violation of IC 24-8 (concerning promotional gifts and
6 contests), as set forth in IC 24-8-6-3.
- 7 (37) A violation of IC 21-18.5-6 (concerning representations
8 made by a postsecondary credit bearing proprietary educational
9 institution), as set forth in IC 21-18.5-6-22.5.
- 10 (38) A violation of IC 24-5-15.5 (concerning collection actions of
11 a plaintiff debt buyer), as set forth in IC 24-5-15.5-6.
- 12 (39) A violation of IC 24-14 (concerning towing services), as set
13 forth in IC 24-14-10-1.
- 14 (40) A violation of IC 24-5-14.5 (concerning misleading or
15 inaccurate caller identification information), as set forth in
16 IC 24-5-14.5-12.
- 17 (c) Any representations on or within a product or its packaging or
18 in advertising or promotional materials which would constitute a
19 deceptive act shall be the deceptive act both of the supplier who places
20 such representation thereon or therein, or who authored such materials,
21 and such other suppliers who shall state orally or in writing that such
22 representation is true if such other supplier shall know or have reason
23 to know that such representation was false.
- 24 (d) If a supplier shows by a preponderance of the evidence that an
25 act resulted from a bona fide error notwithstanding the maintenance of
26 procedures reasonably adopted to avoid the error, such act shall not be
27 deceptive within the meaning of this chapter.
- 28 (e) It shall be a defense to any action brought under this chapter that
29 the representation constituting an alleged deceptive act was one made
30 in good faith by the supplier without knowledge of its falsity and in
31 reliance upon the oral or written representations of the manufacturer,
32 the person from whom the supplier acquired the product, any testing
33 organization, or any other person provided that the source thereof is
34 disclosed to the consumer.
- 35 (f) For purposes of subsection (b)(12), a supplier that provides
36 estimates before performing repair or replacement work for a customer
37 shall give the customer a written estimate itemizing as closely as
38 possible the price for labor and parts necessary for the specific job
39 before commencing the work.
- 40 (g) For purposes of subsection (b)(15) and (b)(16), a telephone
41 company or other provider of a telephone directory or directory
42 assistance service or its officer or agent is immune from liability for



1 publishing the listing of an alternate business name or assumed
 2 business name of a supplier in its directory or directory assistance data
 3 base unless the telephone company or other provider of a telephone
 4 directory or directory assistance service is the same person as the
 5 supplier who has committed the deceptive act.

6 (h) For purposes of subsection (b)(18), it is an affirmative defense
 7 to any action brought under this chapter that the product has been
 8 altered by a person other than the defendant to render the product
 9 completely incapable of serving its original purpose.

10 SECTION 3. IC 24-5-23.5-7.1 IS ADDED TO THE INDIANA
 11 CODE AS A NEW SECTION TO READ AS FOLLOWS
 12 [EFFECTIVE JULY 1, 2022]: **Sec. 7.1. (a) As used in this section,**
 13 **"dwelling" means any building, structure, or any portion of a**
 14 **building or structure, that is occupied as, or is designed or intended**
 15 **for occupancy as, a residence by one (1) or more families. The term**
 16 **includes any vacant land:**

17 (1) that is offered for sale or lease; and

18 (2) on which any building or structure designed or intended
 19 for occupancy as a residence by one (1) or more families is to
 20 be constructed or located.

21 (b) As used in this section, "residential real estate related
 22 transaction" means any of the following:

23 (1) The making or purchasing of loans, or the provision of
 24 other financial assistance, if such loans or other financial
 25 assistance are:

26 (A) made, purchased, or provided for the purpose of
 27 purchasing, constructing, improving, repairing, or
 28 maintaining a dwelling; or

29 (B) secured by residential real estate.

30 (2) The selling, brokering, or appraising of residential real
 31 property.

32 (c) Subject to subsection (d), a person whose business includes
 33 engaging in residential real estate related transactions shall not do
 34 any of the following:

35 (1) Discriminate against any person in:

36 (A) making available a residential real estate transaction;
 37 or

38 (B) establishing the terms and conditions to which a
 39 residential real estate transaction is subject;

40 on the basis of race, color, religion, sex, disability, familial
 41 status, or national origin.

42 (2) Deny a creditworthy applicant a mortgage loan on the



- 1 **basis of:**
 2 **(A) the race, color, religion, sex, disability, familial status,**
 3 **or national origin of the applicant; or**
 4 **(B) the race, color, religion, sex, disability, familial status,**
 5 **or national origin of the residents of the neighborhood in**
 6 **which the real estate is located;**
 7 **if the applicant is otherwise eligible for the mortgage loan.**
 8 **(3) Make an excessively low appraisal, or influence or attempt**
 9 **to influence another person to make an excessively low**
 10 **appraisal, of the value of the real estate that is the subject of**
 11 **a mortgage loan, as compared to the purchase price of the**
 12 **real estate, on the basis of:**
 13 **(A) the race, color, religion, sex, disability, familial status,**
 14 **or national origin of the applicant; or**
 15 **(B) the race, color, religion, sex, disability, familial status,**
 16 **or national origin of the residents of the neighborhood in**
 17 **which the real estate is located.**
 18 **(d) This section does not prohibit a person from:**
 19 **(1) denying a mortgage loan to an applicant if the denial is**
 20 **justified on the basis of the applicant's creditworthiness or**
 21 **other economic factors, and is made without regard to the**
 22 **race, color, religion, sex, disability, familial status, or national**
 23 **origin of:**
 24 **(A) the applicant; or**
 25 **(B) residents of the neighborhood in which the real estate**
 26 **is located;**
 27 **(2) granting loans on more stringent terms and conditions if**
 28 **the terms and conditions are justified on the basis of the**
 29 **applicant's creditworthiness or other economic factors, and**
 30 **are established without regard to the race, color, religion, sex,**
 31 **disability, familial status, or national origin of:**
 32 **(A) the applicant; or**
 33 **(B) residents of the neighborhood in which the real estate**
 34 **is located; or**
 35 **(3) taking into consideration factors other than race, color,**
 36 **religion, sex, disability, familial status, or national origin in**
 37 **preparing a real estate appraisal.**
 38 **SECTION 4. IC 24-5-23.5-7.2 IS ADDED TO THE INDIANA**
 39 **CODE AS A NEW SECTION TO READ AS FOLLOWS**
 40 **[EFFECTIVE JULY 1, 2022]: Sec. 7.2. (a) As used in this chapter,**
 41 **"authority" means the Indiana housing and community**
 42 **development authority created by IC 5-20-1-3.**



1 (b) As used in this section, "fund" refers to the fair housing
2 practices fund established by subsection (c).

3 (c) The fair housing practices fund is established for the purpose
4 of:

5 (1) providing:

6 (A) down payment assistance;

7 (B) financial assistance for closing costs, including title
8 fees, appraisal fees, document fees, escrow deposits, and
9 fees for credit reports; and

10 (C) restitution;

11 for individuals who have been determined by a final order of
12 a court, or by the attorney general after an investigation, to
13 have been injured by a violation of section 7.1 of this chapter;
14 and

15 (2) providing grants for:

16 (A) community education and outreach efforts concerning
17 home ownership, mortgage lending, and consumer credit;
18 and

19 (B) community reinvestment initiatives;

20 for neighborhoods or communities that have been determined
21 by a final order of a court, or by the attorney general after an
22 investigation, to have been targeted or adversely impacted by
23 an action prohibited by section 7.1 of this chapter.

24 (d) The fund shall be administered by the authority.

25 (e) The fund consists of:

26 (1) civil penalties deposited in the fund under section 9(e)(2)
27 of this chapter;

28 (2) any amounts deposited in the fund as a result of a
29 settlement agreement or final judgment in an action brought
30 for a violation of section 7.1 of this chapter;

31 (3) gifts and grants to the fund; and

32 (4) amounts appropriated to the fund by the general assembly.

33 (f) The treasurer of state shall invest the money in the fund not
34 currently needed to meet the obligations of the fund in the same
35 manner as other public money may be invested. Interest that
36 accrues from these investments shall be deposited in the fund.

37 (g) Money in the fund at the end of a state fiscal year does not
38 revert to the state general fund.

39 (h) The authority shall adopt rules under IC 4-22-2 to do the
40 following:

41 (1) Establish criteria for identifying individuals who may be
42 eligible for assistance from the fund.



- 1 **(2) Establish criteria for identifying neighborhoods and**
- 2 **communities that may be eligible for assistance from the fund.**
- 3 **(3) Establish procedures by which individuals, neighborhoods,**
- 4 **and communities can apply for assistance from the fund.**
- 5 **(4) Establish objective, transparent criteria for determining**
- 6 **eligibility for assistance for individuals who apply for**
- 7 **assistance from the fund.**
- 8 **(5) Establish objective, transparent criteria for determining**
- 9 **eligibility for assistance for neighborhoods and communities**
- 10 **that apply for assistance from the fund.**
- 11 **(6) Establish objective, transparent criteria for determining**
- 12 **the amount and types of assistance to be awarded for**
- 13 **applicants whose applications for assistance are approved.**
- 14 **(7) Develop plans to publicize and promote awareness of the**
- 15 **assistance available from the fund in neighborhoods and**
- 16 **communities impacted from violations of section 7.1 of this**
- 17 **chapter.**
- 18 **(8) Develop other criteria or procedures the authority**
- 19 **determines to be necessary to administer the fund and provide**
- 20 **assistance from the fund.**

21 **In adopting the rules required by this subsection, the authority**
 22 **may adopt emergency rules in the manner provided by**
 23 **IC 4-22-2-37.1. Notwithstanding IC 4-22-2-37.1(g), an emergency**
 24 **rule adopted by the authority under this subsection and in the**
 25 **manner provided by IC 4-22-2-37.1 expires on the date on which**
 26 **a rule that supersedes the emergency rule is adopted by the**
 27 **authority under IC 4-22-2-24 through IC 4-22-2-36.**

28 SECTION 5. IC 24-5-23.5-8, AS ADDED BY P.L.52-2009,
 29 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 JULY 1, 2022]: Sec. 8. (a) This subsection applies with respect to a
 31 completed application for a mortgage loan that is received by a creditor
 32 after December 31, 2009. A creditor shall, not later than three (3)
 33 business days after receiving a completed written application for a
 34 mortgage loan from a borrower or prospective borrower, provide to the
 35 borrower or prospective borrower a notice, on a form prescribed by the
 36 homeowner protection unit under subsection (b), that includes the
 37 following:

- 38 (1) Contact information for the homeowner protection unit
- 39 established by the attorney general under IC 4-6-12, including:
- 40 (A) an electronic mail address for the homeowner protection
- 41 unit; and
- 42 (B) the toll free telephone number described in IC 4-6-12-3.5.



- 1 (2) A statement that the borrower or prospective borrower may
- 2 contact the homeowner protection unit to report:
- 3 (A) a suspected violation of section 7 of this chapter; ~~or~~
- 4 **(B) in the case of a completed application for a mortgage**
- 5 **loan that is received by a creditor after December 31, 2022,**
- 6 **a suspected violation of section 7.1 of this chapter; or**
- 7 ~~(B) (C) other~~ information about suspected fraudulent
- 8 residential real estate transactions, as authorized by
- 9 IC 4-6-12-3.5(b).
- 10 (3) A statement that the borrower in a real estate transaction that
- 11 involves the making, refinancing, or consolidation of a mortgage
- 12 loan has the right to inspect the HUD-1 or HUD-1A settlement
- 13 statement during the business day immediately preceding
- 14 settlement, as provided by the federal Real Estate Settlement
- 15 Procedures Act (12 U.S.C. 2601 et seq.), as amended.
- 16 The creditor shall provide the notice required by this subsection by
- 17 delivering it to the borrower or prospective borrower or placing it in the
- 18 United States mail to the borrower or prospective borrower within the
- 19 time prescribed by this subsection.
- 20 (b) Not later than September 1, 2009, the home owner protection
- 21 unit established by the attorney general under IC 4-6-12 shall prescribe
- 22 the form required under subsection (a) for use by creditors who receive
- 23 completed written applications for mortgage loans after December 31,
- 24 2009. **Not later than September 1, 2022, the homeowner protection**
- 25 **unit established by the attorney general under IC 4-6-12 shall**
- 26 **amend the form required under subsection (a) for use by creditors**
- 27 **who receive completed written applications for mortgage loans**
- 28 **after December 31, 2022, so that the form, as amended, includes**
- 29 **the statement required by subsection (a)(2)(B).**
- 30 (c) The homeowner protection unit established by the attorney
- 31 general under IC 4-6-12, in cooperation with the real estate appraiser
- 32 licensure and certification board created by IC 25-34.1-8-1, shall
- 33 publicize and promote awareness of the availability of the:
- 34 (1) electronic mail address; and
- 35 (2) toll free telephone number;
- 36 described in subsection (a)(1) to accept complaints from real estate
- 37 appraisers, creditors, borrowers, potential borrowers, and other persons
- 38 concerning suspected violations of section 7 **or 7.1** of this chapter.
- 39 (d) A creditor may share any information obtained concerning a
- 40 suspected violation of section 7 **or 7.1** of this chapter with the
- 41 homeowner protection unit established by the attorney general under
- 42 IC 4-6-12. The homeowner protection unit may, in turn, share any



1 information received from a creditor under this subsection with the
2 following:

3 (1) Federal, state, and local law enforcement agencies and federal
4 regulatory agencies in accordance with IC 4-6-12-3(a)(4).

5 (2) Any entity listed in IC 4-6-12-4 that may have jurisdiction
6 over any person who is suspected of violating section 7 **or** 7.1 of
7 this chapter, including any entity that may have jurisdiction over
8 the creditor or an agent of the creditor if the homeowner
9 protection unit suspects that the creditor or an agent of the
10 creditor has violated section 7 **or** 7.1 of this chapter. However, the
11 homeowner protection unit and any entity listed in IC 4-6-12-4
12 that receives information under this subdivision shall treat the
13 information, including information concerning the identity of the
14 complainant, as confidential and shall exercise all necessary
15 caution to avoid disclosure of the information, except as otherwise
16 permitted or required by law.

17 (e) Any:

18 (1) real estate appraiser, creditor, borrower, potential borrower, or
19 other person that makes, in good faith, a voluntarily disclosure of
20 a suspected violation of section 7 **or** 7.1 of this chapter to the
21 homeowner protection unit under this section or otherwise; and
22 (2) director, officer, manager, employee, or agent of a person
23 described in subdivision (1) who makes, or requires another
24 person to make, a disclosure described in subdivision (1);

25 is not liable to any person under any law or regulation of the United
26 States, under any constitution, law, or regulation of any state or a
27 political subdivision of any state, or under any contract or other legally
28 enforceable agreement, including an arbitration agreement, for a
29 disclosure described in subdivision (1) or for failing to provide notice
30 of a disclosure described in subdivision (1) to any person who is the
31 subject of the disclosure.

32 (f) ~~Beginning in 2009~~; The report provided by the mortgage lending
33 and fraud prevention task force to the legislative council under
34 P.L.145-2008, SECTION 35, must include the following information:

35 (1) The total number of complaints or reports:

36 (A) received by the homeowner protection unit during the
37 most recent state fiscal year; and

38 (B) concerning a suspected violation of section 7 **or** 7.1 of this
39 chapter.

40 (2) From the total number of complaints or reports reported under
41 subdivision (1), a breakdown of the sources of the complaints or
42 reports, classified according to the complainants' interest in or



1 relationship to the real estate transactions upon which the
2 complaints or reports are based.

3 (3) A description of any:

4 (A) disciplinary or enforcement actions taken; or

5 (B) criminal prosecutions pursued;

6 by the homeowner protection unit or any entity listed in
7 IC 4-6-12-4 and having jurisdiction in the matter, as applicable,
8 in connection with the complaints or reports reported under
9 subdivision (1).

10 The homeowner protection unit shall make available to the mortgage
11 lending and fraud prevention task force any information necessary to
12 provide the information required under this subsection in the task
13 force's report to the legislative council.

14 SECTION 6. IC 24-5-23.5-9, AS ADDED BY P.L.52-2009,
15 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 JULY 1, 2022]: Sec. 9. (a) A person that knowingly or intentionally
17 violates section 7 of this chapter commits:

18 (1) a Class A misdemeanor; and

19 (2) an act that is:

20 (A) actionable by the attorney general under IC 24-5-0.5; and

21 (B) subject to the penalties listed in IC 24-5-0.5.

22 **(b) A person that knowingly or intentionally violates section 7.1**
23 **of this chapter:**

24 **(1) commits an act that is:**

25 **(A) actionable by an aggrieved individual and the attorney**
26 **general under IC 24-5-0.5-4; and**

27 **(B) subject to the penalties listed in IC 24-5-0.5; and**

28 **(2) is liable for an additional civil penalty of two hundred**
29 **dollars (\$200) per violation.**

30 ~~(b)~~ **(c)** The attorney general may maintain an action in the name of
31 the state of Indiana to enjoin a person from violating section 7 **or 7.1**
32 of this chapter. A court in which the action is brought may:

33 (1) issue an injunction;

34 (2) order the person to make restitution;

35 (3) order the person to reimburse the state for the attorney
36 general's reasonable costs of investigating and prosecuting the
37 violation; and

38 **(4) in the case of a violation of section 7 of this chapter,** impose
39 a civil penalty of not more than ten thousand dollars (\$10,000) per
40 violation.

41 ~~(c)~~ **(d)** A person that violates an injunction issued under this section
42 is subject to a civil penalty of not more than ten thousand dollars



1 (\$10,000) per violation. The court that issues the injunction retains
 2 jurisdiction over a proceeding seeking the imposition of a civil penalty
 3 under this subsection.

4 ~~(d)~~ (e) A civil penalty imposed and collected under this section shall
 5 be deposited in:

6 (1) the investigative fund established by IC 25-34.1-8-7.5, **in the**
 7 **case of a civil penalty imposed and collected for a violation of**
 8 **section 7 of this chapter; or**

9 (2) **the fair housing practices fund established by section 7.2**
 10 **of this chapter, in the case of a civil penalty imposed and**
 11 **collected for a violation of section 7.1 of this chapter.**

12 ~~(e)~~ (f) The enforcement procedures established by this section are
 13 cumulative and an enforcement procedure available under this section
 14 is supplemental to any other enforcement procedure available under:

15 (1) this section; or

16 (2) any other state or federal law, rule, or regulation;
 17 for a violation of section 7 **or 7.1** of this chapter.

18 SECTION 7. IC 25-34.1-3-8, AS AMENDED BY P.L.146-2008,
 19 SECTION 530, IS AMENDED TO READ AS FOLLOWS
 20 [EFFECTIVE JULY 1, 2022]: Sec. 8. (a) This section does not
 21 preclude a person who:

22 (1) is not licensed or certified as a real estate appraiser under this
 23 section; and

24 (2) is licensed as a broker under this article;
 25 from appraising real estate in Indiana for compensation.

26 (b) As used in this section, "federal act" refers to Title XI of the
 27 Financial Institutions Reform, Recovery, and Enforcement Act (12
 28 U.S.C. 3331 through 3351).

29 (c) The commission shall adopt rules to establish a real estate
 30 appraiser licensure and certification program to be administered by the
 31 board.

32 (d) The commission may not adopt rules under this section except
 33 upon the action and written recommendations of the board under
 34 IC 25-34.1-8-6.5.

35 (e) The real estate appraiser licensure and certification program
 36 established by the commission under this section must meet the
 37 requirements of:

38 (1) the federal act;

39 (2) any federal regulations adopted under the federal act; and

40 (3) any other requirements established by the commission as
 41 recommended by the board, including requirements for education,
 42 experience, examination, reciprocity, and temporary practice.



1 (f) The real estate appraiser licensure and certification requirements
 2 established by the commission under this section must require a person
 3 to meet the standards for real estate appraiser certification and
 4 licensure established:

- 5 (1) under the federal act;
 6 (2) by federal regulations; and
 7 (3) under any other requirements established by the commission
 8 as recommended by the board, including requirements for
 9 education, experience, examination, reciprocity, and temporary
 10 practice.

11 **Not later than July 1, 2023, and upon recommendation by the**
 12 **board under IC 25-34.1-8-6.5(2)(A), the commission shall adopt**
 13 **rules under IC 4-22-2 to require as a condition of initial licensure**
 14 **or certification under the program at least (1) hour of instruction**
 15 **in cultural competency training, and at least (1) hour of instruction**
 16 **in implicit bias training, either individually or as part of a broader**
 17 **course.**

18 (g) The commission may require continuing education as a
 19 condition of renewal for real estate appraiser licensure and
 20 certification. **Not later than July 1, 2023, and upon recommendation**
 21 **by the board under IC 25-34.1-8-6.5(2)(B), the commission shall**
 22 **adopt rules under IC 4-22-2 to require as a condition of renewal**
 23 **for real estate appraiser licensure and certification:**

- 24 (1) at least (1) hour of continuing education instruction in
 25 cultural competency training; and
 26 (2) at least (1) hour of continuing education instruction in
 27 implicit bias training;

28 **either individually or as part of a broader course.**

29 (h) The following are not required to be a licensed or certified real
 30 estate appraiser to perform the requirements of IC 6-1.1-4:

- 31 (1) A county assessor.
 32 (2) A township assessor.
 33 (3) An employee of a county or township assessor.

34 (i) Notwithstanding IC 25-34.1-3-2(a):

- 35 (1) only a person who receives a license or certificate issued
 36 under the real estate appraiser licensure and certification program
 37 established under this section may appraise real estate involved
 38 in transactions governed by:

- 39 (A) the federal act; and
 40 (B) any regulations adopted under the federal act;

41 as determined under rules adopted by the commission, as
 42 recommended by the board; and



1 (2) a person who receives a license or certificate issued under the
 2 real estate appraiser licensure and certification program
 3 established under this section may appraise real estate not
 4 involved in transactions governed by:

5 (A) the federal act; and

6 (B) any regulations adopted under the federal act;
 7 as determined under rules adopted by the commission, as
 8 recommended by the board.

9 **(j) Not later than July 1, 2023, and upon recommendation by the**
 10 **board under IC 25-34.1-8-6.5(2)(C), the commission shall**
 11 **implement policies under the program to foster diversity in the real**
 12 **estate appraisal profession, including policies to:**

13 **(1) attract people of color to the appraisal profession; and**

14 **(2) overcome barriers to entry to the profession, including**
 15 **initial education, experience, or training requirements.**

16 **(k) For purposes of subsections (f) and (g), "cultural**
 17 **competency" means understanding and applying cultural and**
 18 **ethnic data to the standard of care, including information on the**
 19 **appropriate treatment of, and the provision of service to,**
 20 **communities of color. In adopting the rules required by subsections**
 21 **(f) and (g), the commission may adopt emergency rules in the**
 22 **manner provided by IC 4-22-2-37.1. Notwithstanding**
 23 **IC 4-22-2-37.1(g), an emergency rule adopted by the commission**
 24 **under subsection (f) or (g) and in the manner provided by**
 25 **IC 4-22-2-37.1 expires on the date on which a rule that supersedes**
 26 **the emergency rule is adopted by the commission under**
 27 **IC 4-22-2-24 through IC 4-22-2-36.**

28 SECTION 8. IC 25-34.1-8-6.5, AS ADDED BY P.L.57-2007,
 29 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 JULY 1, 2022]: Sec. 6.5. The board shall submit recommendations to
 31 the commission concerning the following:

32 (1) Implementation and operation of the real estate appraiser
 33 licensure and certification program under IC 25-34.1-3-8.

34 (2) Rules governing real estate appraisers licensed and certified
 35 under IC 25-34.1-3-8. **Not later than January 1, 2023, the**
 36 **board shall submit recommendations to the commission**
 37 **concerning the following:**

38 **(A) Rules requiring as a condition of initial licensure or**
 39 **certification under the program:**

40 **(i) at least (1) hour of instruction in cultural competency**
 41 **training; and**

42 **(ii) at least (1) hour of instruction in implicit bias**



- 1 **training;**
- 2 **either individually or as part of a broader course.**
- 3 **(B) Rules requiring as a condition of renewal for real**
- 4 **estate appraiser licensure and certification:**
- 5 **(i) at least (1) hour of continuing education instruction in**
- 6 **cultural competency training; and**
- 7 **(ii) at least (1) hour of continuing education instruction**
- 8 **in implicit bias training;**
- 9 **either individually or as part of a broader course.**
- 10 **(C) Policies to foster diversity in the real estate appraisal**
- 11 **profession, including policies to:**
- 12 **(i) attract people of color to the appraisal profession; and**
- 13 **(ii) overcome barriers to entry to the profession,**
- 14 **including initial education, experience, or training**
- 15 **requirements.**
- 16 **For purposes of this subdivision, "cultural competency"**
- 17 **means understanding and applying cultural and ethnic data**
- 18 **to the standard of care, including information on the**
- 19 **appropriate treatment of, and the provision of service to,**
- 20 **communities of color.**
- 21 (3) Establishing a fee in an amount necessary to fund the
- 22 investigative fund established by section 7.5 of this chapter but
- 23 not more than twenty dollars (\$20).
- 24 (4) Rules governing the administration of the investigative fund
- 25 established by section 7.5 of this chapter.
- 26 SECTION 9. IC 25-34.1-8-7.5, AS AMENDED BY P.L.127-2012,
- 27 SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 28 JULY 1, 2022]: Sec. 7.5. (a) The investigative fund is established to
- 29 provide funds for administering and enforcing the provisions of this
- 30 article, including investigating and taking enforcement action against
- 31 real estate fraud and real estate appraisal fraud. The fund shall be
- 32 administered by the attorney general and the professional licensing
- 33 agency.
- 34 (b) The expenses of administering the fund shall be paid from the
- 35 money in the fund. The fund consists of:
- 36 (1) money from a fee imposed upon licensed or certified
- 37 appraisers and real estate brokers under IC 25-34.1-2-7 and
- 38 IC 25-34.1-3-9.5;
- 39 (2) civil penalties deposited in the fund under ~~IC 24-5-23.5-9(d);~~
- 40 **IC 24-5-23.5-9(e)(1);**
- 41 (3) registration fees imposed on appraisal management companies
- 42 under IC 25-34.1-11-15; and



1 (4) civil penalties deposited under IC 25-34.1-11-17.

2 (c) The treasurer of state shall invest the money in the fund not
3 currently needed to meet the obligations of the fund in the same
4 manner as other public money may be invested.

5 (d) Except as otherwise provided in this subsection, money in the
6 fund at the end of a state fiscal year does not revert to the state general
7 fund. If the total amount in the investigative fund exceeds seven
8 hundred fifty thousand dollars (\$750,000) at the end of a state fiscal
9 year after payment of all claims and expenses, the amount that exceeds
10 seven hundred fifty thousand dollars (\$750,000) reverts to the state
11 general fund.

12 (e) Money in the fund is continually appropriated for use by the
13 attorney general and the licensing agency to administer and enforce the
14 provisions of this article and to conduct investigations and take
15 enforcement action against real estate and appraisal fraud under this
16 article. The attorney general shall receive five dollars (\$5) of each fee
17 collected under IC 25-34.1-2-7 and IC 25-34.1-3-9.5, and the licensing
18 agency shall receive any amount that exceeds five dollars (\$5) of each
19 fee collected under IC 25-34.1-2-7 and IC 25-34.1-3-9.5.

20 SECTION 10. IC 25-34.1-8-15 IS AMENDED TO READ AS
21 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 15. The office of the
22 attorney general and the professional licensing agency may use the
23 investigative fund established by section 7.5 of this chapter to hire
24 investigators and other employees to administer and enforce the
25 provisions of this article and to:

26 (1) investigate and prosecute real estate fraud and real estate
27 appraisal fraud; **and**

28 (2) **investigate and enforce violations of IC 24-5-23.5-7 and**
29 **IC 24-5-23.5-7.1.**

30 SECTION 11. IC 25-34.1-8-16 IS ADDED TO THE INDIANA
31 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
32 [EFFECTIVE JULY 1, 2022]: **Sec. 16. (a) As used in this section,**
33 **"agency" refers to the Indiana professional licensing agency**
34 **established by IC 25-1-5-3.**

35 (b) **Not less frequently than on a quarterly basis, beginning after**
36 **June 30, 2022, the board shall submit a request to the office of the**
37 **attorney general under IC 25-1-7-13 for the information specified**
38 **in IC 25-1-7-13 concerning complaints filed against real estate**
39 **appraisers (as defined in IC 24-5-23.5-5).**

40 (c) **Not less frequently than on a quarterly basis, the agency, on**
41 **behalf of the board, shall publish and update on the board's web**
42 **page on the agency's Internet web site:**



1 (1) the aggregate data received by the board in the most
2 recent quarterly report under IC 25-1-5-3; and

3 (2) to the extent not confidential under IC 25-1-7-10(a), the
4 names and business locations of all real estate appraisers who
5 have had complaints filed and prosecuted against them.

6 The agency shall make the first publication required under this
7 subsection not later than January 1, 2023.

8 (d) The information required to be published under subsection
9 (c) must be:

10 (1) easily searchable; and

11 (2) downloadable in a format that can be imported into
12 standard spreadsheet computer software.

13 SECTION 12. IC 25-34.1-8-17 IS ADDED TO THE INDIANA
14 CODE AS A NEW SECTION TO READ AS FOLLOWS
15 [EFFECTIVE JULY 1, 2022]: Sec. 17. (a) As used in this section,
16 "agency" refers to the Indiana professional licensing agency
17 established by IC 25-1-5-3.

18 (b) Beginning in 2024, the agency, on behalf of the board, shall,
19 not later than November 1 each year, submit a report to the
20 legislative council concerning:

21 (1) the instruction in cultural competency and implicit bias
22 training for applicants for initial licensure or certification, as
23 required by the rules adopted by the commission under
24 IC 25-34.1-3-8(f);

25 (2) the continuing education instruction in cultural
26 competency training and implicit bias training, as required by
27 the rules adopted by the commission under IC 25-34.1-3-8(g);
28 and

29 (3) the policies to foster diversity in the real estate appraisal
30 profession implemented by the commission following
31 recommendation by the board under section 6.5(2)(C) of this
32 chapter, including an assessment by the board of the
33 effectiveness of the policies in:

34 (A) attracting people of color to the appraisal profession;
35 and

36 (B) overcoming barriers to entry to the profession,
37 including initial education, experience, or training
38 requirements.

39 (c) A report to the legislative council under this section must be
40 in an electronic format under IC 5-14-6.

