

Notice of Public Comment Period for Rule Readoption

LSA Document #23-842

Readopts rules in anticipation of IC 4-22-2.6, providing that an administrative rule adopted under IC 4-22-2 expires January 1 of the fifth year after the year in which the rule takes effect unless the rule contains an earlier expiration date. Effective 30 days after filing with the Publisher.

STATUTORY AUTHORITY: IC 23-2.5-11-6

OVERVIEW

Rules to be readopted without changes are as follows:

- 710 IAC 1-22 Loan Broker Regulations
 - 710 IAC 1-22-5 Forms
 - 710 IAC 1-22-6 Fees
 - 710 IAC 1-22-8 Material facts
 - 710 IAC 1-22-9 Record maintenance

Rules to be repealed without changes are as follows:

None

SUMMARY OF FINDINGS UNDER IC 4-22-2.6-4

I. Continued Need for the Rule

- a. The Securities Commissioner is given authority under IC 23-2.5 to promulgate rules for the implementation and enforcement of the Loan Broker Act. The rules listed above that are proposed for readoption proscribe consumer protections by way of 1) dictating necessary information on agreement forms, 2) proscribe the only fees which may be collected by a Loan Broker prior to closing; 3) provide a definition of “Material Facts” as used in the Loan Broker Act; and 4) provide the necessary documents that must be maintained within a borrower or potential borrower’s file.
- b. Minimizing the expenses:
 - i. 710 IAC 1-22-5 Forms
 - There is no direct expense related with this rule as it only provides for the necessary information that must be contained within a Loan Broker agreement. Furthermore, a compliant Indiana Loan Broker Agreement is provided by the Securities Division that Licensee’s may use.
 - ii. 710 IAC 1-22-6 Fees

- The fees set forth in this rule are in no way imposed on the licensee but rather set forth the fees which a licensee may collect from a borrower or potential borrower prior to closing.
 - iii. 710 IAC 1-22-8 Material facts
 - There is no expense related to this rule. It is definition only
 - iv. 710 IAC 1-22-9 Record maintenance
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- c. The Division maintains that the rules set forth for readoption and the requirements they impose are done so in the least restrictive manner possible and avoids duplicating standards set forth in other State or Federal laws by further providing definition or explanation of requirements of the IC 23.2.5.

II. Analysis of fees, fines, and civil penalties under IC 4-22-2-19.6

There are no fees, fines, or civil penalties imposed by this rule.

III. Complaints and Comments

The Division has received no significant comments or complaints related to the contents of this rule since it was implemented.

IV. Difficulties Encountered

The Division has had no difficulties in administrating this rule. The Division has not encountered any difficulties related to the regulated parties in complying with this rule.

V. Changes in Technology, Economic Conditions, or Other Factors

The Division recognizes that technology improvements enable increased efficiency in the Loan Broker Industry. The Division has not set restrictive perimeters regarding the format in which forms and/or records need maintained that are addressed by this rule. The requirements promulgated by this rule do not prohibit the implementation of technology and changes to economic conditions do not have an impact on these requirements.

VI. Revised Regulatory Analysis

The Division attempted to review any known cost benefit, economic impact, fiscal impact, or regulatory burden statements that were a product of the below adoption or readoption:

(710 IAC 1-22-9; filed Jan 19, 2006, 12:19 p.m.: 29 IR 1926; readopted filed Nov 26, 2012, 1:59 p.m.: 20121226-IR-710120573RFA; readopted filed Nov 19, 2018, 12:53 p.m.: 20181219-IR-710180415RFA);

and found no statements in need of revision due to change in circumstance.

REQUEST FOR PUBLIC COMMENT

At this time, the Secretary of State – Securities Division solicits the following:

- (1) The submission of alternative ways to achieve the purpose of the rule.
- (2) The submission of suggestions for the development of draft rule language.

Comments may be submitted in one of the following ways:

- (1) By mail or common carrier to the following address:

LSA Document #23-842
Marie Castetter, Securities Commissioner
302 W. Washington Street, Room E-111
Indianapolis, IN 46204

- (2) By electronic mail to Securities@sos.in.gov.

To confirm timely delivery of submitted comments, please request a document receipt when sending the electronic mail. **PLEASE NOTE: Electronic mail comments will NOT be considered part of the official written comment period unless they are sent to the address indicated in this notice.**

COMMENT PERIOD DEADLINE

All comments must be postmarked or time stamped not later than October 11, 2024.

Promulgate