

First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1581

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

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

SECTION 1. IC 15-12-1-2, AS ADDED BY P.L.2-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 2. The definitions in **IC 23-0.5 and IC 23-1** apply to this chapter to the extent they do not conflict with the definitions in this chapter.

SECTION 2. IC 15-12-1-12, AS AMENDED BY P.L.118-2017, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 12. (a) The incorporators of an association to be formed under this chapter shall execute and file articles of incorporation setting forth the following:

- (1) The name of the proposed association.
- (2) The purpose or purposes for which it is formed.
- (3) The period during which it is to continue to exist, if the period is to be limited.
- (4) The post office address of its principal office and the name and address of its registered agent as provided in IC 23-0.5-4.
- (5) If organized without capital stock, whether the property rights and interest of the members are equal or unequal. If property rights and interest of the members are unequal, the articles of incorporation must set forth the provisions under and by which the property rights and interests of the respective members are to

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be determined and fixed.

(6) The following information, if the association is organized with capital stock:

(A) The total number of shares that the association may issue.

(B) Whether all or part of the shares have a par value.

(C) If all or part of the shares have a par value, the number and par value of the shares.

(D) Whether all or part of the shares are without a par value.

(E) If all or part of the shares are without a par value, the number of shares without a par value.

(F) If the shares are to be divided into classes or kinds:

(i) the number and par value, if any, of the shares of each class; and

(ii) subject to the limitations provided in this chapter with respect to issuance of voting stock, either a statement of the relative rights, preferences, limitations, and restrictions of each class, or a provision expressly vesting authority in the board of directors to determine the relative rights, preferences, limitations, and restrictions of each class by resolution or resolutions adopted before the issuance of any shares of the specific class.

(G) If the shares of any class are to be issuable in series:

(i) descriptions of the several series; and

(ii) subject to the limitation provided in this chapter with respect to the issuance of voting stock, a statement of the relative rights, preferences, limitations, and restrictions of each series, or a provision expressly vesting authority in the board of directors to determine the relative rights, preferences, limitations, and restrictions of each series by resolution or resolutions adopted before the issuance of any of the shares of the specific series.

(7) The number of directors constituting the initial board of directors of the association.

(8) The names and post office addresses of the first board of directors.

(9) The names and post office addresses of the incorporators.

(10) Any other provisions, consistent with Indiana laws, for the regulation of the business and conduct of the affairs of the association and for creating, defining, limiting, or regulating the powers of the following:

(A) The association.

(B) The directors.

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(C) The members.

(D) The shareholders of any class or classes of shareholders.

(b) The articles of incorporation must be:

- (1) prepared and signed in duplicate by the incorporators; **and**
- ~~(2) acknowledged by at least one (+) of the incorporators before a notary public; and~~
- ~~(3) (2) presented in duplicate to the secretary of state at the secretary of state's office and accompanied by the fees prescribed by this chapter.~~

SECTION 3. IC 15-12-1-14, AS ADDED BY P.L.2-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 14. (a) Subject to subsections (b) and (c), an association may amend the association's articles of incorporation, merge or consolidate with one (1) or more other associations or corporations, effect special corporate transactions as described in **IC 23-0.6 and IC 23-1**, or dissolve by following the procedures specified in **IC 23-0.6 and IC 23-1**.

(b) An amendment to the articles of incorporation of an association organized under or governed by this chapter or an agreement of merger or consolidation to which an association organized under or governed by this chapter is a party may be adopted:

- (1) by the affirmative votes of the majority of the members entitled to vote with respect to the amendment or agreement and voting at the meeting called for that purpose, if the voting rights of the members are equal; or
- (2) by the affirmative votes of the majority of the votes cast by the members entitled to vote with respect to the amendment or agreement and voting at the meeting called for that purpose, if the voting rights of the members are not equal.

(c) A special corporate transaction or dissolution of an association organized under or governed by this chapter may be authorized:

- (1) by the affirmative votes of three-fourths (3/4) of the members entitled to vote with respect to the transaction or dissolution and voting at the meeting called for that purpose, if the voting rights of the members are equal; or
- (2) by the affirmative votes of three-fourths (3/4) of the votes cast by the members entitled to vote with respect to the transaction or dissolution and voting at the meeting called for that purpose, if the voting rights of the members are not equal.

SECTION 4. IC 15-12-1-47, AS ADDED BY P.L.2-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 47. **IC 23-0.5, IC 23-0.6, IC 23-1**, and all powers

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and rights under **IC 23-0.5, IC 23-0.6, and IC 23-1** apply to associations organized under or governed by this chapter, except where **IC 23-0.5, IC 23-0.6, or IC 23-1** conflicts with or is inconsistent with this chapter.

SECTION 5. IC 23-0.5-5-10, AS ADDED BY P.L.118-2017, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 10. (a) If a registered foreign entity merges into a **registered or** nonregistered foreign entity or converts to a foreign entity required to register with the secretary of state to do business in Indiana, the foreign entity shall deliver to the secretary of state for filing a notice of merger or conversion. The notice must be signed by the surviving or converted entity and state:

- (1) the name of the registered foreign entity before the merger or conversion;
- (2) the type of entity it was before the merger or conversion;
- (3) the name of the applicant entity and, if the name does not comply with IC 23-0.5-3-1, an alternate name adopted under section 6(a) of this chapter;
- (4) the type of entity of the applicant entity and its jurisdiction of formation; and
- (5) the following information regarding the entity, if different than the information for the foreign entity before the merger or conversion:
 - (A) The street address of the principal office of the entity.
 - (B) The information required under IC 23-0.5-4-3(b).

(b) When a notice of merger or conversion takes effect, the registration of the registered foreign entity to do business in Indiana is transferred without interruption to the entity into which it has merged or to which it has been converted.

SECTION 6. IC 23-0.5-5-11, AS AMENDED BY P.L.52-2018, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 11. (a) The secretary of state may revoke the registration of a registered foreign entity, **business trust, or agricultural cooperative** if:

- (1) the entity does not pay, not later than sixty (60) days after the due date, any fee, tax, interest, or penalty required to be paid to the secretary of state under this article or law of Indiana other than this article;
- (2) the entity does not deliver to the secretary of state for filing, not later than sixty (60) days after the due date, a biennial report;
- (3) the entity does not have a registered agent as required by IC 23-0.5-4-1;

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(4) the entity does not deliver to the secretary of state for filing a statement of change under IC 23-0.5-4-6 not later than thirty (30) days after a change occurs in the name or address of the entity's registered agent; or

(5) the secretary of state receives a duly authenticated certificate from the secretary of state or other official having custody of entity filings in the state or country under whose law the entity is registered stating that it has been dissolved or disappeared as the result of a merger.

(b) If the secretary of state determines that one (1) or more grounds exists under subsection (a) for revocation of a registration, the secretary of state shall provide to the foreign entity written notice of the determination, unless the secretary of state:

(1) receives a receipt showing failure of a previous attempt of service of process upon the entity's registered agent at the address of the registered office; and

(2) determines that the secretary of state's office has no record of the entity's principal office address.

(c) The notice under subsection (b) must state:

(1) the effective date of the revocation, which must be at least sixty (60) days after the date the secretary of state delivers the copy; and

(2) the grounds for revocation under subsection (a).

(d) The authority of a registered foreign entity to do business in Indiana ceases on the effective date of the notice of revocation under subsection (b), unless before that date the entity cures each ground for revocation stated in the notice. If the entity cures each ground, the secretary of state shall file a record so stating.

(e) The secretary of state's revocation of a registration appoints the secretary of state the entity's agent for service of process in any proceeding based on a cause of action that arose during the time the entity was authorized to transact business in Indiana. Service of process on the secretary of state under this subsection is service on the entity. Upon receipt of process, the secretary of state shall mail a copy of the process to the entity at its principal office shown in its most recent biennial report or in any subsequent communication received from the entity stating the current mailing address of its principal office, unless the secretary of state:

(1) receives a receipt showing failure of a previous attempt of service of process upon the entity's registered agent at the address of the registered office; and

(2) determines that the secretary of state's office has no record of

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the entity's principal office address.

(f) Revocation of an entity's registration does not terminate the authority of the registered agent of the entity.

SECTION 7. IC 23-0.5-6-2, AS AMENDED BY P.L.206-2021, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 2. (a) If the secretary of state determines that one (1) or more grounds exist under section 1 of this chapter for administratively dissolving an entity, **business trust, or agricultural cooperative**, the secretary of state shall provide to the entity written notice of the determination unless the secretary of state:

(1) receives a receipt showing failure of a previous attempt of service of process upon the entity's registered agent at the address of the registered office; and

(2) determines that the secretary of state's office has no record of the filing entity's principal office address.

(b) If a domestic filing entity, not later than sixty (60) days after receiving the notice provided under subsection (a), does not cure or demonstrate to the satisfaction of the secretary of state the nonexistence of each ground determined by the secretary of state, the secretary of state shall administratively dissolve the entity by signing a certificate of administrative dissolution that recites the grounds for dissolution and the effective date of dissolution. The secretary of state shall file the certificate and provide to the entity a copy of the certificate.

(c) A domestic filing entity that is dissolved administratively continues its existence as the same type of entity but may not carry on any activities except:

(1) to apply for reinstatement under section 3 of this chapter; or

(2) as necessary to wind up its activities and affairs and liquidate its assets in the manner provided in its organic law as follows:

(A) For corporations, under:

(i) IC 6-8.1-10-9;

(ii) IC 23-1-45-5;

(iii) IC 23-1-45-6; and

(iv) IC 23-1-45-7.

(B) For nonprofit corporations, under:

(i) IC 6-8.1-10-9;

(ii) IC 23-17-22-5;

(iii) IC 23-17-22-6; and

(iv) IC 23-17-22-7.

(C) For limited liability companies, under:

(i) IC 23-18-9-3;

(ii) IC 23-18-9-4;



- (iii) IC 23-18-9-5;
- (iv) IC 23-18-9-6;
- (v) IC 23-18-9-8;
- (vi) IC 23-18-9-9; and
- (vii) IC 23-18-9-10.

(D) For limited partnerships, under:

- (i) IC 23-16-9-3; and
- (ii) IC 23-16-9-4.

(E) For limited liability partnerships, under:

- (i) IC 23-4-1-36; and
- (ii) IC 23-4-1-37.

(d) The administrative dissolution of a domestic filing entity does not terminate the authority of its registered agent.

SECTION 8. IC 23-0.5-7-1, AS ADDED BY P.L.118-2017, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1. The secretary of state may propound to any:

- (1) domestic or foreign entity, **business trust, or agricultural cooperative**, that the secretary of state has reason to believe is subject to the provisions of this title under which the domestic entity was created or foreign entity is permitted to transact business in Indiana; and
- (2) any governing person of the entity described in subdivision (1);

any written interrogatories as may be reasonably necessary and proper to enable the secretary of state to ascertain whether the entity was formed using suspected fraudulent or alternate filings or is being used to commit fraud.

SECTION 9. IC 23-2-4-1, AS AMENDED BY P.L.278-2013, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1. As used in this chapter, the term:

"Application fee" means the fee charged an individual, in addition to the entrance fee or any other fee, to cover the provider's reasonable costs in processing the individual's application to become a resident.

"Commissioner" means the securities commissioner as provided in IC 23-19-6-1(a).

"Continuing care agreement" means the following:

- (1) For continuing care retirement communities registered before January 2, 2007, an agreement by a provider to furnish to at least one (1) individual, for the payment of an entrance fee and periodic charges, accommodations in a living unit of a home, and at least two (2) of the following services for the life of the individual or for more than one (1) month unless the agreement

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is cancelled:

- (A) Meals and related services.
- (B) Nursing care services.
- (C) Medical services.
- (D) Other health related services.

(2) For continuing care retirement communities registered after January 1, 2007, and before July 1, 2009, an agreement by a provider to furnish to an individual, for the payment of an entrance fee of at least twenty-five thousand dollars (\$25,000), ~~and~~ periodic charges, **accommodations in a living unit of a home, and at least one (1) of the following services for the life of the individual or for more than one (1) month unless the agreement is canceled:**

- ~~(A) accommodations in a living unit of a continuing care retirement community;~~
- ~~(B) (A) meals and related services;~~
- ~~(C) (B) nursing care services;~~
- ~~(D) (C) medical services;~~
- ~~(E) (D) other health related services; or~~
- ~~(F) (E) any combination of these services.~~

~~for the life of the individual or for more than one (1) month, unless the agreement is canceled.~~

(3) For continuing care retirement communities registered after June 30, 2009, an agreement by a provider to furnish to an individual, for the payment of an entrance fee of at least twenty-five thousand dollars (\$25,000), ~~and~~ periodic charges, **accommodations in a living unit of a home, and at least one (1) of the following services for the life of the individual unless the agreement is terminated as specified under this chapter:**

- ~~(A) accommodations in a living unit of a continuing care retirement community;~~
- ~~(B) (A) meals and related services;~~
- ~~(C) (B) nursing care services;~~
- ~~(D) (C) medical services;~~
- ~~(E) (D) other health related services; or~~
- ~~(F) (E) any combination of these services.~~

~~for the life of the individual, unless the agreement is terminated as specified under this chapter.~~

"Continuing care retirement community" includes both of the following:

- (1) An independent living facility.
- (2) A health facility licensed under IC 16-28.

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"Contracting party" means a person or persons who enter into a continuing care agreement with a provider.

"Entrance fee" means the sum of money or other property paid or transferred, or promised to be paid or transferred, to a provider in consideration for one (1) or more individuals becoming a resident of a continuing care retirement community under a continuing care agreement.

"Living unit" means a room, apartment, cottage, or other area within a continuing care retirement community set aside for the use of one (1) or more identified residents.

"Long term financing" means financing for a period in excess of one (1) year.

"Omission of a material fact" means the failure to state a material fact required to be stated in any disclosure statement or registration in order to make the disclosure statement or registration, in light of the circumstances under which they were made, not misleading.

"Person" means an individual, a corporation, a partnership, an association, a limited liability company, or other legal entity.

"Provider" means a person that agrees to provide care under a continuing care agreement.

"Refurbishment fee" means the fee charged an individual, in addition to the entrance fee or any other fee, to cover the provider's reasonable costs in refurbishing a previously occupied living unit specifically designated for occupancy by that individual.

"Resident" means an individual who is entitled to receive benefits under a continuing care agreement.

"Solicit" means any action of a provider in seeking to have an individual residing in Indiana pay an application fee and enter into a continuing care agreement, including:

- (1) personal, telephone, or mail communication or any other communication directed to and received by any individual in Indiana; and
- (2) advertising in any media distributed or communicated by any means to individuals residing in Indiana.

"Termination" refers to the cancellation of a continuing care agreement under this chapter.

SECTION 10. IC 23-18-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 6. "Corporation" means a domestic corporation or a foreign corporation (as defined in either ~~IC 23-1~~ **IC 23-0.5** or IC 23-17).

SECTION 11. IC 23-18-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 4. (a) Unless otherwise

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provided in a written operating agreement, a limited liability company existing under this article on or before June 30, 1999, is governed by this section.

(b) Except as otherwise provided in a written operating agreement, **if a limited liability company has at least two (2) members, an assignee of an interest may become a member only if the other members unanimously consent. If a limited liability company has only one (1) member, an assignee of the entire interest may become a member:**

(1) under the terms of an agreement between the assignor and the assignee; or

(2) except as otherwise provided in a written operating agreement by a specific reference to this subsection or as otherwise provided in an agreement between the assignor and the assignee, automatically upon the voluntary assignment by the sole member of all the member's interest to a single assignee that the member consented to at the time of the assignment and that was not affected by foreclosure or other similar legal process.

The consent of a member may be evidenced in any manner specified in writing in an operating agreement, but in the absence of a specification, consent must be evidenced by a written instrument, dated and signed by the member.

(c) An assignee who becomes a member:

(1) has, to the extent assigned, the rights and powers and is subject to the restrictions and liabilities of a member under the articles of organization, any operating agreement, and this article; and

(2) is liable for any obligations of the member's assignor for unpaid contributions under IC 23-18-5-1 or for any wrongful distributions under IC 23-18-5-7.

However, the assignee is not obligated for liabilities of which the assignee had no knowledge at the time the assignee became a member and that could not be ascertained from a written operating agreement.

(d) Whether or not an assignee of an interest becomes a member, the assignor is not released from the assignor's liability to the limited liability company for unpaid contributions under IC 23-18-5-1 or for any wrongful distributions under IC 23-18-5-7 that are solely a result of the assignment.

(e) Unless otherwise provided in a written operating agreement, a member who assigns the member's entire interest in the limited liability company ceases to be a member or to have the power to exercise any

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rights of a member when an assignee of the member's interest becomes a member with respect to the assigned interest.

SECTION 12. IC 23-18-6-4.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 4.1. (a) A limited liability company formed under this article after June 30, 1999, is governed by this section.

(b) Except as otherwise provided in a written operating agreement, if a limited liability company has at least two (2) members, an assignee of an interest may become a member only if the other members unanimously consent. ~~The consent of a member may be evidenced in any manner specified in writing in an operating agreement; but in the absence of a specification, consent must be evidenced by a written instrument, dated and signed by the member.~~ If a limited liability company has **only** one (1) member, an assignee of ~~an~~ **the entire** interest may become a member:

(1) in accordance with the terms of an agreement between the assignor and the assignee; **or**

(2) **except as otherwise provided in a written operating agreement by a specific reference to this subsection or as otherwise provided in an agreement between the assignor and the assignee, automatically upon the voluntary assignment by the sole member of all of the member's interest to a single assignee that the member consented to at the time of the assignment and that was not affected by foreclosure or other similar legal process.**

The consent of a member may be evidenced in any manner specified in writing in an operating agreement, but in the absence of a specification, consent must be evidenced by a written instrument, dated and signed by the member.

(c) An assignee who becomes a member:

(1) has, to the extent assigned, the rights and powers and is subject to the restrictions and liabilities of a member under the articles of organization, any operating agreement, and this article; and

(2) is liable for any obligations of the member's assignor for unpaid contributions under IC 23-18-5-1 or for any wrongful distributions under IC 23-18-5-7.

However, the assignee is not obligated for liabilities of which the assignee had no knowledge at the time the assignee became a member and that could not be ascertained from a written operating agreement.

(d) Whether or not an assignee of an interest becomes a member, the assignor is not released from the assignor's liability to the limited

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liability company for unpaid contributions under IC 23-18-5-1 or for any wrongful distributions under IC 23-18-5-7 that are solely a result of the assignment.

(e) Unless otherwise provided in a written operating agreement, a member who assigns the member's entire interest in the limited liability company ceases to be a member or to have the power to exercise any rights of a member.

SECTION 13. IC 23-19-6-1, AS AMENDED BY P.L.175-2019, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1. (a) This article shall be administered by a division of the office of the secretary of state. The secretary of state shall appoint a securities commissioner who shall be responsible for the direction and supervision of the division and the administration of this article under the direction and control of the secretary of state. The salary of the securities commissioner shall be paid out of the funds appropriated for the administration of this article. The commissioner shall serve at the will of the secretary of state.

(b) The secretary of state:

- (1) shall employ a chief deputy, attorneys, a senior investigator, a senior accountant, and other deputies, investigators, accountants, clerks, stenographers, and other employees necessary for the administration of this article; and
- (2) shall fix their compensation with the approval of the budget agency.

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

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

(e) Subject to IC 4-2-6-15, the commissioner may develop and implement investor education initiatives to inform the public about investing in securities, with particular emphasis on the prevention and detection of securities fraud. In developing and implementing these initiatives, the commissioner may collaborate with public and nonprofit organizations with an interest in investor education. The commissioner may accept a grant or donation from a person that is not affiliated with the securities industry or from a nonprofit organization, regardless of whether the organization is affiliated with the securities industry, to

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develop and implement investor education initiatives. This subsection does not authorize the commissioner to require participation or monetary contributions of a registrant in an investor education program.

(f) The securities division enforcement account is established. **Except as provided in subsection (o)**, fees and funds of whatever character accruing from the administration of this article shall be accounted for by the secretary of state and shall be deposited with the treasurer of state to be deposited by the treasurer of the state in either the state general fund or the securities division enforcement account. Subject to IC 4-2-6-15, expenses incurred in the administration of this article shall be paid from the state general fund upon appropriation being made for the expenses in the manner provided by law for the making of those appropriations. The following shall be deposited by the treasurer of state in the securities division enforcement account:

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

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

- (1) Fifty percent (50%) of the first four million dollars (\$4,000,000):
 - (A) of a civil penalty recovered under section 3(b) or 4(d) of this chapter;
 - (B) recovered in a settlement of an action initiated to enforce this article; or
 - (C) awarded as a judgment in an action to enforce this article.
- (2) Any amount exceeding four million dollars (\$4,000,000):
 - (A) of a civil penalty recovered under section 3(b) or 4(d) of this chapter;
 - (B) recovered in a settlement of an action initiated to enforce this article; or
 - (C) awarded as a judgment in an action to enforce this article.
- (3) **Subject to subsection (o)**, other fees and revenues that are not designated for deposit in the securities division enforcement

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account or the securities restitution fund.

(h) Notwithstanding IC 23-2-2.5-34, IC 23-2-2.5-43, IC 23-2.5-2, IC 23-19-4-12, IC 25-11-1-15, and this chapter, five percent (5%) of funds received for deposit in the securities division enforcement account shall instead be deposited in the securities restitution fund established by IC 23-20-1-25. Subject to IC 4-2-6-15, the funds deposited in the enforcement account shall be available, with the approval of the budget agency:

- (1) to augment and supplement the funds appropriated for the administration of this article; and
- (2) for grants and awards to nonprofit entities for programs and activities that will further investor education and financial literacy in the state.

The funds in the enforcement account do not revert to the state general fund at the end of any state fiscal year.

(i) In connection with the administration and enforcement of this article, the attorney general shall render all necessary assistance to the commissioner upon the commissioner's request, and to that end, the attorney general shall employ legal and other professional services as are necessary to adequately and fully perform the service under the direction of the commissioner as the demands of the securities division shall require. Expenses incurred by the attorney general for the purposes stated in this subsection shall be chargeable against and paid out of funds appropriated to the attorney general for the administration of the attorney general's office. The attorney general may authorize the commissioner and the commissioner's designee to represent the commissioner and the securities division in any proceeding involving enforcement or defense of this article.

(j) Neither the secretary of state, the commissioner, nor an employee of the securities division shall be liable in their individual capacity, except to the state, for an act done or omitted in connection with the performance of their respective duties under this article.

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

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

- (1) the practice or commission of fraud may be prohibited and prevented;
- (2) disclosure of sufficient and reliable information in order to afford reasonable opportunity for the exercise of independent judgment of the persons involved may be assured; and
- (3) the qualifications may be prescribed to assure availability of reliable broker-dealers, investment advisers, and agents engaged in and in connection with the issuance, barter, sale, purchase, transfer, or disposition of securities in this state.

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

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

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

(o) Notwithstanding any other law, two percent (2%) of funds received for deposit in the state general fund as described in subsection (g)(3) shall instead be deposited in the securities restitution fund established by IC 23-20-1-25.

SECTION 14. IC 23-20-1-25, AS ADDED BY P.L.114-2010, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 25. (a) The securities restitution fund is established.

(b) The fund consists of: ~~amounts:~~

- (1) **amounts** from funds received for deposit in the securities division enforcement account as provided in ~~IC 23-19-6-1(f);~~ **IC 23-19-6-1(h); and**
- (2) **two percent (2%) of funds received from other fees and revenues from the administration of IC 23-19 that would otherwise be deposited in the state general fund as provided in IC 23-19-6-1(o); and**
- ~~(3)~~ (3) **amounts** appropriated from the general assembly.

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SECTION 15. IC 23-20-1-27 IS REPEALED [EFFECTIVE JULY 1, 2023]. ~~Sec. 27. Money in the fund and income derived from money in the fund do not revert to the state general fund at the end of a state fiscal year.~~

SECTION 16. IC 23-20-1-27.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 27.5. If the balance of the fund at the end of a particular state fiscal year exceeds two million dollars (\$2,000,000), the amount that exceeds two million dollars (\$2,000,000) reverts to the state general fund.**

SECTION 17. IC 23-20-1-28, AS ADDED BY P.L.114-2010, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 28. (a) If the fund would be reduced below two hundred fifty thousand dollars (\$250,000) by payment in full of all awards that become final in a month, the division shall suspend payment of the claims that become final during the month and the following two (2) months.

(b) At the end of the suspension period, the division shall pay the suspended claims. If the fund would be exhausted by payment in full of the suspended claims, the amount paid to each claimant shall be prorated.

(c) **To ensure the financial viability of the fund, the commissioner may:**

- (1) **divide into installments;**
- (2) **delay; or**
- (3) **divide into installments and delay;**

any payments owed to claimants under this chapter.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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