

# HOUSE BILL No. 1526

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 4-23-30-4; IC 23-19; IC 23-20-1; IC 35-41-4.

**Synopsis:** Securities matters. Increases the frequency of meetings of the mortgage lending and fraud prevention task force. Exempts certain offers to sell or sales of the securities of issuers made after June 30, 2014, from the requirements of IC 23-19-2-2 through IC 23-19-3-6 and IC 23-19-5-4. Changes the fee structure in IC 23-19-3-2. Makes numerous other changes in the law of registration of securities and notice filing of federal covered securities.

**Effective:** July 1, 2017.

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## Heaton, Ellington

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January 18, 2017, read first time and referred to Committee on Financial Institutions.

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First Regular Session of the 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

## HOUSE BILL No. 1526

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

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

1 SECTION 1. IC 4-23-30-4, AS ADDED BY P.L.16-2009,  
2 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2017]: Sec. 4. Subject to section 5 of this chapter, the task  
4 force shall meet ~~each month~~ **quarterly, with additional meetings**  
5 **scheduled as needed by the task force chair**, to:

- 6 (1) coordinate the state's efforts to:  
7 (A) regulate the various participants involved in originating,  
8 issuing, and closing home loans;  
9 (B) enforce state laws and rules concerning mortgage lending  
10 practices and mortgage fraud; and  
11 (C) prevent fraudulent practices in the home loan industry; and  
12 (2) share information and resources necessary for the efficient  
13 administration of the tasks set forth in subdivision (1), unless  
14 prohibited by law.

15 SECTION 2. IC 23-19-2-2, AS AMENDED BY P.L.160-2015,  
16 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
17 JULY 1, 2017]: Sec. 2. The following transactions are exempt from the



1 requirements of IC 23-19-3-1 through IC 23-19-3-6 and IC 23-19-5-4:

2 (1) An isolated nonissuer transaction, whether effected by or  
3 through a broker-dealer or not.

4 (2) A nonissuer transaction by or through a broker-dealer  
5 registered, or exempt from registration under this article, and a  
6 resale transaction by a sponsor of a unit investment trust  
7 registered under the Investment Company Act of 1940, in a  
8 security of a class that has been outstanding in the hands of the  
9 public for at least ninety (90) days, if, at the date of the  
10 transaction:

11 (A) the issuer of the security is engaged in business, the issuer  
12 is not in the organizational stage or in bankruptcy or  
13 receivership, and the issuer is not a blank check, blind pool, or  
14 shell company that has no specific business plan or purpose or  
15 has indicated that its primary business plan is to engage in a  
16 merger or combination of the business with, or an acquisition  
17 of, an unidentified person;

18 (B) the security is sold at a price reasonably related to its  
19 current market price;

20 (C) the security does not constitute the whole or part of an  
21 unsold allotment to, or a subscription or participation by, the  
22 broker-dealer as an underwriter of the security or a  
23 redistribution;

24 (D) a nationally recognized securities manual or its electronic  
25 equivalent designated by rule adopted or order issued under  
26 this article or a record filed with the Securities and Exchange  
27 Commission that is publicly available contains:

28 (i) a description of the business and operations of the issuer;

29 (ii) the names of the issuer's executive officers and the  
30 names of the issuer's directors, if any;

31 (iii) an audited balance sheet of the issuer as of a date within  
32 eighteen (18) months before the date of the transaction or, in  
33 the case of a reorganization or merger when the parties to  
34 the reorganization or merger each had an audited balance  
35 sheet, a pro forma balance sheet for the combined  
36 organization; and

37 (iv) an audited income statement for each of the issuer's two

38 (2) immediately previous fiscal years or for the period of  
39 existence of the issuer, whichever is shorter, or, in the case  
40 of a reorganization or merger when each party to the  
41 reorganization or merger had audited income statements, a  
42 pro forma income statement; and



- 1 (E) any one (1) of the following requirements is met:
- 2 (i) The issuer of the security has a class of equity securities
- 3 listed on a national securities exchange registered under
- 4 Section 6 of the Securities Exchange Act of 1934 or
- 5 designated for trading on the National Association of
- 6 Securities Dealers Automated Quotation System.
- 7 (ii) The issuer of the security is a unit investment trust
- 8 registered under the Investment Company Act of 1940.
- 9 (iii) The issuer of the security, including its predecessors,
- 10 has been engaged in continuous business for at least three
- 11 (3) years.
- 12 (iv) The issuer of the security has total assets of at least two
- 13 million dollars (\$2,000,000) based on an audited balance
- 14 sheet as of a date within eighteen (18) months before the
- 15 date of the transaction or, in the case of a reorganization or
- 16 merger when the parties to the reorganization or merger
- 17 each had such an audited balance sheet, a pro forma balance
- 18 sheet for the combined organization.
- 19 (3) A nonissuer transaction by or through a broker-dealer
- 20 registered or exempt from registration under this article in a
- 21 security of a foreign issuer that is a margin security defined in
- 22 regulations or rules adopted by the Board of Governors of the
- 23 Federal Reserve System.
- 24 (4) A nonissuer transaction by or through a broker-dealer
- 25 registered or exempt from registration under this article in an
- 26 outstanding security if the guarantor of the security files reports
- 27 with the Securities and Exchange Commission under the reporting
- 28 requirements of Section 13 or 15(d) of the Securities Exchange
- 29 Act of 1934 (15 U.S.C. 78m or 78o(d)).
- 30 (5) A nonissuer transaction by or through a broker-dealer
- 31 registered or exempt from registration under this article in a
- 32 security that:
- 33 (A) is rated at the time of the transaction by a nationally
- 34 recognized statistical rating organization in one (1) of its four
- 35 (4) highest rating categories; or
- 36 (B) has a fixed maturity or a fixed interest or dividend, if:
- 37 (i) a default has not occurred during the current fiscal year
- 38 or within the three (3) previous fiscal years, or during the
- 39 existence of the issuer and any predecessor if less than three
- 40 (3) fiscal years, in the payment of principal, interest, or
- 41 dividends on the security; and
- 42 (ii) the issuer is engaged in business, is not in the



1 organizational stage or in bankruptcy or receivership, and is  
2 not and has not been within the previous twelve (12) months  
3 a blank check, blind pool, or shell company that has no  
4 specific business plan or purpose or has indicated that its  
5 primary business plan is to engage in a merger or  
6 combination of the business with, or an acquisition of, an  
7 unidentified person.

8 (6) A nonissuer transaction by or through a broker-dealer  
9 registered or exempt from registration under this article effecting  
10 an unsolicited order or offer to purchase.

11 (7) A nonissuer transaction executed by a bona fide pledgee  
12 without the purpose of evading this article.

13 (8) A nonissuer transaction by a federal covered investment  
14 adviser with investments under management in excess of one  
15 hundred million dollars (\$100,000,000) acting in the exercise of  
16 discretionary authority in a signed record for the account of  
17 others.

18 (9) A transaction in a security, whether or not the security or  
19 transaction is otherwise exempt, in exchange for one (1) or more  
20 bona fide outstanding securities, claims, or property interests, or  
21 partly in such exchange and partly for cash, if the terms and  
22 conditions of the issuance and exchange or the delivery and  
23 exchange and the fairness of the terms and conditions have been  
24 approved by the commissioner after a hearing.

25 (10) A transaction between the issuer or other person on whose  
26 behalf the offering is made and an underwriter, or among  
27 underwriters.

28 (11) A transaction in a note, bond, debenture, or other evidence  
29 of indebtedness secured by a mortgage or other security  
30 agreement if:

31 (A) the note, bond, debenture, or other evidence of  
32 indebtedness is offered and sold with the mortgage or other  
33 security agreement as a unit;

34 (B) a general solicitation or general advertisement of the  
35 transaction is not made; and

36 (C) a commission or other remuneration is not paid or given,  
37 directly or indirectly, to a person not registered under this  
38 article as a broker-dealer or as an agent.

39 (12) A transaction by an executor, administrator of an estate,  
40 sheriff, marshal, receiver, trustee in bankruptcy, guardian, or  
41 conservator.

42 (13) A sale or offer to sell to:



- 1 (A) an institutional investor;  
 2 (B) a federal covered investment adviser; or  
 3 (C) any other person exempted by rule adopted or order issued  
 4 under this article.
- 5 (14) A sale or an offer to sell securities of an issuer, if the  
 6 transaction is part of a single issue in which:  
 7 (A) not more than twenty-five (25) purchasers are present in  
 8 this state during any twelve (12) consecutive months, other  
 9 than those designated in subdivision (13);  
 10 (B) a general solicitation or general advertising is not made in  
 11 connection with the offer to sell or sale of the securities;  
 12 (C) a commission or other remuneration is not paid or given,  
 13 directly or indirectly, to a person other than a broker-dealer  
 14 registered under this article or an agent registered under this  
 15 article for soliciting a prospective purchaser in this state; and  
 16 (D) the issuer reasonably believes that all the purchasers in  
 17 this state, other than those designated in subdivision (13), are  
 18 purchasing for investment.
- 19 (15) A transaction under an offer to existing security holders of  
 20 the issuer, including persons that at the date of the transaction are  
 21 holders of convertible securities, options, or warrants, if a  
 22 commission or other remuneration, other than a standby  
 23 commission, is not paid or given, directly or indirectly, for  
 24 soliciting a security holder in this state.
- 25 (16) An offer to sell, but not a sale, of a security not exempt from  
 26 registration under the Securities Act of 1933 if:  
 27 (A) a registration or offering statement or similar record as  
 28 required under the Securities Act of 1933 has been filed, but  
 29 is not effective, or the offer is made in compliance with Rule  
 30 165 adopted under the Securities Act of 1933 (17 CFR  
 31 230.165); and  
 32 (B) a stop order of which the offeror is aware has not been  
 33 issued against the offeror by the commissioner or the  
 34 Securities and Exchange Commission, and an audit,  
 35 inspection, or proceeding that is public and that may culminate  
 36 in a stop order is not known by the offeror to be pending.
- 37 (17) An offer to sell, but not a sale of, a security exempt from  
 38 registration under the Securities Act of 1933 if:  
 39 (A) a registration statement has been filed under this article,  
 40 but is not effective;  
 41 (B) a solicitation of interest is provided in a record to offerees  
 42 in compliance with a rule adopted by the commissioner under



- 1           this article; and  
 2           (C) a stop order of which the offeror is aware has not been  
 3           issued by the commissioner under this article and an audit,  
 4           inspection, or proceeding that may culminate in a stop order is  
 5           not known by the offeror to be pending.
- 6           (18) A transaction involving the distribution of the securities of  
 7           an issuer to the security holders of another person in connection  
 8           with a merger, consolidation, exchange of securities, sale of  
 9           assets, or other reorganization to which the issuer, or its parent or  
 10          subsidiary and the other person, or its parent or subsidiary, are  
 11          parties.
- 12          (19) A rescission offer, sale, or purchase under IC 23-19-5-10.
- 13          (20) An offer or sale of a security to a person not a resident of this  
 14          state and not present in this state if the offer or sale does not  
 15          constitute a violation of the laws of the state or foreign  
 16          jurisdiction in which the offeree or purchaser is present and is not  
 17          part of an unlawful plan or scheme to evade this article.
- 18          (21) Employees' stock purchase, savings, option, profit-sharing,  
 19          pension, or similar employees' benefit plan, including any  
 20          securities, plan interests, and guarantees issued under a  
 21          compensatory benefit plan or compensation contract, contained  
 22          in a record, established by the issuer, its parents, its  
 23          majority-owned subsidiaries, or the majority-owned subsidiaries  
 24          of the issuer's parent for the participation of their employees  
 25          including offers or sales of such securities to:
- 26                (A) directors; general partners; trustees, if the issuer is a  
 27                business trust; officers; consultants; and advisers;  
 28                (B) family members who acquire such securities from those  
 29                persons through gifts or domestic relations orders;  
 30                (C) former employees, directors, general partners, trustees,  
 31                officers, consultants, and advisers if those individuals were  
 32                employed by or providing services to the issuer when the  
 33                securities were offered; and  
 34                (D) insurance agents who are exclusive insurance agents of the  
 35                issuer, or the issuer's subsidiaries or parents, or who derive  
 36                more than fifty percent (50%) of their annual income from  
 37                those organizations.
- 38          (22) A transaction involving:
- 39                (A) a stock dividend or equivalent equity distribution, whether  
 40                the corporation or other business organization distributing the  
 41                dividend or equivalent equity distribution is the issuer or not,  
 42                if nothing of value is given by stockholders or other equity



- 1 holders for the dividend or equivalent equity distribution other  
2 than the surrender of a right to a cash or property dividend if  
3 each stockholder or other equity holder may elect to take the  
4 dividend or equivalent equity distribution in cash, property, or  
5 stock;
- 6 (B) an act incident to a judicially approved reorganization in  
7 which a security is issued in exchange for one (1) or more  
8 outstanding securities, claims, or property interests, or partly  
9 in such exchange and partly for cash; or
- 10 (C) the solicitation of tenders of securities by an offeror in a  
11 tender offer in compliance with Rule 162 adopted under the  
12 Securities Act of 1933 (17 CFR 230.162).
- 13 (23) A nonissuer transaction in an outstanding security by or  
14 through a broker-dealer registered or exempt from registration  
15 under this article, if the issuer is a reporting issuer in a foreign  
16 jurisdiction designated by this subdivision or by rule adopted or  
17 order issued under this article; has been subject to continuous  
18 reporting requirements in the foreign jurisdiction for not less than  
19 one hundred eighty (180) days before the transaction; and the  
20 security is listed on the foreign jurisdiction's securities exchange  
21 that has been designated by this subdivision or by rule adopted or  
22 order issued under this article, or is a security of the same issuer  
23 that is of senior or substantially equal rank to the listed security  
24 or is a warrant or right to purchase or subscribe to any of the  
25 foregoing. For purposes of this subdivision, Canada, together with  
26 its provinces and territories, is a designated foreign jurisdiction  
27 and The Toronto Stock Exchange, Inc., is a designated securities  
28 exchange. After an administrative hearing in compliance with this  
29 article, the commissioner, by rule adopted or order issued under  
30 this article, may revoke the designation of a securities exchange  
31 under this subdivision, if the commissioner finds that revocation  
32 is necessary or appropriate in the public interest and for the  
33 protection of investors.
- 34 (24) Subject to the following, an offer or sale of securities by an  
35 issuer made after June 30, 2014, only to persons who are or the  
36 issuer reasonably believes are accredited investors:
- 37 (A) The exemption under this subdivision is not available to  
38 an issuer that is in the development stage that either has no  
39 specific business plan or purpose or has indicated that its  
40 business plan is to engage in a merger or acquisition with:
- 41 (i) an unidentified company or companies; or  
42 (ii) another entity or person.





1 (B) The issuer reasonably believes that all purchasers are  
2 purchasing for investment and not with the view to or for sale  
3 in connection with a distribution of the security. Any resale of  
4 a security sold in reliance on the exemption under this  
5 subdivision within twelve (12) months after sale is presumed  
6 to be with a view to distribution and not for investment,  
7 except:

8 (i) a resale under a registration statement effective under  
9 IC 23-19-3; or

10 (ii) a resale to an accredited investor under an exemption  
11 available under the Indiana Uniform Securities Act.

12 (C) Except as provided in clause (D), the exemption under this  
13 subdivision is not available to an issuer if the issuer, any of the  
14 issuer's predecessors, any affiliated issuer, any of the issuer's  
15 directors, officers, general partners, beneficial owners of ten  
16 percent (10%) or more of any class of its equity securities, any  
17 of the issuer's promoters presently connected with the issuer in  
18 any capacity, any underwriter of the securities to be offered, or  
19 any partner, director, or officer of the underwriter:

20 (i) within the last five (5) years, has filed a registration  
21 statement that is the subject of a currently effective  
22 registration stop order entered by any state securities  
23 administrator or the Securities and Exchange Commission;

24 (ii) within the last five (5) years, has been convicted of any  
25 criminal offense in connection with the offer, purchase, or  
26 sale of any security, or any criminal offense involving fraud  
27 or deceit;

28 (iii) is currently subject to any state or federal administrative  
29 enforcement order or judgment entered within the last five  
30 (5) years, finding fraud or deceit in connection with the  
31 purchase or sale of any security; or

32 (iv) is currently subject to any order, judgment, or decree of  
33 any court with jurisdiction, entered within the last five (5)  
34 years, temporarily, preliminarily, or permanently restraining  
35 or enjoining the party from engaging in or continuing to  
36 engage in any conduct or practice involving fraud or deceit  
37 in connection with the purchase or sale of any security.

38 (D) Clause (C) does not apply if:

39 (i) the party subject to the disqualification is licensed or  
40 registered to conduct securities related business in the state  
41 in which the order, judgment, or decree creating the  
42 disqualification was entered against the party;



1 (ii) before the first offer under the exemption described in  
 2 this subdivision, the state securities administrator, or the  
 3 court or regulatory authority that entered the order,  
 4 judgment, or decree, waives the disqualification; or  
 5 (iii) the issuer establishes that it did not know and in the  
 6 exercise of reasonable care, based on a factual inquiry, could  
 7 not have known that a disqualification existed under this  
 8 subdivision.

9 (E) A general announcement of the proposed offering may be  
 10 made by any means. A general announcement described in this  
 11 clause must include only the following information, unless  
 12 additional information is specifically permitted by the  
 13 commissioner:

14 (i) The name, address, and telephone number of the issuer of  
 15 the securities.

16 (ii) The name, a brief description, and price (if known) of  
 17 any security to be issued.

18 (iii) A brief description of the business of the issuer in  
 19 twenty-five (25) words or less.

20 (iv) The type, number, and aggregate amount of securities  
 21 being offered.

22 (v) The name, address, and telephone number of the person  
 23 to contact for additional information.

24 (vi) A statement that indicates that sales will be made only  
 25 to accredited investors, that no money or other consideration  
 26 is being solicited or will be accepted by way of the general  
 27 announcement, that the securities have not been registered  
 28 with or approved by any state securities agency or the  
 29 Securities and Exchange Commission, and that the securities  
 30 are being offered and sold under an exemption from  
 31 registration.

32 (F) The issuer, in connection with an offer, may provide  
 33 information in addition to the general announcement under  
 34 clause (E), if the information:

35 (i) is delivered through an electronic data base that is  
 36 restricted to persons who have been prequalified as  
 37 accredited investors; or

38 (ii) is delivered after the issuer reasonably believes that the  
 39 prospective purchaser is an accredited investor.

40 (G) No telephone solicitation is permitted unless before  
 41 placing the call, the issuer reasonably believes that the  
 42 prospective purchaser to be solicited is an accredited investor.



- 1 (H) Dissemination of the general announcement of the  
 2 proposed offering to persons who are not accredited investors  
 3 does not disqualify the issuer from claiming the exemption  
 4 under this subdivision.
- 5 (I) The issuer shall file with the division a notice of  
 6 transaction, a consent to service of process, a copy of the  
 7 general announcement, and a fee established by the  
 8 commissioner within fifteen (15) days after the first sale in  
 9 Indiana.
- 10 (25) An offer to sell or a sale of a security of an issuer made after  
 11 June 30, 2014, if:
- 12 (A) the transaction is part of a single issue in which:
- 13 (i) the offer or sale is made in compliance with 17 CFR  
 14 230.504, 17 CFR 230.505, and 17 CFR 230.506, including  
 15 any offer or sale made exempt by the application of 17 CFR  
 16 508(a);
- 17 (ii) the issuer is required to submit a notice filing on a Form  
 18 D, **as promulgated by the Securities and Exchange**  
 19 **Commission to the commissioner together with a consent**  
 20 **to service of process complying with IC 23-19-6-11,**  
 21 **signed by the issuer,** not later than fifteen (15) days after  
 22 the first sale of securities in this state; and
- 23 (iii) by submitting the notice described in item (ii), the issuer  
 24 agrees, upon written request by the commissioner, to furnish  
 25 to the commissioner any information the issuer furnished to  
 26 offerees;
- 27 (B) for offerings made in compliance with 17 CFR 230.504, no  
 28 commission, fee, or other remuneration is paid or given,  
 29 directly or indirectly, to any broker-dealer for soliciting any  
 30 prospective purchaser in this state unless the broker-dealer is  
 31 appropriately registered under this article. It is a defense to a  
 32 violation of this clause if the issuer sustains the burden of  
 33 proof that the issuer did not know and, in the exercise of  
 34 reasonable care could not have known, that the person who  
 35 received the commission, fee, or other remuneration was not  
 36 properly registered; and
- 37 (C) in all sales to purchasers other than those described in  
 38 subdivision (13) for offerings made in compliance with 17  
 39 CFR 230.504, at least one (1) of the following is satisfied:
- 40 (i) The investment is suitable for the purchaser upon the  
 41 basis of facts, if any facts are disclosed by the purchaser, as  
 42 to the purchaser's other securities holdings, financial



1 situation, and needs. For purposes of this item only, it is  
 2 presumed that, if the investment does not exceed ten percent  
 3 (10%) of the investor's net worth, the investment is suitable.  
 4 (ii) The purchaser, either alone or with the purchaser's  
 5 representative or representatives, has the knowledge and  
 6 experience in financial and business matters that  
 7 demonstrate that the purchaser is capable of evaluating the  
 8 merits and risks of the prospective investment.

9 (26) Any offer or sale of securities after June 30, 2014, by an  
 10 issuer that meets the requirements of the federal exemption for  
 11 intrastate offerings in Section 3(a)(11) of the Securities Act of  
 12 1933, 15 U.S.C. 77c(a)(11), and Securities and Exchange  
 13 Commission Rule 147, 17 CFR 230.147. However, all the  
 14 following apply:

15 (A) The issuer must make a notice filing with the division on  
 16 a form prescribed by the commissioner within thirty (30) days  
 17 after the first sale in Indiana.

18 (B) Any commission, discount, or other remuneration for sales  
 19 of securities in Indiana must be paid or given only to dealers  
 20 or salespersons licensed under this article.

21 (C) The issuer must pay the fee established by the  
 22 commissioner. However, no filing fee is required to file  
 23 amendments to the form described in clause (A).

24 (D) Within ten (10) days of receiving the form required by this  
 25 subdivision, the commissioner may require the issuer to  
 26 furnish any additional information considered necessary by the  
 27 commissioner to determine the issuer's qualifications.

28 (27) An offer or sale of a security made after June 30, 2014, by an  
 29 issuer if the offer or sale is conducted in accordance with all the  
 30 following requirements:

31 (A) The issuer of the security is a business entity organized  
 32 under the laws of Indiana and authorized to do business in  
 33 Indiana.

34 (B) The transaction meets the requirements of the federal  
 35 exemption for intrastate offerings in Section 3(a)(11) of the  
 36 Securities Act of 1933 (15 U.S.C. 77c(a)(11)) and Rule 147  
 37 adopted under the Securities Act of 1933 (17 CFR 230.147).

38 (C) Except as provided in clause (E), the sum of all cash and  
 39 other consideration to be received for all sales of the security  
 40 in reliance on the exemption under this subdivision, excluding  
 41 sales to any accredited investor or institutional investor, does  
 42 not exceed the following amount:



- 1 (i) If the issuer has not undergone and made available to  
2 each prospective investor and the commissioner the  
3 documentation resulting from a financial audit of its most  
4 recently completed fiscal year that complies with generally  
5 accepted accounting principles, one million dollars  
6 (\$1,000,000), less the aggregate amount received for all  
7 sales of securities by the issuer within the twelve (12)  
8 months before the first offer or sale made in reliance on the  
9 exemption under this subdivision.
- 10 (ii) If the issuer has undergone and made available to each  
11 prospective investor and the commissioner the  
12 documentation resulting from a financial audit of its most  
13 recently completed fiscal year that complies with generally  
14 accepted accounting principles, two million dollars  
15 (\$2,000,000), less the aggregate amount received for all  
16 sales of securities by the issuer within the twelve (12)  
17 months before the first offer or sale made in reliance on the  
18 exemption under this subdivision.
- 19 (D) An offer or sale to an officer, director, partner, trustee, or  
20 individual occupying similar status or performing similar  
21 functions with respect to the issuer or to a person owning ten  
22 percent (10%) or more of the outstanding shares of any class  
23 or classes of securities of the issuer does not count toward the  
24 monetary limitations in clause (C).
- 25 (E) The issuer does not accept more than five thousand dollars  
26 (\$5,000) from any single purchaser unless the purchaser is an  
27 accredited investor.
- 28 (F) Unless waived by written consent by the commissioner, not  
29 less than ten (10) days before the commencement of an  
30 offering of securities in reliance on the exemption under this  
31 subdivision, the issuer must do all the following:
- 32 (i) Make a notice filing with the division on a form  
33 prescribed by the commissioner.
- 34 (ii) Pay the fee established by the commissioner. However,  
35 no filing fee is required to file amendments to the form  
36 described in item (i).
- 37 (iii) Provide the commissioner a copy of the disclosure  
38 document to be provided to prospective investors under  
39 clause (L).
- 40 (iv) Provide the commissioner a copy of an escrow  
41 agreement with a bank, regulated trust company or corporate  
42 fiduciary, savings bank, savings and loan association, or



1 credit union authorized to do business in Indiana in which  
2 the issuer will deposit the investor funds or cause the  
3 investor funds to be deposited. The bank, regulated trust  
4 company or corporate fiduciary, savings bank, savings and  
5 loan association, or credit union in which the investor funds  
6 are deposited is only responsible to act at the direction of the  
7 party establishing the escrow agreement and does not have  
8 any duty or liability, contractual or otherwise, to any  
9 investor or other person.

10 (v) The issuer shall not access the escrow funds until the  
11 aggregate funds raised from all investors equals or exceeds  
12 the minimum amount specified in the escrow agreement.

13 (vi) An investor may cancel the investor's commitment to  
14 invest if the target offering amount is not raised before the  
15 time stated in the escrow agreement.

16 (G) The issuer is not, either before or as a result of the  
17 offering, an investment company, as defined in Section 3 of  
18 the Investment Company Act of 1940 (15 U.S.C. 80a-3), an  
19 entity that would be an investment company but for the  
20 exclusions provided in Section 3(c) of the Investment  
21 Company Act of 1940 (15 U.S.C. 80a-3(c)), or subject to the  
22 reporting requirements of Section 13 or 15(d) of the Securities  
23 Exchange Act of 1934 (15 U.S.C. 78m or 15 U.S.C. 78o(d)).

24 (H) The issuer informs all prospective purchasers of securities  
25 offered under an exemption under this subdivision that the  
26 securities have not been registered under federal or state  
27 securities law and that the securities are subject to limitations  
28 on resale. The issuer shall display the following legend  
29 conspicuously on the cover page of the disclosure document:

30 "IN MAKING AN INVESTMENT DECISION,  
31 INVESTORS MUST RELY ON THEIR OWN  
32 EXAMINATION OF THE ISSUER AND THE TERMS OF  
33 THE OFFERING, INCLUDING THE MERITS AND RISKS  
34 INVOLVED. THESE SECURITIES HAVE NOT BEEN  
35 RECOMMENDED BY ANY FEDERAL OR STATE  
36 SECURITIES COMMISSION OR DIVISION OR OTHER  
37 REGULATORY AUTHORITY. FURTHERMORE, THE  
38 FOREGOING AUTHORITIES HAVE NOT CONFIRMED  
39 THE ACCURACY OR DETERMINED THE ADEQUACY  
40 OF THIS DOCUMENT. ANY REPRESENTATION TO  
41 THE CONTRARY IS A CRIMINAL OFFENSE. THESE  
42 SECURITIES ARE SUBJECT TO RESTRICTIONS ON



1 TRANSFERABILITY AND RESALE AND MAY NOT BE  
2 TRANSFERRED OR RESOLD EXCEPT AS PERMITTED  
3 BY SUBSECTION (e) OF SEC RULE 147 (17 CFR  
4 230.147(e)) AS PROMULGATED UNDER THE  
5 SECURITIES ACT OF 1933, AS AMENDED, AND THE  
6 APPLICABLE STATE SECURITIES LAWS, PURSUANT  
7 TO REGISTRATION OR EXEMPTION THEREFROM.  
8 INVESTORS SHOULD BE AWARE THAT THEY WILL  
9 BE REQUIRED TO BEAR THE FINANCIAL RISKS OF  
10 THIS INVESTMENT FOR AN INDEFINITE PERIOD OF  
11 TIME."

12 (I) The issuer requires each purchaser to certify in writing or  
13 electronically as follows:

14 "I UNDERSTAND AND ACKNOWLEDGE THAT I am  
15 investing in a high-risk, speculative business venture. I may  
16 lose all of my investment, or under some circumstances  
17 more than my investment, and I can afford this loss. This  
18 offering has not been reviewed or approved by any state or  
19 federal securities commission or division or other regulatory  
20 authority and no such person or authority has confirmed the  
21 accuracy or determined the adequacy of any disclosure made  
22 to me relating to this offering. The securities I am acquiring  
23 in this offering are illiquid, there is no ready market for the  
24 sale of such securities, it may be difficult or impossible for  
25 me to sell or otherwise dispose of this investment, and,  
26 accordingly, I may be required to hold this investment  
27 indefinitely. I may be subject to tax on my share of the  
28 taxable income and losses of the company, whether or not I  
29 have sold or otherwise disposed of my investment or  
30 received any dividends or other distributions from the  
31 company."

32 (J) The issuer obtains from each purchaser of a security  
33 offered under an exemption under this subdivision evidence  
34 that the purchaser is a resident of Indiana and, if applicable, is  
35 an accredited investor.

36 (K) All payments for purchase of securities offered under an  
37 exemption under this subdivision are directed to and held by  
38 the financial institution specified in clause (F)(iv). The  
39 commissioner may request from the financial institutions  
40 information necessary to ensure compliance with this section.  
41 This information is not a public record and is not available for  
42 public inspection.



1 (L) The issuer of securities offered under an exemption under  
2 this subdivision provides a disclosure document to each  
3 prospective investor at the time the offer of securities is made  
4 to the prospective investor that contains all the following:

5 (i) A description of the company, its type of entity, the  
6 address and telephone number of its principal office, its  
7 history, its business plan, and the intended use of the  
8 offering proceeds, including any amounts to be paid, as  
9 compensation or otherwise, to any owner, executive officer,  
10 director, managing member, or other person occupying a  
11 similar status or performing similar functions on behalf of  
12 the issuer.

13 (ii) The identity of all persons owning more than twenty  
14 percent (20%) of the ownership interests of any class of  
15 securities of the company.

16 (iii) The identity of the executive officers, directors,  
17 managing members, and other persons occupying a similar  
18 status or performing similar functions in the name of and on  
19 behalf of the issuer, including their titles and their prior  
20 experience.

21 (iv) The terms and conditions of the securities being offered  
22 and of any outstanding securities of the company; the  
23 minimum and maximum amount of securities being offered,  
24 if any; either the percentage ownership of the company  
25 represented by the offered securities or the valuation of the  
26 company implied by the price of the offered securities; the  
27 price per share, unit, or interest of the securities being  
28 offered; any restrictions on transfer of the securities being  
29 offered; and a disclosure of any anticipated future issuance  
30 of securities that might dilute the value of securities being  
31 offered.

32 (v) The identity of any person who has been or will be  
33 retained by the issuer to assist the issuer in conducting the  
34 offering and sale of the securities, including any Internet  
35 web site operator but excluding persons acting solely as  
36 accountants or attorneys and employees whose primary job  
37 responsibilities involve the operating business of the issuer  
38 rather than assisting the issuer in raising capital.

39 (vi) For each person identified as required in this clause, a  
40 description of the consideration being paid to the person for  
41 such assistance.

42 (vii) A description of any litigation, legal proceedings, or





- 1 pending regulatory action involving the company or its  
2 management.
- 3 (viii) The names and addresses, including the Uniform  
4 Resource Locator, of each Internet web site that will be used  
5 by the issuer to offer or sell securities under an exemption  
6 under this subdivision.
- 7 (ix) Any additional information material to the offering,  
8 including, if appropriate, a discussion of significant factors  
9 that make the offering speculative or risky. This discussion  
10 must be concise and organized logically and may not be  
11 limited to risks that could apply to any issuer or any offering.
- 12 (M) The exemption under this subdivision may not be used in  
13 conjunction with any other exemption under this article,  
14 except for offers and sales to individuals identified in the  
15 disclosure document, during the immediately preceding twelve  
16 (12) month period.
- 17 (N) The exemption described in this subdivision does not  
18 apply if an issuer or person affiliated with the issuer or  
19 offering is subject to disqualification established by the  
20 commissioner by rule or contained in the Securities Act of  
21 1933 (15 U.S.C. 77c(a)(11)) and Rule 262 adopted under the  
22 Securities Act of 1933 (17 CFR 230.262). However, this  
23 clause does not apply if both of the following are met:
- 24 (i) On a showing of good cause and without prejudice to any  
25 other action by the commissioner, the commissioner  
26 determines that it is not necessary under the circumstances  
27 that an exemption is denied.
- 28 (ii) The issuer establishes that it made a factual inquiry into  
29 whether any disqualification existed under this subdivision  
30 but did not know, and in the exercise of reasonable care,  
31 could not have known that a disqualification existed under  
32 this subdivision. The nature and scope of the requisite  
33 inquiry will vary based on the circumstances of the issuer  
34 and the other offering participants.
- 35 (O) The offering exempted under this subdivision is made  
36 exclusively through one (1) or more Internet web sites and  
37 each Internet web site is subject to the following:
- 38 (i) Before any offer or sale of securities, the issuer must  
39 provide to the Internet web site operator evidence that the  
40 issuer is organized under the laws of Indiana and is  
41 authorized to do business in Indiana.
- 42 (ii) Subject to items (iii) and (v), the Internet web site



1 operator must register with the division by filing a  
2 statement, accompanied by the filing fee established by the  
3 commissioner, that includes all the information described in  
4 section 2.3(b) of this chapter.

5 (iii) The Internet web site operator is not required to register  
6 as a broker-dealer if all the conditions in section 2.3(c) of  
7 this chapter apply with respect to the Internet web site and  
8 its operator.

9 (iv) If any change occurs that affects the Internet web site's  
10 registration exemption, the Internet web site operator must  
11 notify the division within thirty (30) days after the change  
12 occurs.

13 (v) The Internet web site operator is not required to register  
14 as a broker-dealer under item (ii) if the Internet web site  
15 operator is registered as a broker-dealer under the Securities  
16 Exchange Act of 1934 (15 U.S.C. 78o) or is a funding portal  
17 registered under the Securities Act of 1933 (15 U.S.C.  
18 77d-1) and the Securities and Exchange Commission has  
19 adopted rules under authority of Section 3(h) of the  
20 Securities Exchange Act of 1934 (15 U.S.C. 78c(h)) and  
21 P.L.112-106, Section 304, governing funding portals. This  
22 item does not require an Internet web site operator to  
23 register as a broker-dealer under the Securities Exchange  
24 Act of 1934 or as a funding portal under the Securities Act  
25 of 1933.

26 (vi) The issuer and the Internet web site operator must  
27 maintain records of all offers and sales of securities effected  
28 through the Internet web site and must provide ready access  
29 to the records to the division, upon request. The records of  
30 an Internet web site operator under this clause are subject to  
31 the reasonable periodic, special, or other audits or  
32 inspections by a representative of the commissioner, in or  
33 outside Indiana, as the commissioner considers necessary or  
34 appropriate in the public interest and for the protection of  
35 investors. An audit or inspection may be made at any time  
36 and without prior notice. The commissioner may copy, and  
37 remove for audit or inspection copies of, all records the  
38 commissioner reasonably considers necessary or appropriate  
39 to conduct the audit or inspection. The commissioner may  
40 assess a reasonable charge for conducting an audit or  
41 inspection under this item.

42 (vii) The Internet web site operator shall limit web site



- 1 access to the offer or sale of securities to only Indiana  
 2 residents.
- 3 (viii) The Internet web site operator shall not hold, manage,  
 4 possess, or handle investor funds or securities.
- 5 (ix) The Internet web site operator may not be an investor in  
 6 any Indiana offering under this subdivision or subdivision  
 7 (26).
- 8 (P) An issuer of a security, the offer and sale of which is  
 9 exempt under this subdivision, shall provide, free of charge, a  
 10 quarterly report to the issuer's investors until no securities  
 11 issued under an exemption under this subdivision are  
 12 outstanding. An issuer may satisfy the reporting requirement  
 13 of this clause by making the information available on an  
 14 Internet web site if the information is made available within  
 15 forty-five (45) days after the end of each fiscal quarter and  
 16 remains available until the succeeding quarterly report is  
 17 issued. An issuer shall file each quarterly report under this  
 18 clause with the division and, if the quarterly report is made  
 19 available on an Internet web site, the issuer shall also provide  
 20 a written copy of the report to any investor upon request. The  
 21 report must contain all the following:
- 22 (i) Compensation received by each director and executive  
 23 officer, including cash compensation earned since the  
 24 previous report and on an annual basis and any bonuses,  
 25 stock options, other rights to receive securities of the issuer  
 26 or any affiliate of the issuer, or other compensation received.
- 27 (ii) An analysis by management of the issuer of the business  
 28 operations and financial condition of the issuer.
- 29 (Q) In 2019 and every fifth year thereafter, the commissioner  
 30 shall cumulatively adjust the dollar limitations provided in  
 31 clause (C) to reflect the change in the Consumer Price Index  
 32 for all Urban Consumers published by the federal Bureau of  
 33 Labor Statistics rounding each dollar limitation to the nearest  
 34 fifty thousand dollars (\$50,000).
- 35 **(28) An offer to sell or a sale of a security of an issuer made**  
 36 **after June 30, 2017, in which:**
- 37 **(A) the offer or sale is made in compliance with federal**  
 38 **Regulation Crowdfunding (17 CFR 227) and Sections**  
 39 **4(a)(6) and 18(b)(4)(C) of the Securities Act of 1933; and**  
 40 **(B) the issuer is required to submit a notice filing on a**  
 41 **Uniform Notice of Federal Crowdfunding Offering form or**  
 42 **copies of documents filed with the Securities and Exchange**



- 1           **Commission, a consent to service of process on Form U-2**  
 2           **if not filing on the Uniform Notice of Federal**  
 3           **Crowdfunding Offering form.**  
 4           **(29) An offer to sell or a sale of a security of an issuer made**  
 5           **after June 30, 2017, if the transaction is part of a single issue**  
 6           **in which:**  
 7           **(A) the offer or sale is made in compliance with Tier 2 of**  
 8           **federal Regulation A and Section 18(b)(3) or Section**  
 9           **18(b)(4) of the Securities Act of 1933; and**  
 10           **(B) the issuer is required to submit a notice filing on a**  
 11           **Uniform Notice of Regulation A -- Tier 2 Offering form or**  
 12           **copies of documents filed with the Securities and Exchange**  
 13           **Commission, a consent to service of process on Form U-2**  
 14           **if not filing on the Uniform Notice of Regulation A -- Tier**  
 15           **2 Offering form.**  
 16           SECTION 3. IC 23-19-3-2, AS ADDED BY P.L.27-2007,  
 17           SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 18           JULY 1, 2017]: Sec. 2. (a) With respect to a federal covered security,  
 19           as defined in Section 18(b)(2) of the Securities Act of 1933 (15 U.S.C.  
 20           77r(b)(2)), that is not otherwise exempt under IC 23-19-2-1 through  
 21           IC 23-19-2-3, a rule adopted or order issued under this article may  
 22           require the filing of any or all of the following records:  
 23           (1) Before the initial offer of a federal covered security in this  
 24           state, all records that are part of a federal registration statement  
 25           filed with the Securities and Exchange Commission under the  
 26           Securities Act of 1933 and a consent to service of process  
 27           complying with IC 23-19-6-11 signed by the issuer and the  
 28           payment of a fee of: **as set forth in subsection (f).**  
 29           (A) five hundred dollars (\$500) for an issuer with net assets  
 30           not exceeding ten million dollars (\$10,000,000); or  
 31           (B) one thousand dollars (\$1,000) for other issuers.  
 32           (2) After the initial offer of the federal covered security in this  
 33           state, all records that are part of an amendment to a federal  
 34           registration statement filed with the Securities and Exchange  
 35           Commission, under the Securities Act of 1933.  
 36           (3) To the extent necessary or appropriate to compute fees, a  
 37           report of the value of the federal covered securities sold or offered  
 38           to persons present in this state, if the sales data are not included  
 39           in records filed with the Securities and Exchange Commission;  
 40           and payment of a fee of five-hundredths of one percent (0.05%)  
 41           of the excess of the dollar amount of securities sold during the  
 42           fiscal year over the dollar amount of securities redeemed, not to



1           exceed two thousand dollars (\$2,000) in any one (1) year. The fee  
2           required in subdivision (1) shall be applied as a credit against the  
3           fee required under this subdivision.

4           (b) A notice filing under subsection (a) is effective for one (1) year  
5           commencing on the later of the notice filing or the effectiveness of the  
6           offering filed with the Securities and Exchange Commission. On or  
7           before expiration, the issuer may renew a notice filing by filing a copy  
8           of those records filed by the issuer with the Securities and Exchange  
9           Commission that are required by rule or order under this article to be  
10          filed and by paying a renewal fee of two hundred fifty dollars (\$250)  
11          **as set forth in subsection (f).** A previously filed consent to service of  
12          process complying with IC 23-19-6-11 may be incorporated by  
13          reference in a renewal. A renewed notice filing becomes effective upon  
14          the expiration of the filing being renewed.

15          (c) With respect to a security that is a federal covered security under  
16          Section 18(b)(4)(D) of the Securities Act of 1933 (15 U.S.C.  
17          77r(b)(4)(D)), **that is not otherwise exempt under IC 23-19-2-1**  
18          **through IC 23-19-2-3,** a rule under this article may require a notice  
19          filing by or on behalf of an issuer to include a copy of Form D,  
20          including the Appendix, as promulgated by the Securities and  
21          Exchange Commission, **17 CFR 239.500, or a successor form,** and a  
22          consent to service of process complying with IC 23-19-6-11 signed by  
23          the issuer not later than fifteen (15) days after the first sale of the  
24          federal covered security in this state.

25          (d) Except with respect to a federal security under Section 18(b)(1)  
26          of the Securities Act of 1933 (15 U.S.C. 77r(b)(1)), if the commissioner  
27          finds that there is a failure to comply with a notice or fee requirement  
28          of this section, the commissioner may issue a stop order suspending the  
29          offer and sale of a federal covered security in this state. If the  
30          deficiency is corrected, the stop order is void as of the time of its  
31          issuance and no penalty may be imposed by the commissioner.

32          (d) The following provisions apply to offerings made under  
33          federal Regulation Crowdfunding (17 CFR 227) and Sections  
34          4(a)(6) and 18(b)(4)(C) of the Securities Act of 1933:

35               (1) An issuer that offers and sells securities in this state in an  
36               offering exempt under federal Regulation Crowdfunding (17  
37               CFR 227), and that either has its principal place of business  
38               in this state or sells fifty percent (50%) or greater of the  
39               aggregate amount of the offering to residents of this state,  
40               shall file the following with the commissioner:

41                   (A) A completed Uniform Notice of Federal Crowdfunding  
42                   Offering form or copies of all documents filed with the



1                   **Securities and Exchange Commission.**

2                   **(B) A consent to service of process on Form U-2 if not filing**  
 3                   **on the Uniform Notice of Federal Crowdfunding Offering**  
 4                   **form.**

5                   **(2) If the issuer has its principal place of business in this state,**  
 6                   **the filing required under subdivision (1) shall be filed with the**  
 7                   **Commissioner when the issuer makes its initial Form C filing**  
 8                   **concerning the offering with the Securities and Exchange**  
 9                   **Commission. If the issuer does not have its principal place of**  
 10                   **business in this state but residents of this state have purchased**  
 11                   **fifty percent (50%) or greater of the aggregate amount of the**  
 12                   **offering, the filing required under subdivision (1) shall be filed**  
 13                   **when the issuer becomes aware that the purchases have met**  
 14                   **this threshold and not later than thirty (30) days after the date**  
 15                   **of completion of the offering.**

16                   **(3) The initial notice filing is effective for twelve (12) months**  
 17                   **after the date of the filing with the commissioner.**

18                   **(4) For each additional twelve (12) month period in which the**  
 19                   **offering is continued, an issuer conducting an offering under**  
 20                   **federal Regulation Crowdfunding (17 CFR 227) may renew**  
 21                   **its notice filing by filing the following on or before the**  
 22                   **expiration of the notice filing a completed Uniform Notice of**  
 23                   **Federal Crowdfunding Offering form marked "renewal" or**  
 24                   **a cover letter or other document requesting renewal, or both**  
 25                   **the form and a cover letter or other document.**

26                   **(5) An issuer may increase the amount of securities offered in**  
 27                   **this state by submitting a completed Uniform Notice of**  
 28                   **Federal Crowdfunding Offering form marked "amendment"**  
 29                   **or other document describing the transaction.**

30                   **(e) The following provisions apply to offerings made under Tier**  
 31                   **2 of federal Regulation A and Section 18(b)(3) or Section 18(b)(4)**  
 32                   **of the Securities Act of 1933:**

33                   **(1) An issuer planning to offer and sell securities in this state**  
 34                   **in an offering exempt under Tier 2 of federal Regulation A**  
 35                   **shall submit the following at least twenty-one (21) calendar**  
 36                   **days prior to the initial sale in this state:**

37                   **(A) A completed Uniform Notice of Regulation A - Tier 2**  
 38                   **Offering form or copies of all documents filed with the**  
 39                   **Securities and Exchange Commission.**

40                   **(B) A consent to service of process on Form U-2 if not filing**  
 41                   **on the Uniform Notice of Regulation A - Tier 2 Offering**  
 42                   **form.**



- 1           **(C) The filing fee as set forth in subsection (f).**  
 2           **The initial notice filing is effective for twelve (12) months**  
 3           **from the date of the filing with this state.**  
 4           **(2) For each additional twelve (12) month period in which the**  
 5           **same offering is continued, an issuer conducting a Tier 2**  
 6           **offering under federal Regulation A may renew its notice**  
 7           **filing by filing the following on or before the expiration of the**  
 8           **notice filing:**  
 9           **(A) The Uniform Notice of Regulation A - Tier 2 Offering**  
 10           **form marked "renewal" or a cover letter or other**  
 11           **document requesting renewal, or both the form and a**  
 12           **cover letter or other document.**  
 13           **(B) The renewal fee as set forth in subsection (f).**  
 14           **(3) An issuer may increase the amount of securities offered in**  
 15           **this state by submitting a Uniform Notice of Regulation A -**  
 16           **Tier 2 Offering form marked "amendment" or other**  
 17           **document describing the transaction.**  
 18           **(f) At the time of the filing of the information prescribed in**  
 19           **subsection (a) or (b), the issuer shall pay to the commissioner a fee**  
 20           **of nine hundred dollars (\$900). If the notice filing is withdrawn or**  
 21           **otherwise terminated, the commissioner shall retain the fee.**  
 22           **(g) Except for a federal security under Section 18(b)(1) of the**  
 23           **Securities Act of 1933 (15 U.S.C. 77r(b)(1)), if the commissioner**  
 24           **finds that there is a failure to comply with a notice or fee**  
 25           **requirement of this section, the commissioner may issue a stop**  
 26           **order suspending the offer and sale of a federal covered security in**  
 27           **this state. If the deficiency is corrected, the stop order is void as of**  
 28           **the time of its issuance and no penalty may be imposed by the**  
 29           **commissioner.**  
 30           **SECTION 4. IC 23-19-3-5, AS ADDED BY P.L.27-2007,**  
 31           **SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE**  
 32           **JULY 1, 2017]: Sec. 5. (a) A registration statement **under section 3 or****  
 33           ****4 of this chapter** may be filed by the issuer, a person on whose behalf**  
 34           **the offering is to be made, or a broker-dealer registered under this**  
 35           **article.**  
 36           **(b) A person filing a registration statement shall pay a filing fee of**  
 37           **five-hundredths of one percent (0.05%) of the maximum aggregate**  
 38           **offering price at which the registered securities are to be offered in**  
 39           **Indiana, but the fee may not be less than two hundred fifty dollars**  
 40           **(\$250) and may not be more than one thousand dollars (\$1,000). If a**  
 41           **registration statement is withdrawn before the effective date or a**  
 42           **preeffective stop order is issued under section 6 of this chapter, the**



1 commissioner shall retain two hundred fifty dollars (\$250) of the fee.  
2 **five hundred dollars (\$500). If the registration statement is**  
3 **withdrawn before the effective date or a preeffective stop order is**  
4 **issued, the commissioner shall retain the fee.**

5 (c) A registration statement filed under section 3 or 4 of this chapter  
6 must specify:

7 (1) the amount of securities to be offered in this state;

8 (2) the states in which a registration statement or similar record  
9 in connection with the offering has been or is to be filed; and

10 (3) any adverse order, judgment, or decree issued in connection  
11 with the offering by a state securities regulator, the Securities and  
12 Exchange Commission, or a court.

13 (d) A record filed under this article or the predecessor act within  
14 five (5) years preceding the filing of a registration statement may be  
15 incorporated by reference in the registration statement to the extent that  
16 the record is currently accurate.

17 (e) In the case of a nonissuer distribution, information or a record  
18 may not be required under subsection (i) or section 4 of this chapter,  
19 unless it is known to the person filing the registration statement or to  
20 the person on whose behalf the distribution is to be made or unless it  
21 can be furnished by those persons without unreasonable effort or  
22 expense.

23 (f) A rule adopted or order issued under this article may require as  
24 a condition of registration that a security issued within the previous five  
25 (5) years or to be issued to a promoter for a consideration substantially  
26 less than the public offering price or to a person for a consideration  
27 other than cash be deposited in escrow and that the proceeds from the  
28 sale of the registered security in this state be impounded until the issuer  
29 receives a specified amount from the sale of the security either in this  
30 state or elsewhere. The conditions of any escrow or impoundment  
31 required under this subsection may be established by rule adopted or  
32 order issued under this article, but the commissioner may not reject a  
33 depository institution solely because of its location in another state.

34 (g) A rule adopted or order issued under this article may require as  
35 a condition of registration that a security registered under this article be  
36 sold only on a specified form of subscription or sale contract and that  
37 a signed or conformed copy of each contract be filed under this article  
38 or preserved for a period specified by the rule or order, which may not  
39 be longer than five (5) years.

40 (h) Except while a stop order is in effect under section 6 of this  
41 chapter, a registration statement is effective for one (1) year after its  
42 effective date, or for any longer period designated in an order under





1 this article during which the security is being offered or distributed in  
 2 a nonexempted transaction by or for the account of the issuer or other  
 3 person on whose behalf the offering is being made or by an underwriter  
 4 or broker-dealer that is still offering part of an unsold allotment or  
 5 subscription taken as a participant in the distribution. For the purposes  
 6 of a nonissuer transaction, all outstanding securities of the same class  
 7 identified in the registration statement as a security registered under  
 8 this article are considered to be registered while the registration  
 9 statement is effective. If any securities of the same class are  
 10 outstanding, a registration statement may not be withdrawn until one  
 11 (1) year after its effective date. A registration statement may be  
 12 withdrawn only with the approval of the commissioner.

13 (i) While a registration statement is effective, a rule adopted or  
 14 order issued under this article may require the person that filed the  
 15 registration statement to file reports, not more often than quarterly, to  
 16 keep the information or other record in the registration statement  
 17 reasonably current and to disclose the progress of the offering.

18 (j) A registration statement ~~may~~ **shall** be amended after its effective  
 19 date **if there are material changes in information or documents in**  
 20 **the registration statement or if there is an increase in the aggregate**  
 21 **amount of securities offered or sold in the state.** The posteffective  
 22 amendment becomes effective when the commissioner so orders. If a  
 23 posteffective amendment is made to increase the number of securities  
 24 specified to be offered or sold, the person filing the amendment shall  
 25 pay the greater of one hundred dollars (\$100) or the difference between  
 26 the amount originally paid and the amount the registration fee would  
 27 have been if all the securities to be offered had been registered. **If a**  
 28 **posteffective amendment is made to increase the number of**  
 29 **securities specified to be offered or sold, the issuer filing the**  
 30 **amendment shall pay a nonrefundable registration fee of one**  
 31 **hundred dollars (\$100).** A posteffective amendment relates back to  
 32 the date of the offering of the additional securities being registered if,  
 33 within one (1) year after the date of the sale, the amendment is filed  
 34 and the additional registration fee is paid.

35 SECTION 5. IC 23-19-4.1-5, AS ADDED BY P.L.39-2016,  
 36 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 37 JULY 1, 2017]: Sec. 5. As used in this chapter, "qualified individual"  
 38 means an individual associated with a broker-dealer **or investment**  
 39 **adviser** who serves in a supervisory, compliance, or legal capacity as  
 40 part of the individual's job.

41 SECTION 6. IC 23-19-4.1-7, AS ADDED BY P.L.39-2016,  
 42 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2017]: Sec. 7. (a) A qualified individual may refuse a request  
2 for disbursement of funds from an account:

3 (1) owned by a financially endangered adult; or

4 (2) of which a financially endangered adult is a beneficiary or  
5 beneficial owner;

6 if the qualified individual has reason to believe that the requested  
7 disbursement may result in financial exploitation of the financially  
8 endangered adult.

9 (b) If a qualified individual refuses a request for disbursement under  
10 subsection (a), a broker-dealer **or investment adviser** involved in the  
11 transaction or the qualified individual shall:

12 (1) subject to subsection (c), make a reasonable effort to notify all  
13 parties authorized to transact business on the account:

14 (A) orally; or

15 (B) in writing by:

16 (i) electronic communication; or

17 (ii) mail postmarked;

18 not more than two (2) business days after the qualified individual  
19 refuses the request for disbursement; and

20 (2) notify the protective agencies:

21 (A) orally; or

22 (B) in writing by:

23 (i) electronic communication; or

24 (ii) mail postmarked;

25 not more than three (3) business days after the qualified  
26 individual refuses the request for disbursement.

27 (c) A broker-dealer, **investment adviser**, or the qualified individual  
28 described in subsection (b) is not required to contact a party authorized  
29 to transact business on the account if the broker-dealer, **investment**  
30 **adviser**, or qualified individual has reason to believe that the party has  
31 engaged in suspected or attempted financial exploitation of the  
32 financially endangered adult.

33 (d) Unless a court or the commissioner enters an order extending the  
34 refusal of disbursement or providing any other applicable protective  
35 relief, any refusal of disbursement under this section expires upon the  
36 earlier of the following:

37 (1) The date that the qualified individual has reason to believe  
38 that the disbursement will not result in financial exploitation of  
39 the financially endangered adult.

40 (2) Fifteen (15) business days after the date of the initial refusal  
41 of disbursement by the qualified individual. However, if a  
42 broker-dealer's **or investment adviser's** internal review of the



1 facts and circumstances supports the broker-dealer's **or**  
 2 **investment adviser's** reasonable belief that the financial  
 3 exploitation of the financially endangered adult has occurred, is  
 4 occurring, has been attempted, or will be attempted, the  
 5 commissioner shall extend the refusal of disbursement for an  
 6 additional fifteen (15) business days after the expiration date that  
 7 would otherwise apply under this subdivision.

8 (e) A court with jurisdiction may enter an order that:

- 9 (1) extends a refusal of disbursement; or  
 10 (2) provides for any other protective relief.

11 (f) After:

- 12 (1) a broker-dealer, **investment adviser**, or qualified individual  
 13 provides notice under subsection (b); and  
 14 (2) the refusal of disbursement has expired or a court or the  
 15 commissioner has entered an order as described in subsection (d)  
 16 or (e)(1);

17 the broker-dealer, **investment adviser**, or qualified individual shall  
 18 notify, in writing, the protective agencies of the expiration or the order,  
 19 as applicable.

20 SECTION 7. IC 23-19-4.1-8, AS ADDED BY P.L.39-2016,  
 21 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 22 JULY 1, 2017]: Sec. 8. Notwithstanding any other provision of law, a  
 23 broker-dealer, **investment adviser**, or a qualified individual who, in  
 24 good faith, complies with section 6 or 7 of this chapter, is immune from  
 25 any administrative or civil liability for actions taken in accordance with  
 26 those sections. A broker-dealer, **investment adviser**, or qualified  
 27 individual who, in good faith, releases or does not release copies of  
 28 records under section 9 of this chapter is immune from any civil  
 29 liability for release of such records or failing to release such records.  
 30 This chapter does not limit or otherwise impede the authority of the  
 31 commissioner to access or examine books and records of  
 32 broker-dealers **or investment advisers** as otherwise provided by law.

33 SECTION 8. IC 23-19-4.1-9, AS ADDED BY P.L.39-2016,  
 34 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 35 JULY 1, 2017]: Sec. 9. (a) A broker-dealer **or investment adviser** may  
 36 provide to protective agencies or law enforcement access to or copies  
 37 of records that are relevant to the suspected financial exploitation of a  
 38 financially endangered adult. The records may include records relating  
 39 to:

- 40 (1) disbursement of any funds from an account of the financially  
 41 endangered adult; and  
 42 (2) disbursements of funds that comprise the suspected financial



1 exploitation of a financially endangered adult.

2 (b) All records made available to the protective agencies under this  
3 section are confidential under IC 5-14-3.

4 SECTION 9. IC 23-19-4.1-10, AS ADDED BY P.L.39-2016,  
5 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
6 JULY 1, 2017]: Sec. 10. Not later than September 1, 2017, the  
7 commissioner shall develop and make available on the secretary of  
8 state's Internet web site information that includes training resources to  
9 assist broker-dealers, **investment advisers**, and qualified individuals  
10 in the prevention and detection of financial exploitation of financially  
11 endangered adults. The training resources must include information on:

12 (1) indicators of financial exploitation of financially endangered  
13 adults; and

14 (2) the potential steps broker-dealers, **investment advisers**, and  
15 qualified individuals can take, under Indiana law, to prevent  
16 suspected financial exploitation of financially endangered adults.

17 SECTION 10. IC 23-19-6-1, AS AMENDED BY P.L.39-2016,  
18 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
19 JULY 1, 2017]: Sec. 1. (a) This article shall be administered by a  
20 division of the office of the secretary of state. The secretary of state  
21 shall appoint a securities commissioner who shall be responsible for  
22 the direction and supervision of the division and the administration of  
23 this article under the direction and control of the secretary of state. The  
24 salary of the securities commissioner shall be paid out of the funds  
25 appropriated for the administration of this article. The commissioner  
26 shall serve at the will of the secretary of state.

27 (b) The secretary of state:

28 (1) shall employ a chief deputy, attorneys, a senior investigator,  
29 a senior accountant, and other deputies, investigators,  
30 accountants, clerks, stenographers, and other employees necessary  
31 for the administration of this article; and

32 (2) shall fix their compensation with the approval of the budget  
33 agency.

34 (c) It is unlawful for the commissioner or an officer, employee, or  
35 designee of the commissioner to use for personal benefit or the benefit  
36 of others records or other information obtained by or filed with the  
37 commissioner that is not public under section 7(b) of this chapter. This  
38 article does not authorize the commissioner or an officer, employee, or  
39 designee of the commissioner to disclose the record or information,  
40 except in accordance with section 2, 7(c), or 8 of this chapter.

41 (d) This article does not create or diminish a privilege or exemption  
42 that exists at common law, by statute or rule, or otherwise.



1 (e) Subject to IC 4-2-6-15, the commissioner may develop and  
 2 implement investor education initiatives to inform the public about  
 3 investing in securities, with particular emphasis on the prevention and  
 4 detection of securities fraud. In developing and implementing these  
 5 initiatives, the commissioner may collaborate with public and nonprofit  
 6 organizations with an interest in investor education. The commissioner  
 7 may accept a grant or donation from a person that is not affiliated with  
 8 the securities industry or from a nonprofit organization, regardless of  
 9 whether the organization is affiliated with the securities industry, to  
 10 develop and implement investor education initiatives. This subsection  
 11 does not authorize the commissioner to require participation or  
 12 monetary contributions of a registrant in an investor education  
 13 program.

14 (f) The securities division enforcement account is established. Fees  
 15 and funds of whatever character accruing from the administration of  
 16 this article shall be accounted for by the secretary of state and shall be  
 17 deposited with the treasurer of state to be deposited by the treasurer of  
 18 the state in either the state general fund or the securities division  
 19 enforcement account. Subject to IC 4-2-6-15, expenses incurred in the  
 20 administration of this article shall be paid from the state general fund  
 21 upon appropriation being made for the expenses in the manner  
 22 provided by law for the making of those appropriations. The following  
 23 shall be deposited by the treasurer of state in the securities division  
 24 enforcement account:

- 25 (1) Grants and donations received under subsection (e).  
 26 (2) Costs of investigations recovered under section 4(e) of this  
 27 chapter.  
 28 (3) Fifty percent (50%) of the first four million dollars  
 29 (\$4,000,000):  
 30 (A) of a civil penalty recovered under section 3(b) or 4(d) of  
 31 this chapter;  
 32 (B) recovered in a settlement of an action initiated to enforce  
 33 this article; or  
 34 (C) awarded as a judgment in an action to enforce this article.

35 (g) The following shall be deposited by the treasurer of state in the  
 36 state general fund:

- 37 (1) Fifty percent (50%) of the first four million dollars  
 38 (\$4,000,000):  
 39 (A) of a civil penalty recovered under section 3(b) or 4(d) of  
 40 this chapter;  
 41 (B) recovered in a settlement of an action initiated to enforce  
 42 this article; or



- 1 (C) awarded as a judgment in an action to enforce this article.  
 2 (2) Any amount exceeding four million dollars (\$4,000,000):  
 3 (A) of a civil penalty recovered under section 3(b) or 4(d) of  
 4 this chapter;  
 5 (B) recovered in a settlement of an action initiated to enforce  
 6 this article; or  
 7 (C) awarded as a judgment in an action to enforce this article.  
 8 (3) Other fees and revenues that are not designated for deposit in  
 9 the securities division enforcement account or the securities  
 10 restitution fund.  
 11 (h) Notwithstanding IC 23-2-2.5-34, IC 23-2-2.5-43, IC 23-2-5-7,  
 12 IC 23-19-4-12, IC 25-11-1-15, and this chapter, **five percent (5%) of**  
 13 **funds received for deposit in the securities division enforcement**  
 14 **account the first ten percent (10%) of any and all funds recovered**  
 15 **as a civil penalty by or on behalf of the state attributable to or**  
 16 **arising out of actions relating to violations of this article** shall  
 17 ~~instead~~ be deposited in the securities restitution fund established by  
 18 IC 23-20-1-25. Subject to IC 4-2-6-15, the funds deposited in the  
 19 enforcement account shall be available, with the approval of the budget  
 20 agency:  
 21 (1) to augment and supplement the funds appropriated for the  
 22 administration of this article; and  
 23 (2) for grants and awards to nonprofit entities for programs and  
 24 activities that will further investor education and financial literacy  
 25 in the state.  
 26 The funds in the enforcement account do not revert to the state general  
 27 fund at the end of any state fiscal year.  
 28 (i) In connection with the administration and enforcement of this  
 29 article, the attorney general shall render all necessary assistance to the  
 30 commissioner upon the commissioner's request, and to that end, the  
 31 attorney general shall employ legal and other professional services as  
 32 are necessary to adequately and fully perform the service under the  
 33 direction of the commissioner as the demands of the securities division  
 34 shall require. Expenses incurred by the attorney general for the  
 35 purposes stated in this subsection shall be chargeable against and paid  
 36 out of funds appropriated to the attorney general for the administration  
 37 of the attorney general's office. The attorney general may authorize the  
 38 commissioner and the commissioner's designee to represent the  
 39 commissioner and the securities division in any proceeding involving  
 40 enforcement or defense of this article.  
 41 (j) Neither the secretary of state, the commissioner, nor an employee  
 42 of the securities division shall be liable in their individual capacity,



1 except to the state, for an act done or omitted in connection with the  
2 performance of their respective duties under this article.

3 (k) The commissioner shall take, prescribe, and file the oath of  
4 office prescribed by law. The commissioner, chief deputy  
5 commissioner, and each attorney or investigator designated by the  
6 commissioner are police officers of the state and shall have all the  
7 powers and duties of police officers in making arrests for violations of  
8 this article, or in serving any process, notice, or order connected with  
9 the enforcement of this article by whatever officer, authority, or court  
10 issued and shall comprise the enforcement department of the division  
11 and are considered a criminal justice agency for purposes of IC 5-2-4  
12 and IC 10-13-3.

13 (l) The provisions of this article delegating and granting power to  
14 the secretary of state, the securities division, and the commissioner  
15 shall be liberally construed to the end that:

16 (1) the practice or commission of fraud may be prohibited and  
17 prevented;

18 (2) disclosure of sufficient and reliable information in order to  
19 afford reasonable opportunity for the exercise of independent  
20 judgment of the persons involved may be assured; and

21 (3) the qualifications may be prescribed to assure availability of  
22 reliable broker-dealers, investment advisers, and agents engaged  
23 in and in connection with the issuance, barter, sale, purchase,  
24 transfer, or disposition of securities in this state.

25 It is the intent and purpose of this article to delegate and grant to and  
26 vest in the secretary of state, the securities division, and the  
27 commissioner full and complete power to carry into effect and  
28 accomplish the purpose of this article and to charge them with full and  
29 complete responsibility for its effective administration.

30 (m) Copies of any statement and documents filed in the office of the  
31 secretary of state and of any records of the secretary of state certified  
32 by the commissioner shall be admissible in any prosecution, action,  
33 suit, or proceeding based upon, arising out of, or under this article to  
34 the same effect as the original of such statement, document, or record  
35 would be if actually produced.

36 (n) IC 4-21.5 and any rules of practice adopted by the securities  
37 division are applicable to administrative proceedings under this article.

38 SECTION 11. IC 23-20-1-4, AS ADDED BY P.L.114-2010,  
39 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
40 JULY 1, 2017]: Sec. 4. As used in this chapter, "out-of-pocket loss"  
41 means an amount equal to:

42 (1) the amount of restitution ordered under ~~any of the following~~:



1           **a:**

2           (+) ~~Ⓐ~~ **(A)** final court order; **or**

3           (2) ~~Ⓐ~~ **(B)** final administrative order; **minus**

4           **(2) any amounts paid to the victim from the party ordered to**  
 5           **pay restitution under the court order or administrative order.**

6           SECTION 12. IC 23-20-1-23, AS ADDED BY P.L.114-2010,  
 7           SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 8           JULY 1, 2017]: Sec. 23. An award under this chapter may not exceed  
 9           the lesser of the following:

10           (1) ~~Fifteen Twenty-five~~ thousand dollars (~~\$15,000~~): **(\$25,000).**

11           (2) Twenty-five percent (25%) of the amount of the out-of-pocket  
 12           loss.

13           SECTION 13. IC 35-41-4-2, AS AMENDED BY P.L.70-2016,  
 14           SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 15           JULY 1, 2017]: Sec. 2. (a) Except as otherwise provided in this section,  
 16           a prosecution for an offense is barred unless it is commenced:

17           (1) within five (5) years after the commission of the offense, in  
 18           the case of a Class B, Class C, or Class D felony (for a crime  
 19           committed before July 1, 2014) or a Level 3, Level 4, Level 5, or  
 20           Level 6 felony (for a crime committed after June 30, 2014); or

21           (2) within two (2) years after the commission of the offense, in the  
 22           case of a misdemeanor.

23           (b) A prosecution for a Class B or Class C felony (for a crime  
 24           committed before July 1, 2014) or a Level 3, Level 4, or Level 5 felony  
 25           (for a crime committed after June 30, 2014) that would otherwise be  
 26           barred under this section may be commenced within one (1) year after  
 27           the earlier of the date on which the state:

28           (1) first discovers evidence sufficient to charge the offender with  
 29           the offense through DNA (deoxyribonucleic acid) analysis; or

30           (2) could have discovered evidence sufficient to charge the  
 31           offender with the offense through DNA (deoxyribonucleic acid)  
 32           analysis by the exercise of due diligence.

33           (c) A prosecution for a Class A felony (for a crime committed  
 34           before July 1, 2014) or a Level 1 felony or Level 2 felony (for a crime  
 35           committed after June 30, 2014) may be commenced at any time.

36           (d) A prosecution for murder may be commenced:

37           (1) at any time; and

38           (2) regardless of the amount of time that passes between:

39           (A) the date a person allegedly commits the elements of  
 40           murder; and

41           (B) the date the alleged victim of the murder dies.

42           (e) A prosecution for the following offenses is barred unless





1 commenced before the date that the alleged victim of the offense  
2 reaches thirty-one (31) years of age:

- 3 (1) IC 35-42-4-3(a) (Child molesting).  
4 (2) IC 35-42-4-5 (Vicarious sexual gratification).  
5 (3) IC 35-42-4-6 (Child solicitation).  
6 (4) IC 35-42-4-7 (Child seduction).  
7 (5) IC 35-46-1-3 (Incest).

8 (f) A prosecution for forgery of an instrument for payment of  
9 money, or for the uttering of a forged instrument, under IC 35-43-5-2,  
10 is barred unless it is commenced within five (5) years after the maturity  
11 of the instrument.

12 (g) If a complaint, indictment, or information is dismissed because  
13 of an error, defect, insufficiency, or irregularity, a new prosecution may  
14 be commenced within ninety (90) days after the dismissal even if the  
15 period of limitation has expired at the time of dismissal, or will expire  
16 within ninety (90) days after the dismissal.

17 (h) The period within which a prosecution must be commenced does  
18 not include any period in which:

- 19 (1) the accused person is not usually and publicly resident in  
20 Indiana or so conceals himself or herself that process cannot be  
21 served;  
22 (2) the accused person conceals evidence of the offense, and  
23 evidence sufficient to charge the person with that offense is  
24 unknown to the prosecuting authority and could not have been  
25 discovered by that authority by exercise of due diligence; or  
26 (3) the accused person is a person elected or appointed to office  
27 under statute or constitution, if the offense charged is theft or  
28 conversion of public funds or bribery while in public office.

29 (i) For purposes of tolling the period of limitation only, a  
30 prosecution is considered commenced on the earliest of these dates:

- 31 (1) The date of filing of an indictment, information, or complaint  
32 before a court having jurisdiction.  
33 (2) The date of issuance of a valid arrest warrant.  
34 (3) The date of arrest of the accused person by a law enforcement  
35 officer without a warrant, if the officer has authority to make the  
36 arrest.

37 (j) A prosecution is considered timely commenced for any offense  
38 to which the defendant enters a plea of guilty, notwithstanding that the  
39 period of limitation has expired.

40 (k) The following apply to the specified offenses:

- 41 (1) A prosecution for an offense under IC 30-2-9-7(b) (misuse of  
42 funeral trust funds) is barred unless commenced within five (5)



- 1 years after the date of death of the settlor (as described in  
2 IC 30-2-9).
- 3 (2) A prosecution for an offense under IC 30-2-10-9(b) (misuse  
4 of funeral trust funds) is barred unless commenced within five (5)  
5 years after the date of death of the settlor (as described in  
6 IC 30-2-10).
- 7 (3) A prosecution for an offense under IC 30-2-13-38(f) (misuse  
8 of funeral trust or escrow account funds) is barred unless  
9 commenced within five (5) years after the date of death of the  
10 purchaser (as defined in IC 30-2-13-9).
- 11 (l) A prosecution for an offense under **IC 23-2-5, IC 23-2-6,**  
12 **IC 23-14-48-9, or IC 23-19** is barred unless commenced within five (5)  
13 years after the earlier of the date on which the state:  
14 (1) first discovers evidence sufficient to charge the offender with  
15 the offense; or  
16 (2) could have discovered evidence sufficient to charge the  
17 offender with the offense by the exercise of due diligence.
- 18 (m) A prosecution for a sex offense listed in IC 11-8-8-4.5 that is  
19 committed against a child and that is not:  
20 (1) a Class A felony (for a crime committed before July 1, 2014)  
21 or a Level 1 felony or Level 2 felony (for a crime committed after  
22 June 30, 2014); or  
23 (2) listed in subsection (e);  
24 is barred unless commenced within ten (10) years after the commission  
25 of the offense, or within four (4) years after the person ceases to be a  
26 dependent of the person alleged to have committed the offense,  
27 whichever occurs later.
- 28 (n) A prosecution for rape (IC 35-42-4-1) as a Class B felony (for a  
29 crime committed before July 1, 2014) or as a Level 3 felony (for a  
30 crime committed after June 30, 2014) that would otherwise be barred  
31 under this section may be commenced not later than five (5) years after  
32 the earlier of the date on which:  
33 (1) the state first discovers evidence sufficient to charge the  
34 offender with the offense through DNA (deoxyribonucleic acid)  
35 analysis;  
36 (2) the state first becomes aware of the existence of a recording  
37 (as defined in IC 35-31.5-2-273) that provides evidence sufficient  
38 to charge the offender with the offense; or  
39 (3) a person confesses to the offense.
- 40 (o) A prosecution for criminal deviate conduct (IC 35-42-4-2)  
41 (repealed) as a Class B felony for a crime committed before July 1,  
42 2014, that would otherwise be barred under this section may be



1 commenced not later than five (5) years after the earliest of the date on  
2 which:

- 3 (1) the state first discovers evidence sufficient to charge the  
4 offender with the offense through DNA (deoxyribonucleic acid)  
5 analysis;  
6 (2) the state first becomes aware of the existence of a recording  
7 (as defined in IC 35-31.5-2-273) that provides evidence sufficient  
8 to charge the offender with the offense; or  
9 (3) a person confesses to the offense.

