



Holli Sullivan
Secretary of State

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State of Indiana

Securities Division

Alex Glass
Securities Commissioner

COMPLIANCE ALERT

TO: All industries and individuals regulated by the Indiana Securities Division
FROM: Alex Glass, Securities Commissioner
DATE: July 1, 2021
RE: Amendments to the Indiana Code Effective July 1, 2021

The Indiana Secretary of State, Securities Division (“Division”) and Securities Commissioner (“Commissioner”) are issuing this compliance alert regarding upcoming changes to the Indiana Code which effect multiple industries regulated by the Division.

P.L. 205-2021, which takes effect on July 1, 2021, will amend laws impacting securities registrants, loan brokers and affiliated licensees, continuing care retirement communities, collection agencies, and franchises. A summary of the amendments is provided below, the Division recommends that constituents consult the full text of the new laws, which may be found at this link: [Indiana General Assembly](#).

Changes to the Indiana Uniform Securities Act (“IUSA”)

Amendments to [I.C. § 23-19-4-12\(d\) \(2021\)](#) will set out that a person may be subject to certain disciplinary measures for failure to comply with the data breach disclosure process mandated by [I.C. § 24-4.9-3](#), *et seq.* Briefly, this chapter requires a business to notify affected consumers, consumer reporting agencies, and the state Attorney General’s office after it becomes aware of a security breach compromising the security, confidentiality, or integrity of personal information. Following the amendment, failure to comply with this process may result in suspension, revocation, or conditioning of a registration in addition to denial of an initial application for registration.

Changes to the Indiana Loan Broker Act

1. Laws impacting third-party loan processors will be amended to clarify that, though these individuals must complete the same educational and examination requirements of mortgage loan originators, they do not need to obtain an active mortgage loan originator license as that step is not permitted by the NMLS system. [I.C. § 23-2.5-3-3 \(2021\)](#) and [I.C. § 23-2.5-5-4 \(2021\)](#).
2. The Loan Broker Act will be clarified to expressly provide that federally registered mortgage loan originators are exempt from state licensure requirements. This exemption was already applied in practice and has been amended to avoid confusion within the industry. [I.C. § 23-2.5-3-6 \(2021\)](#).

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Changes impacting Continuing Care Retirement Facilities

The new laws amend provisions of [I.C. § 23-2-4-5 \(2021\)](#) regarding submission of annual disclosure statements by continuing care retirement communities (“CCRCs”). As a result of the amendments, a CCRC must demonstrate good cause in order to obtain an extension of time in which to file its annual disclosure statement. It will additionally provide that CCRCs must notify prospective residents that its annual disclosure statement is not current. Last, the amendment provides that, in order to request an extension to file its annual disclosure statement, a CCRC must initiate the registration process by paying its annual fee within four (4) months following its fiscal year end.

Changes to the Indiana Collection Agency Act

1. Amendments to [I.C. § 25-11-1](#), *et seq.* will clarify the law surrounding collection agency branch offices in two (2) ways. First, [I.C. § 25-11-1-1\(d\) \(2021\)](#) will create a definition for a collection agency “branch office,” which did not previously exist. The amendment provides generally that a branch office is a physical location that is not designated by a collection agency as its main office, but is held out to the public as a collection agency through advertising, promotional materials, signage, business cards, or other conduct the collection agency performs. Second, [I.C. § 25-11-1-7\(d\) \(2021\)](#) clarifies that operating a branch office without applying to the Division and paying the associated fee constitutes a violation of the Collection Agency Act.
2. Similar to the amended law impacting securities registrants, discussed above, the Collection Agency Act will be amended to expressly provide that collection agencies must comply with Indiana’s data breach disclosure notification laws. [I.C. § 25-11-1-7\(e\) \(2021\)](#)

Changes to Indiana Franchise Act

The Indiana Franchise Act will be amended to provide that any franchise claiming an exemption from the state registration requirement may be required to provide additional requested documentation and evidence demonstrating that the franchise meets all necessary criteria for the exemption. [I.C. § 23-2-2.5-8 \(2021\)](#).

Questions regarding this alert should be directed to securities@sos.in.gov.

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