IC 24-4.5

ARTICLE 4.5. UNIFORM CONSUMER CREDIT CODE

IC 24-4.5-1

Chapter 1. General Provisions and Definitions

(Part 1. Short Title, Construction, General Provisions)

IC 24-4.5-1-101

Short title

Sec. 101. Short Title — This Article shall be known and may be cited as Uniform Consumer Credit Code.

(Formerly: Acts 1971, P.L.366, SEC.2.)

IC 24-4.5-1-102

Purposes; rules of construction; application to disguised consumer credit transactions; violations of other consumer credit laws, regulations, or rules; enforcing disclosure requirements for mortgage transactions

Sec. 102. (1) This article shall be liberally construed and applied to promote its underlying purposes and policies.

(2) The underlying purposes and policies of this article are:

(a) to simplify, clarify, and modernize the law governing retail installment sales, consumer credit, small loans, and usury;

(b) to provide rate ceilings to assure an adequate supply of credit to consumers;

(c) to further consumer understanding of the terms of credit transactions and to foster competition among suppliers of consumer credit so that consumers may obtain credit at reasonable cost;

(d) to protect consumer buyers, lessees, and borrowers against unfair practices by some suppliers of consumer credit, having due regard for the interests of legitimate and scrupulous creditors;

(e) to permit and encourage the development of fair and economically sound consumer credit practices;

(f) to conform the regulation of consumer credit transactions to the policies of the Federal Consumer Credit Protection Act and to applicable state and federal laws, rules, regulations, policies, and guidance; and

(g) to make uniform the law, including administrative rules among the various jurisdictions.

(3) A reference to a requirement imposed by this article includes reference to a related rule or guidance of the department adopted pursuant to this article.

(4) A reference to a federal law in this article is a reference to the law as in effect December 31, 2015.

(5) This article applies to a transaction if the director determines that the transaction:

(a) is in substance a disguised consumer credit transaction; or

(b) involves the application of subterfuge for the purpose of avoiding this article.

A determination by the director under this subsection must be in writing and shall be delivered to all parties to the transaction. IC 4-21.5-3 applies to a determination made under this subsection.

(6) The authority of this article remains in effect, whether a licensee, an individual, or a person subject to this article acts or claims to act under any licensing or registration law of this state, or claims to act without such authority.

(7) A violation of a state or federal law, regulation, or rule applicable to consumer credit transactions is a violation of this article.

(8) The department may enforce penalty provisions set forth in 15 U.S.C. 1640 for violations of disclosure requirements applicable to mortgage transactions.

(Formerly: Acts 1971, P.L.366, SEC.2.) As amended by P.L.14-1992, SEC.2; P.L.122-1994, SEC.1; P.L.45-1995, SEC.2; P.L.176-1996, SEC.1; P.L.172-1997, SEC.1; P.L.80-1998, SEC.2; P.L.23-2000, SEC.1; P.L.63-2001, SEC.1 and P.L.134-2001, SEC.1; P.L.82-2002, SEC.1; P.L.258-2003, SEC.1; P.L.73-2004, SEC.15; P.L.141-2005, SEC.1; P.L.10-2006, SEC.1 and P.L.57-2006, SEC.1; P.L.213-2007, SEC.5; P.L.217-2007, SEC.4; P.L.90-2008, SEC.4; P.L.182-2009(ss), SEC.370; P.L.35-2010, SEC.36; P.L.89-2011, SEC.10; P.L.27-2012, SEC.13; P.L.216-2013, SEC.5; P.L.137-2014, SEC.5; P.L.186-2015, SEC.10; P.L.73-2016, SEC.4.

IC 24-4.5-1-103

Supplementary general principles of law applicable

Sec. 103. Unless displaced by the particular provisions of this article, the Uniform Commercial Code (IC 26-1) and the principles of law and equity (including the law relative to capacity to contract, principal and agent, estoppel, fraud, misrepresentation, duress, coercion, mistake, bankruptcy, or other validating or invalidating cause) shall supplement its provisions.

(Formerly: Acts 1971, P.L.366, SEC.2.) As amended by P.L.152-1986, SEC.57.

IC 24-4.5-1-104

Construction against implicit repeal

Sec. 104. Construction Against Implicit Repeal — This Article being a general act intended as a unified coverage of its subject matter, no part of it shall be deemed to be impliedly repealed by subsequent legislation if such construction can reasonably be avoided.

(Formerly: Acts 1971, P.L.366, SEC.2.)

IC 24-4.5-1-105
Severability

Sec. 105. Severability — If any provisions of this Article or the application thereof to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of this Article which can be given effect without the invalid provision or application, and to this end the provisions of this Article are severable.

(Formerly: Acts 1971, P.L.366, SEC.2.)

IC 24-4.5-1-106
Adjustment of dollar amounts

Sec. 106. (1) The dollar amounts in this article designated as subject to change shall change, as provided in this section, according to the Consumer Price Index for Urban Wage Earners and Clerical Workers: U.S. City Average, All Items, 1957-59 equals 100, compiled by Bureau of Labor Statistics, United States Department of Labor, and referred to in this section as the Index. The Index for October, 1971, is the Reference Base Index.

(2) The dollar amounts shall change on July 1 of each even-numbered year if the percentage of change, calculated to the nearest whole percentage point, between the Index at the end of the preceding year and the Reference Base Index is ten percent (10%) or more, except that:

(a) the portion of the percentage change in the Index in excess of a multiple of ten percent (10%) shall be disregarded and the dollar amounts shall change only in multiples of ten percent (10%) of the amounts on March 5, 1971;

(b) the dollar amounts shall not change if the amounts required by this section are those currently in effect pursuant to this article as a result of earlier application of the section; and

(c) in no event shall the dollar amounts be reduced below the amounts appearing in this article on March 5, 1971.

(3) If the Index is revised after December 1967, the percentage of change shall be calculated on the basis of the revised Index. If the revision of the Index changes the Reference Base Index, a revised Reference Base Index shall be determined by multiplying the Reference Base Index by the ratio of the revised Index to the current Index, as each was for the first month in which the revised Index is available. If the Index is superseded, the Index is the one represented by the Bureau of Labor Statistics as reflecting most accurately changes in the purchasing power of the dollar for consumers.

(4) The department shall issue an emergency rule under IC 4-22-2-37.1 announcing:

(a) on or before April 30 of each year in which dollar amounts are to change, the changes in dollar amounts required by subsection (2); and

(b) promptly after the changes occur, changes in the Index

required by subsection (3), including, when applicable, the numerical equivalent of the Reference Base Index under a revised Reference Base Index and the designation or title of any index superseding the Index.

An emergency rule adopted under this subsection expires on the date the department is next required to issue a rule under this subsection.

(5) A person does not violate this article through a transaction otherwise complying with this article if the person relies on dollar amounts either determined according to subsection (2) or appearing in the last rule of the department announcing the then current dollar amounts.

(Formerly: Acts 1971, P.L.366, SEC.2; Acts 1972, P.L.182, SEC.1; Acts 1972, P.L.182, SEC.2.) As amended by P.L.152-1986, SEC.58; P.L.3-1990, SEC.84; P.L.14-1992, SEC.3; P.L.1-1994, SEC.117; P.L.122-1994, SEC.2; P.L.140-2013, SEC.18.

IC 24-4.5-1-107

Waiver; agreement to forego rights; settlement of claims

Sec. 107. Waiver; Agreement to Forego Rights; Settlement of Claims - (1) Except as otherwise provided in this Article, a buyer, lessee, or debtor may not waive or agree to forego rights or benefits under this Article.

(2) A claim by a buyer, lessee, or debtor against a creditor for an excess charge, other violation of this Article, or civil penalty, or a claim against a buyer, lessee, or debtor for default or breach of a duty imposed by this Article, if disputed in good faith, may be settled by agreement.

(3) A claim, whether or not disputed against a buyer, lessee or debtor may be settled for less value than the amount claimed.

(4) A settlement in which the buyer, lessee, or debtor waives or agrees to forego rights or benefits under this Article is invalid if the court as a matter of law finds the settlement to have been unconscionable at the time it was made. The competence of the buyer, lessee, or debtor, any deception or coercion practiced upon him, the nature and extent of the legal advice received by him, and the value of the consideration are relevant to the issue of unconscionability.

(Formerly: Acts 1971, P.L.366, SEC.2.)

IC 24-4.5-1-108

Effect on powers of organizations

Sec. 108. (1) This article prescribes maximum charges for all creditors, except lessors and those excluded (IC 24-4.5-1-202), extending consumer credit, including consumer credit sales (IC 24-4.5-1-301.5(8)), consumer loans (IC 24-4.5-1-301.5(9)), and consumer related sales and loans (IC 24-4.5-2-602 and IC 24-4.5-3-602), and displaces existing limitations on the powers of those creditors based on maximum charges.

(2) With respect to sellers of goods or services, small loan companies, licensed lenders, consumer and sales finance companies, industrial loan and investment companies, and commercial banks and trust companies, this article displaces existing limitations on their powers based solely on amount or duration of credit.

(3) Except as provided in subsection (1) and IC 24-4.6-1, this article does not displace limitations on powers of credit unions, savings banks, savings or building and loan associations, or other thrift institutions whether organized for the profit of shareholders or as mutual organizations.

(4) Except as provided in subsections (1) and (2), this article does not displace:

(a) limitations on powers of depository institutions (IC 24-4.5-1-301.5) with respect to the amount of a loan to a single borrower, the ratio of a loan to the value of collateral, the duration of a loan that is a mortgage transaction, or other similar restrictions designed to protect deposits; or

(b) limitations on powers an organization is authorized to exercise under the laws of this state or the United States.

(Formerly: Acts 1971, P.L.366, SEC.2; Acts 1974, P.L.115, SEC.3.) As amended by P.L.14-1992, SEC.4; P.L.122-1994, SEC.3; P.L.35-2010, SEC.37.

IC 24-4.5-1-109

Persons licensed or authorized on October 1, 1971

Sec. 109. All persons licensed on October 1, 1971, under:

(1) IC 24-5-4 (before its repeal on October 1, 1971);

(2) IC 28-7-4 (before its repeal on October 1, 1971);

(3) IC 28-7-2 (before its repeal on October 1, 1971); or

(4) IC 28-5-1-4;

are licensed to make supervised loans under this article, subject to the renewal provisions contained in this article. All provisions of this article apply to the persons previously licensed or authorized. The department may deliver evidence of licensing to the persons previously licensed or authorized.

As added by P.L.5-1988, SEC.128. Amended by P.L.3-1990, SEC.85; P.L.14-1992, SEC.5; P.L.35-2010, SEC.38.

IC 24-4.5-1-201

Territorial application; determination of residence; invalid agreements; violations; voiding of loan

Sec. 201. (1) Except as otherwise provided in this section, this article applies to sales, leases, and loans made in this state and to modifications, including refinancings, consolidations, and deferrals, made in this state, of sales, leases, and loans, wherever made. For purposes of this article, the following apply:

(a) A sale or modification of a sale agreement is made in this state if the buyer's agreement or offer to purchase or to modify

is received by the seller or a person acting on behalf of the seller in this state.

(b) A lease or modification of a lease agreement is made in this state if the lessee's agreement or offer to lease or to modify is received by the lessor or a person acting on behalf of the lessor in this state.

(c) A loan or modification of a loan agreement is made in this state if a writing signed by the debtor and evidencing the debt is received by the lender or a person acting on behalf of the lender in this state.

(d) Except as provided in subdivisions (e) and (f), a sale, lease, or loan transaction occurs in Indiana if a consumer who is a resident of Indiana enters into a consumer sale, lease, or loan transaction with a creditor or a person acting on behalf of the creditor in another state and the creditor or the person acting on behalf of the creditor has advertised or solicited sales, leases, or loans in Indiana by any means, including by mail, brochure, telephone, print, radio, television, the Internet, or electronic means.

(e) A sale, lease, or loan transaction does not occur in Indiana if a consumer who is a resident of Indiana enters into a consumer sale, lease, or loan transaction secured by an interest in land located outside Indiana.

(f) A sale, lease, or loan transaction does not occur in Indiana if a consumer who is a resident of Indiana enters into a consumer sale, lease, or loan transaction at a creditor's place of business in another state.

For purposes of subdivisions (a) through (c), an offer is received by a creditor or a person acting on behalf of the creditor in Indiana if the offer is physically delivered, or otherwise transmitted or communicated, to a person who has actual or apparent authority to act for the creditor or the person acting on behalf of the creditor in Indiana, regardless of whether approval, acceptance, or ratification by any other agent or representative of the creditor or the person acting on behalf of the creditor in another state is necessary to give legal consequence to the consumer credit transaction.

(2) IC 24-4.5-5-101 through IC 24-4.5-5-108 apply to actions or other proceedings brought in this state to enforce rights arising from consumer credit sales, consumer leases, or consumer loans, or extortionate extensions of credit, wherever made.

(3) Except as provided in subsection (2), a sale, lease, loan, or modification thereof, made in another state to a person who was not a resident of this state when the sale, lease, loan, or modification was made is valid and enforceable in this state according to its terms to the extent that it is valid and enforceable under the laws of the state applicable to the transaction.

(4) For the purposes of this article, the residence of a buyer, lessee, or debtor is the address given by the buyer, lessee, or debtor

as the buyer's, lessee's, or debtor's residence in any writing or electronic communication made by the buyer, lessee, or debtor in connection with a credit transaction. Until the buyer, lessee, or debtor notifies the creditor or the person acting on behalf of the creditor of a new or different address, the given address is presumed to be unchanged.

(5) Notwithstanding other provisions of this section:

(a) except as provided in subsection (2), this article does not apply if the buyer, lessee, or debtor is not a resident of this state at the time of a credit transaction and the parties then agree that the law of the buyer's, lessee's, or debtor's residence applies; and

(b) this article applies if the buyer, lessee, or debtor is a resident of this state at the time of a credit transaction and the parties then agree that the law of this state applies.

(6) Except as provided in subsection (5), the following agreements by a buyer, lessee, or debtor are invalid with respect to consumer credit sales, consumer leases, consumer loans, or modifications thereof, to which this article applies:

(a) An agreement that the law of another state shall apply.

(b) An agreement that the buyer, lessee, or debtor consents to the jurisdiction of another state.

(c) An agreement that fixes venue.

(7) The following provisions of this article specify the applicable law governing certain cases:

(a) IC 24-4.5-6-102 (applicability of the provisions on powers and functions of the department).

(b) IC 24-4.5-6-201 (applicability of the provisions on notification and fees).

(8) If a creditor or a person acting on behalf of the creditor has violated the provisions of this article that apply to the authority to make consumer loans (IC 24-4.5-3-502), the loan is void and the debtor is not obligated to pay either the principal or loan finance charge, as set forth in IC 24-4.5-5-202.

(Formerly: Acts 1971, P.L.366, SEC.2.) As amended by Acts 1979, P.L.236, SEC.1; P.L.152-1986, SEC.59; P.L.252-1987, SEC.5; P.L.14-1992, SEC.6; P.L.122-1994, SEC.4; P.L.10-2006, SEC.2 and P.L.57-2006, SEC.2; P.L.213-2007, SEC.6; P.L.217-2007, SEC.5; P.L.90-2008, SEC.5; P.L.216-2013, SEC.6.

IC 24-4.5-1-201.1
Applicability; civil proceeding advance payment transactions

Sec. 201.1. CPAP transactions, as defined in section 301.5 of this chapter, are subject to this article and to IC 24-12.

As added by P.L.153-2016, SEC.1.

IC 24-4.5-1-202
Exempt transactions and persons

Sec. 202. (a) As used in this section, "balloon payment", with respect to a mortgage transaction, means any payment that:

(1) the creditor requires the debtor to make at any time during the term of the mortgage;

(2) represents the entire amount of the outstanding balance with respect to the mortgage; and

(3) the entire amount of which is due as of a specified date or at the end of a specified period;

if the aggregate amount of the minimum periodic payments required under the mortgage would not fully amortize the outstanding balance by the specified date or at the end of the specified period. The term does not include a payment required by a creditor under a due-on-sale clause (as defined in 12 U.S.C. 1701j-3(a)) or a payment required by a creditor under a provision in the mortgage that permits the creditor to accelerate the debt upon the debtor's default or failure to abide by the material terms of the mortgage.

(b) This article does not apply to the following:

(1) Extensions of credit to government or governmental agencies or instrumentalities.

(2) The sale of insurance by an insurer, except as otherwise provided in the chapter on insurance (IC 24-4.5-4).

(3) Transactions under public utility, municipal utility, or common carrier tariffs if a subdivision or agency of this state or of the United States regulates the charges for the services involved, the charges for delayed payment, and any discount allowed for early payment.

(4) The rates and charges and the disclosure of rates and charges of a licensed pawnbroker established in accordance with a statute or ordinance concerning these matters.

(5) A sale of goods, services, or an interest in land in which the goods, services, or interest in land are purchased primarily for a purpose other than a personal, family, or household purpose.

(6) A loan in which the debt is incurred primarily for a purpose other than a personal, family, or household purpose.

(7) An extension of credit primarily for a business, a commercial, or an agricultural purpose.

(8) An installment agreement for the purchase of home fuels in which a finance charge is not imposed.

(9) Loans made, insured, or guaranteed under a program authorized by Title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.).

(10) Transactions in securities or commodities accounts in which credit is extended by a broker-dealer registered with the Securities and Exchange Commission or the Commodity Futures Trading Commission.

(11) Except for IC 24-4.5-3-502.1(4), IC 24-4.5-3-503.3, IC 24-4.5-3-505(4), and IC 24-4.5-3-505(5), a loan made:

(A) in compliance with the requirements of; and

(B) by a community development corporation (as defined in IC 4-4-28-2) acting as a subrecipient of funds from;

the Indiana housing and community development authority established by IC 5-20-1-3.

(12) Except for IC 24-4.5-3-502.1(4), IC 24-4.5-3-503.3, IC 24-4.5-3-505(4), and IC 24-4.5-3-505(5), a subordinate lien mortgage transaction made by an entity that exclusively uses funds provided by the United States Department of Housing and Urban Development under Title 1 of the Housing and Community Development Act of 1974, Public Law 93-383, as amended (42 U.S.C. 5301 et seq.).

(13) The United States, any state or local government, or any agency or instrumentality of any governmental entity, including United States government sponsored enterprises.

(14) A bona fide nonprofit organization not operating in a commercial context, as determined by the director, if the following criteria are satisfied:

(A) Subject to clause (B), the organization originates only one (1) or both of the following types of mortgage transactions:

(i) Zero (0) interest first lien mortgage transactions.

(ii) Zero (0) interest subordinate lien mortgage transactions.

(B) The organization does not require, under the terms of the mortgage or otherwise, balloon payments with respect to the mortgage transactions described in clause (A).

(C) The organization is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code.

(D) The organization's primary purpose is to serve the public by helping low income individuals and families build, repair, and purchase housing.

(E) The organization uses only:

(i) unpaid volunteers; or

(ii) employees whose compensation is not based on the number or size of any mortgage transactions that the employees originate;

to originate the mortgage transactions described in clause (A).

(F) The organization does not charge loan origination fees in connection with the mortgage transactions described in clause (A).

(15) A bona fide nonprofit organization (as defined in section 301.5 of this chapter) if the following criteria are satisfied:

(A) For each calendar year that the organization seeks the exemption provided by this subdivision, the organization certifies, not later than December 31 of the preceding calendar year and on a form prescribed by the director and accompanied by such documentation as required by the

director, that the organization is a bona fide nonprofit organization (as defined in section 301.5(45) of this chapter).

(B) The director determines that the organization originates only mortgage transactions that are favorable to the debtor. For purposes of this clause, a mortgage transaction is favorable to the debtor if the director determines that the terms of the mortgage transaction are consistent with terms of mortgage transactions made in a public or charitable context, rather than in a commercial context.

(Formerly: Acts 1971, P.L.366, SEC.2.) As amended by Acts 1981, P.L.217, SEC.1; Acts 1982, P.L.149, SEC.1; P.L.247-1983, SEC.1; P.L.14-1992, SEC.7; P.L.176-1996, SEC.2; P.L.73-2004, SEC.16; P.L.1-2006, SEC.410 and P.L.181-2006, SEC.57; P.L.35-2010, SEC.39; P.L.89-2011, SEC.11; P.L.9-2011, SEC.2; P.L.6-2012, SEC.166; P.L.27-2012, SEC.14; P.L.186-2015, SEC.11.

IC 24-4.5-1-203
Repealed

(Formerly: Acts 1971, P.L.366, SEC.2. As amended by P.L.14-1992, SEC.8; P.L.122-1994, SEC.5. Repealed by P.L.35-2010, SEC.209.)

IC 24-4.5-1-204
Regulation of individuals also conducting loan brokerage business; department's cooperation with securities commissioner

Sec. 204. In examinations or other regulatory activities conducted by the department and related to licensees under this article, the department may cooperate with the Indiana securities commissioner in the regulation of individuals who, in addition to conducting business regulated under this article, also conduct a loan broker business subject to IC 23-2-5.

As added by P.L.35-2010, SEC.40.

(Part 3. Definitions)

IC 24-4.5-1-301
Repealed

(Formerly: Acts 1971, P.L.366, SEC.2. As amended by Acts 1981, P.L.218, SEC.1; P.L.14-1992, SEC.9; P.L.8-1993, SEC.358; P.L.122-1994, SEC.6; P.L.45-1995, SEC.3; P.L.176-1996, SEC.3; P.L.23-2000, SEC.2; P.L.10-2006, SEC.3 and P.L.57-2006, SEC.3; P.L.90-2008, SEC.6; P.L.145-2008, SEC.21; P.L.1-2009, SEC.136. Repealed by P.L.35-2010, SEC.209.)

IC 24-4.5-1-301.5 Version a
Definitions

Note: This version of section amended by P.L.73-2016, SEC.5.

See also following version of this section amended by P.L.153-2016, SEC.2.

Sec. 301.5. In addition to definitions appearing in subsequent chapters in this article, the following definitions apply throughout this article:

(1) "Affiliate", with respect to any person subject to this article, means a person that, directly or indirectly, through one (1) or more intermediaries:

(a) controls;

(b) is controlled by; or

(c) is under common control with;

the person subject to this article.

(2) "Agreement" means the bargain of the parties in fact as found in their language or by implication from other circumstances, including course of dealing or usage of trade or course of performance.

(3) "Agricultural purpose" means a purpose related to the production, harvest, exhibition, marketing, transportation, processing, or manufacture of agricultural products by a natural person who cultivates, plants, propagates, or nurtures the agricultural products. "Agricultural products" includes agricultural, horticultural, viticultural, and dairy products, livestock, wildlife, poultry, bees, forest products, fish and shellfish, and any and all products raised or produced on farms and any processed or manufactured products thereof.

(4) "Average daily balance" means the sum of each of the daily balances in a billing cycle divided by the number of days in the billing cycle, and if the billing cycle is a month, the creditor may elect to treat the number of days in each billing cycle as thirty (30).

(5) "Closing costs" with respect to a subordinate lien mortgage transaction includes:

(a) fees or premiums for title examination, title insurance, or similar purposes, including surveys;

(b) fees for preparation of a deed, settlement statement, or other documents;

(c) escrows for future payments of taxes and insurance;

(d) fees for notarizing deeds and other documents;

(e) appraisal fees; and

(f) fees for credit reports.

(6) "Conspicuous" refers to a term or clause when it is so written that a reasonable person against whom it is to operate ought to have noticed it.

(7) "Consumer credit" means credit offered or extended to a consumer primarily for a personal, family, or household purpose.

(8) "Consumer credit sale" is a sale of goods, services, or an interest in land in which:

(a) credit is granted by a person who regularly engages as a seller in credit transactions of the same kind;

(b) the buyer is a person other than an organization;

(c) the goods, services, or interest in land are purchased primarily for a personal, family, or household purpose;

(d) either the debt is payable in installments or a credit service charge is made; and

(e) with respect to a sale of goods or services, either:

(i) the amount of credit extended, the written credit limit, or the initial advance does not exceed the exempt threshold amount, as adjusted in accordance with the annual adjustment of the exempt threshold amount, specified in Regulation Z (12 CFR 226.3 or 12 CFR 1026.3(b), as applicable); or

(ii) the debt is secured by personal property used or expected to be used as the principal dwelling of the buyer.

Unless the sale is made subject to this article by agreement (IC 24-4.5-2-601), "consumer credit sale" does not include a sale in which the seller allows the buyer to purchase goods or services pursuant to a lender credit card or similar arrangement or except as provided with respect to disclosure (IC 24-4.5-2-301), debtors' remedies (IC 24-4.5-5-201), providing payoff amounts (IC 24-4.5-2-209), and powers and functions of the department (IC 24-4.5-6) a sale of an interest in land which is a first lien mortgage transaction.

(9) "Consumer loan" means a loan made by a person regularly engaged in the business of making loans in which:

(a) the debtor is a person other than an organization;

(b) the debt is primarily for a personal, family, or household purpose;

(c) either the debt is payable in installments or a loan finance charge is made; and

(d) either:

(i) the amount of credit extended, the written credit limit, or the initial advance does not exceed the exempt threshold amount, as adjusted in accordance with the annual adjustment of the exempt threshold amount, specified in Regulation Z (12 CFR 226.3 or 12 CFR 1026.3(b), as applicable); or

(ii) the debt is secured by an interest in land or by personal property used or expected to be used as the principal dwelling of the debtor.

Except as described in IC 24-4.5-3-105, the term does not include a first lien mortgage transaction.

(10) "Credit" means the right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment.

(11) "Creditor" means a person:

(a) who regularly engages in the extension of consumer credit that is subject to a credit service charge or loan finance charge, as applicable, or is payable by written agreement in more than

four (4) installments (not including a down payment); and

(b) to whom the obligation is initially payable, either on the face of the note or contract, or by agreement when there is not a note or contract.

(12) "Depository institution" has the meaning set forth in the Federal Deposit Insurance Act (12 U.S.C. 1813(c)) and includes any credit union.

(13) "Director" means the director of the department of financial institutions or the director's designee.

(14) "Dwelling" means a residential structure that contains one (1) to four (4) units, regardless of whether the structure is attached to real property. The term includes an individual:

(a) condominium unit;

(b) cooperative unit;

(c) mobile home; or

(d) trailer;

that is used as a residence.

(15) "Earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments under a pension or retirement program.

(16) "Employee" means an individual who is paid wages or other compensation by an employer required under federal income tax law to file Form W-2 on behalf of the individual.

(17) "Federal banking agencies" means the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration, and the Federal Deposit Insurance Corporation.

(18) "First lien mortgage transaction" means:

(a) a consumer loan; or

(b) a consumer credit sale;

that is or will be used by the debtor primarily for personal, family, or household purposes and that is secured by a mortgage or a land contract (or another consensual security interest equivalent to a mortgage or a land contract) that constitutes a first lien on a dwelling or on residential real estate upon which a dwelling is constructed or intended to be constructed.

(19) "Immediate family member" means a spouse, child, sibling, parent, grandparent, or grandchild. The term includes stepparents, stepchildren, stepsiblings, and adoptive relationships.

(20) "Individual" means a natural person.

(21) "Lender credit card or similar arrangement" means an arrangement or loan agreement, other than a seller credit card, pursuant to which a lender gives a debtor the privilege of using a credit card, letter of credit, or other credit confirmation or identification in transactions out of which debt arises:

(a) by the lender's honoring a draft or similar order for the

payment of money drawn or accepted by the debtor;

(b) by the lender's payment or agreement to pay the debtor's obligations; or

(c) by the lender's purchase from the obligee of the debtor's obligations.

(22) "Licensee" means a person licensed as a creditor under this article.

(23) "Loan brokerage business" means any activity in which a person, in return for any consideration from any source, procures, attempts to procure, or assists in procuring, a mortgage transaction from a third party or any other person, whether or not the person seeking the mortgage transaction actually obtains the mortgage transaction.

(24) "Loan processor or underwriter" means an individual who performs clerical or support duties as an employee at the direction of, and subject to the supervision and instruction of, a person licensed or exempt from licensing under this article. For purposes of this subsection, the term "clerical or support duties" may include, after the receipt of an application, the following:

(a) The receipt, collection, distribution, and analysis of information common for the processing or underwriting of a mortgage transaction.

(b) The communication with a consumer to obtain the information necessary for the processing or underwriting of a loan, to the extent that the communication does not include:

(i) offering or negotiating loan rates or terms; or

(ii) counseling consumers about mortgage transaction rates or terms.

An individual engaging solely in loan processor or underwriter activities shall not represent to the public through advertising or other means of communicating or providing information, including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items, that the individual can or will perform any of the activities of a mortgage loan originator.

(25) "Mortgage loan originator" means an individual who, for compensation or gain, or in the expectation of compensation or gain, regularly engages in taking a mortgage transaction application or in offering or negotiating the terms of a mortgage transaction that either is made under this article or under IC 24-4.4 or is made by an employee of a person licensed or exempt from licensing under this article or under IC 24-4.4, while the employee is engaging in the loan brokerage business. The term does not include the following:

(a) An individual engaged solely as a loan processor or underwriter as long as the individual works exclusively as an employee of a person licensed or exempt from licensing under this article.

(b) Unless the person or entity is compensated by:

(i) a creditor;

(ii) a loan broker;
(iii) another mortgage loan originator; or
(iv) any agent of the creditor, loan broker, or other mortgage loan originator described in items (i) through (iii);

a person or entity that only performs real estate brokerage activities and is licensed or registered in accordance with applicable state law.

(c) A person solely involved in extensions of credit relating to timeshare plans (as defined in 11 U.S.C. 101(53D)).

(26) "Mortgage servicer" means the last person to whom a mortgagor or the mortgagor's successor in interest has been instructed by a mortgagee to send payments on a loan secured by a mortgage.

(27) "Mortgage transaction" means:

(a) a consumer loan; or
(b) a consumer credit sale;

that is or will be used by the debtor primarily for personal, family, or household purposes and that is secured by a mortgage or a land contract (or another consensual security interest equivalent to a mortgage or a land contract) on a dwelling or on residential real estate upon which a dwelling is constructed or intended to be constructed.

(28) "Nationwide Multistate Licensing System and Registry" (or "Nationwide Mortgage Licensing System and Registry" or "NMLSR") means a multistate licensing system owned and operated by the State Regulatory Registry, LLC, or by any successor or affiliated entity, for the licensing and registration of creditors, mortgage loan originators, and other persons in the mortgage or financial services industries. The term includes any other name or acronym that may be assigned to the system by the State Regulatory Registry, LLC, or by any successor or affiliated entity.

(29) "Nontraditional mortgage product" means any mortgage product other than a thirty (30) year fixed rate mortgage.

(30) "Official fees" means:

(a) fees and charges prescribed by law which actually are or will be paid to public officials for determining the existence of or for perfecting, releasing, or satisfying a security interest related to a consumer credit sale, consumer lease, or consumer loan; or

(b) premiums payable for insurance in lieu of perfecting a security interest otherwise required by the creditor in connection with the sale, lease, or loan, if the premium does not exceed the fees and charges described in subdivision (a) that would otherwise be payable.

(31) "Organization" means a corporation, a government or governmental subdivision, an agency, a trust, an estate, a partnership, a limited liability company, a cooperative, an association, a joint venture, an unincorporated organization, or any other entity, however

organized.

(32) "Payable in installments" means that payment is required or permitted by written agreement to be made in more than four (4) installments not including a down payment.

(33) "Person" includes an individual or an organization.

(34) "Person related to" with respect to an individual means:

(a) the spouse of the individual;

(b) a brother, brother-in-law, sister, or sister-in-law of the individual;

(c) an ancestor or lineal descendants of the individual or the individual's spouse; and

(d) any other relative, by blood or marriage, of the individual or the individual's spouse who shares the same home with the individual.

(35) "Person related to" with respect to an organization means:

(a) a person directly or indirectly controlling, controlled by, or under common control with the organization;

(b) a director, an executive officer, or a manager of the organization or a person performing similar functions with respect to the organization or to a person related to the organization;

(c) the spouse of a person related to the organization; and

(d) a relative by blood or marriage of a person related to the organization who shares the same home with the person.

(36) "Presumed" or "presumption" means that the trier of fact must find the existence of the fact presumed, unless and until evidence is introduced that would support a finding of its nonexistence.

(37) "Real estate brokerage activity" means any activity that involves offering or providing real estate brokerage services to the public, including the following:

(a) Acting as a real estate agent or real estate broker for a buyer, seller, lessor, or lessee of real property.

(b) Bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property.

(c) Negotiating, on behalf of any party, any part of a contract relating to the sale, purchase, lease, rental, or exchange of real property (other than in connection with providing financing with respect to the sale, purchase, lease, rental, or exchange of real property).

(d) Engaging in any activity for which a person is required to be registered or licensed as a real estate agent or real estate broker under any applicable law.

(e) Offering to engage in any activity, or act in any capacity, described in this subsection.

(38) "Registered mortgage loan originator" means any individual who:

(a) meets the definition of mortgage loan originator and is an

employee of:

(i) a depository institution;

(ii) a subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency; or

(iii) an institution regulated by the Farm Credit Administration; and

(b) is registered with, and maintains a unique identifier through, the NMLSR.

(39) "Regularly engaged", with respect to a person who extends consumer credit, refers to a person who:

(a) extended consumer credit:

(i) more than twenty-five (25) times; or

(ii) more than five (5) times for a mortgage transaction secured by a dwelling;

in the preceding calendar year; or

(b) extends or will extend consumer credit:

(i) more than twenty-five (25) times; or

(ii) more than five (5) times for a mortgage transaction secured by a dwelling;

in the current calendar year, if the person did not meet the numerical standards described in subdivision (a) in the preceding calendar year.

(40) "Residential real estate" means any real property that is located in Indiana and on which there is located or intended to be constructed a dwelling.

(41) "Seller credit card" means an arrangement that gives to a buyer or lessee the privilege of using a credit card, letter of credit, or other credit confirmation or identification for the purpose of purchasing or leasing goods or services from that person, a person related to that person, or from that person and any other person. The term includes a card that is issued by a person, that is in the name of the seller, and that can be used by the buyer or lessee only for purchases or leases at locations of the named seller.

(42) "Subordinate lien mortgage transaction" means:

(a) a consumer loan; or

(b) a consumer credit sale;

that is or will be used by the debtor primarily for personal, family, or household purposes and that is secured by a mortgage or a land contract (or another consensual security interest equivalent to a mortgage or a land contract) that constitutes a subordinate lien on a dwelling or on residential real estate upon which a dwelling is constructed or intended to be constructed.

(43) "Unique identifier" means a number or other identifier assigned by protocols established by the NMLSR.

(44) "Land contract" means a contract for the sale of real estate in which the seller of the real estate retains legal title to the real estate until the total contract price is paid by the buyer.

(45) "Bona fide nonprofit organization" means an organization

that does the following, as determined by the director under criteria established by the director:

(a) Maintains tax exempt status under Section 501(c)(3) of the Internal Revenue Code.

(b) Promotes affordable housing or provides home ownership education or similar services.

(c) Conducts the organization's activities in a manner that serves public or charitable purposes.

(d) Receives funding and revenue and charges fees in a manner that does not encourage the organization or the organization's employees to act other than in the best interests of the organization's clients.

(e) Compensates the organization's employees in a manner that does not encourage employees to act other than in the best interests of the organization's clients.

(f) Provides to, or identifies for, debtors mortgage transactions with terms that are favorable to the debtor (as described in section 202(b)(15) of this chapter) and comparable to mortgage transactions and housing assistance provided under government housing assistance programs.

(g) Maintains certification by the United States Department of Housing and Urban Development or employs counselors who are certified by the Indiana housing and community development authority.

As added by P.L.35-2010, SEC.41. Amended by P.L.89-2011, SEC.12; P.L.27-2012, SEC.15; P.L.216-2013, SEC.7; P.L.137-2014, SEC.6; P.L.73-2016, SEC.5.

IC 24-4.5-1-301.5 Version b
Definitions

Note: This version of section amended by P.L.153-2016, SEC.2. See also preceding version of this section amended by P.L.73-2016, SEC.5.

Sec. 301.5. In addition to definitions appearing in subsequent chapters in this article, the following definitions apply throughout this article:

(1) "Affiliate", with respect to any person subject to this article, means a person that, directly or indirectly, through one (1) or more intermediaries:

(a) controls;

(b) is controlled by; or

(c) is under common control with;

the person subject to this article.

(2) "Agreement" means the bargain of the parties in fact as found in their language or by implication from other circumstances, including course of dealing or usage of trade or course of performance.

(3) "Agricultural purpose" means a purpose related to the

production, harvest, exhibition, marketing, transportation, processing, or manufacture of agricultural products by a natural person who cultivates, plants, propagates, or nurtures the agricultural products. "Agricultural products" includes agricultural, horticultural, viticultural, and dairy products, livestock, wildlife, poultry, bees, forest products, fish and shellfish, and any and all products raised or produced on farms and any processed or manufactured products thereof.

(4) "Average daily balance" means the sum of each of the daily balances in a billing cycle divided by the number of days in the billing cycle, and if the billing cycle is a month, the creditor may elect to treat the number of days in each billing cycle as thirty (30).

(5) "Closing costs" with respect to a subordinate lien mortgage transaction includes:

(a) fees or premiums for title examination, title insurance, or similar purposes, including surveys;

(b) fees for preparation of a deed, settlement statement, or other documents;

(c) escrows for future payments of taxes and insurance;

(d) fees for notarizing deeds and other documents;

(e) appraisal fees; and

(f) fees for credit reports.

(6) "Conspicuous" refers to a term or clause when it is so written that a reasonable person against whom it is to operate ought to have noticed it.

(7) "Consumer credit" means credit offered or extended to a consumer primarily for a personal, family, or household purpose.

(8) "Consumer credit sale" is a sale of goods, services, or an interest in land in which:

(a) credit is granted by a person who regularly engages as a seller in credit transactions of the same kind;

(b) the buyer is a person other than an organization;

(c) the goods, services, or interest in land are purchased primarily for a personal, family, or household purpose;

(d) either the debt is payable in installments or a credit service charge is made; and

(e) with respect to a sale of goods or services, either:

(i) the amount of credit extended, the written credit limit, or the initial advance does not exceed fifty-three thousand five hundred dollars ($53,500) or another amount as adjusted in accordance with the annual adjustment of the exempt threshold amount specified in Regulation Z (12 CFR 226.3 or 12 CFR 1026.3(b), as applicable); or

(ii) the debt is secured by personal property used or expected to be used as the principal dwelling of the buyer.

Unless the sale is made subject to this article by agreement (IC 24-4.5-2-601), "consumer credit sale" does not include a sale in which the seller allows the buyer to purchase goods or services

pursuant to a lender credit card or similar arrangement or except as provided with respect to disclosure (IC 24-4.5-2-301), debtors' remedies (IC 24-4.5-5-201), providing payoff amounts (IC 24-4.5-2-209), and powers and functions of the department (IC 24-4.5-6) a sale of an interest in land which is a first lien mortgage transaction.

(9) "Consumer loan" means a loan made by a person regularly engaged in the business of making loans in which:

(a) the debtor is a person other than an organization;

(b) the debt is primarily for a personal, family, or household purpose;

(c) either the debt is payable in installments or a loan finance charge is made; and

(d) either:

(i) the amount of credit extended, the written credit limit, or the initial advance does not exceed fifty-three thousand five hundred dollars ($53,500) or another amount as adjusted in accordance with the annual adjustment of the exempt threshold amount specified in Regulation Z (12 CFR 226.3 or 12 CFR 1026.3(b), as applicable); or

(ii) the debt is secured by an interest in land or by personal property used or expected to be used as the principal dwelling of the debtor.

Except as described in IC 24-4.5-3-105, the term does not include a first lien mortgage transaction.

(10) "Credit" means the right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment.

(11) "Creditor" means a person:

(a) who regularly engages in the extension of consumer credit that is subject to a credit service charge or loan finance charge, as applicable, or is payable by written agreement in more than four (4) installments (not including a down payment); and

(b) to whom the obligation is initially payable, either on the face of the note or contract, or by agreement when there is not a note or contract.

(12) "Depository institution" has the meaning set forth in the Federal Deposit Insurance Act (12 U.S.C. 1813(c)) and includes any credit union.

(13) "Director" means the director of the department of financial institutions or the director's designee.

(14) "Dwelling" means a residential structure that contains one (1) to four (4) units, regardless of whether the structure is attached to real property. The term includes an individual:

(a) condominium unit;

(b) cooperative unit;

(c) mobile home; or

(d) trailer;

that is used as a residence.

(15) "Earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments under a pension or retirement program.

(16) "Employee" means an individual who is paid wages or other compensation by an employer required under federal income tax law to file Form W-2 on behalf of the individual.

(17) "Federal banking agencies" means the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration, and the Federal Deposit Insurance Corporation.

(18) "First lien mortgage transaction" means:

(a) a consumer loan; or

(b) a consumer credit sale;

that is or will be used by the debtor primarily for personal, family, or household purposes and that is secured by a mortgage or a land contract (or another consensual security interest equivalent to a mortgage or a land contract) that constitutes a first lien on a dwelling or on residential real estate upon which a dwelling is constructed or intended to be constructed.

(19) "Immediate family member" means a spouse, child, sibling, parent, grandparent, or grandchild. The term includes stepparents, stepchildren, stepsiblings, and adoptive relationships.

(20) "Individual" means a natural person.

(21) "Lender credit card or similar arrangement" means an arrangement or loan agreement, other than a seller credit card, pursuant to which a lender gives a debtor the privilege of using a credit card, letter of credit, or other credit confirmation or identification in transactions out of which debt arises:

(a) by the lender's honoring a draft or similar order for the payment of money drawn or accepted by the debtor;

(b) by the lender's payment or agreement to pay the debtor's obligations; or

(c) by the lender's purchase from the obligee of the debtor's obligations.

(22) "Licensee" means a person licensed as a creditor under this article.

(23) "Loan brokerage business" means any activity in which a person, in return for any consideration from any source, procures, attempts to procure, or assists in procuring, a mortgage transaction from a third party or any other person, whether or not the person seeking the mortgage transaction actually obtains the mortgage transaction.

(24) "Loan processor or underwriter" means an individual who performs clerical or support duties as an employee at the direction of, and subject to the supervision and instruction of, a person licensed or exempt from licensing under this article. For purposes of this

subsection, the term "clerical or support duties" may include, after the receipt of an application, the following:

(a) The receipt, collection, distribution, and analysis of information common for the processing or underwriting of a mortgage transaction.

(b) The communication with a consumer to obtain the information necessary for the processing or underwriting of a loan, to the extent that the communication does not include:

(i) offering or negotiating loan rates or terms; or

(ii) counseling consumers about mortgage transaction rates or terms.

An individual engaging solely in loan processor or underwriter activities shall not represent to the public through advertising or other means of communicating or providing information, including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items, that the individual can or will perform any of the activities of a mortgage loan originator.

(25) "Mortgage loan originator" means an individual who, for compensation or gain, or in the expectation of compensation or gain, regularly engages in taking a mortgage transaction application or in offering or negotiating the terms of a mortgage transaction that either is made under this article or under IC 24-4.4 or is made by an employee of a person licensed or exempt from licensing under this article or under IC 24-4.4, while the employee is engaging in the loan brokerage business. The term does not include the following:

(a) An individual engaged solely as a loan processor or underwriter as long as the individual works exclusively as an employee of a person licensed or exempt from licensing under this article.

(b) Unless the person or entity is compensated by:

(i) a creditor;

(ii) a loan broker;

(iii) another mortgage loan originator; or

(iv) any agent of the creditor, loan broker, or other mortgage loan originator described in items (i) through (iii);

a person or entity that only performs real estate brokerage activities and is licensed or registered in accordance with applicable state law.

(c) A person solely involved in extensions of credit relating to timeshare plans (as defined in 11 U.S.C. 101(53D)).

(26) "Mortgage servicer" means the last person to whom a mortgagor or the mortgagor's successor in interest has been instructed by a mortgagee to send payments on a loan secured by a mortgage.

(27) "Mortgage transaction" means:

(a) a consumer loan; or

(b) a consumer credit sale;

that is or will be used by the debtor primarily for personal, family, or

household purposes and that is secured by a mortgage or a land contract (or another consensual security interest equivalent to a mortgage or a land contract) on a dwelling or on residential real estate upon which a dwelling is constructed or intended to be constructed.

(28) "Nationwide Mortgage Licensing System and Registry", or "NMLSR", means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of creditors and mortgage loan originators.

(29) "Nontraditional mortgage product" means any mortgage product other than a thirty (30) year fixed rate mortgage.

(30) "Official fees" means:

(a) fees and charges prescribed by law which actually are or will be paid to public officials for determining the existence of or for perfecting, releasing, or satisfying a security interest related to a consumer credit sale, consumer lease, or consumer loan; or

(b) premiums payable for insurance in lieu of perfecting a security interest otherwise required by the creditor in connection with the sale, lease, or loan, if the premium does not exceed the fees and charges described in paragraph (a) that would otherwise be payable.

(31) "Organization" means a corporation, a government or governmental subdivision, an agency, a trust, an estate, a partnership, a limited liability company, a cooperative, an association, a joint venture, an unincorporated organization, or any other entity, however organized.

(32) "Payable in installments" means that payment is required or permitted by written agreement to be made in more than four (4) installments not including a down payment.

(33) "Person" includes an individual or an organization.

(34) "Person related to" with respect to an individual means:

(a) the spouse of the individual;

(b) a brother, brother-in-law, sister, or sister-in-law of the individual;

(c) an ancestor or lineal descendants of the individual or the individual's spouse; and

(d) any other relative, by blood or marriage, of the individual or the individual's spouse who shares the same home with the individual.

(35) "Person related to" with respect to an organization means:

(a) a person directly or indirectly controlling, controlled by, or under common control with the organization;

(b) a director, an executive officer, or a manager of the organization or a person performing similar functions with respect to the organization or to a person related to the organization;

(c) the spouse of a person related to the organization; and

(d) a relative by blood or marriage of a person related to the organization who shares the same home with the person.

(36) "Presumed" or "presumption" means that the trier of fact must find the existence of the fact presumed, unless and until evidence is introduced that would support a finding of its nonexistence.

(37) "Real estate brokerage activity" means any activity that involves offering or providing real estate brokerage services to the public, including the following:

(a) Acting as a real estate agent or real estate broker for a buyer, seller, lessor, or lessee of real property.

(b) Bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property.

(c) Negotiating, on behalf of any party, any part of a contract relating to the sale, purchase, lease, rental, or exchange of real property (other than in connection with providing financing with respect to the sale, purchase, lease, rental, or exchange of real property).

(d) Engaging in any activity for which a person is required to be registered or licensed as a real estate agent or real estate broker under any applicable law.

(e) Offering to engage in any activity, or act in any capacity, described in this subsection.

(38) "Registered mortgage loan originator" means any individual who:

(a) meets the definition of mortgage loan originator and is an employee of:

(i) a depository institution;

(ii) a subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency; or

(iii) an institution regulated by the Farm Credit Administration; and

(b) is registered with, and maintains a unique identifier through, the NMLSR.

(39) "Regularly engaged", with respect to a person who extends consumer credit, refers to a person who:

(a) extended consumer credit:

(i) more than twenty-five (25) times; or

(ii) more than five (5) times for a mortgage transaction secured by a dwelling;

in the preceding calendar year; or

(b) extends or will extend consumer credit:

(i) more than twenty-five (25) times; or

(ii) more than five (5) times for a mortgage transaction secured by a dwelling;

in the current calendar year, if the person did not meet the numerical standards described in subdivision (a) in the

preceding calendar year.

(40) "Residential real estate" means any real property that is located in Indiana and on which there is located or intended to be constructed a dwelling.

(41) "Seller credit card" means an arrangement that gives to a buyer or lessee the privilege of using a credit card, letter of credit, or other credit confirmation or identification for the purpose of purchasing or leasing goods or services from that person, a person related to that person, or from that person and any other person. The term includes a card that is issued by a person, that is in the name of the seller, and that can be used by the buyer or lessee only for purchases or leases at locations of the named seller.

(42) "Subordinate lien mortgage transaction" means:

(a) a consumer loan; or

(b) a consumer credit sale;

that is or will be used by the debtor primarily for personal, family, or household purposes and that is secured by a mortgage or a land contract (or another consensual security interest equivalent to a mortgage or a land contract) that constitutes a subordinate lien on a dwelling or on residential real estate upon which a dwelling is constructed or intended to be constructed.

(43) "Unique identifier" means a number or other identifier assigned by protocols established by the NMLSR.

(44) "Land contract" means a contract for the sale of real estate in which the seller of the real estate retains legal title to the real estate until the total contract price is paid by the buyer.

(45) "Bona fide nonprofit organization" means an organization that does the following, as determined by the director under criteria established by the director:

(a) Maintains tax exempt status under Section 501(c)(3) of the Internal Revenue Code.

(b) Promotes affordable housing or provides home ownership education or similar services.

(c) Conducts the organization's activities in a manner that serves public or charitable purposes.

(d) Receives funding and revenue and charges fees in a manner that does not encourage the organization or the organization's employees to act other than in the best interests of the organization's clients.

(e) Compensates the organization's employees in a manner that does not encourage employees to act other than in the best interests of the organization's clients.

(f) Provides to, or identifies for, debtors mortgage transactions with terms that are favorable to the debtor (as described in section 202(b)(15) of this chapter) and comparable to mortgage transactions and housing assistance provided under government housing assistance programs.

(g) Maintains certification by the United States Department of

Housing and Urban Development or employs counselors who are certified by the Indiana housing and community development authority.

(46) "Civil proceeding advance payment transaction", or "CPAP transaction", has the meaning set forth in IC 24-4.5-3-110.

(47) "Civil proceeding", with respect to a CPAP transaction, has the meaning set forth in IC 24-4.5-3-110.5.

(48) "Civil proceeding advance payment contract", or "CPAP contract", has the meaning set forth in IC 24-4.5-3-110.5.

(49) "Civil proceeding advance payment provider", or "CPAP provider", has the meaning set forth in IC 24-4.5-3-110.5.

(50) "Consumer claimant", with respect to a CPAP transaction, has the meaning set forth in IC 24-4.5-3-110.5.

(51) "Funded amount", with respect to a CPAP transaction, has the meaning set forth in IC 24-4.5-3-110.5.

As added by P.L.35-2010, SEC.41. Amended by P.L.89-2011, SEC.12; P.L.27-2012, SEC.15; P.L.216-2013, SEC.7; P.L.137-2014, SEC.6; P.L.153-2016, SEC.2.

IC 24-4.5-1-302
Federal Consumer Credit Protection Act

Sec. 302. Federal Consumer Credit Protection Act — In this Article "Federal Consumer Credit Protection Act" means the Consumer Credit Protection Act (Public Law 90-321; 82 Stat. 146), as amended, and includes both the Truth in Lending Simplification and Reform Act amendments (Public Law 96-221, Title VI, 94 Stat. 168) and any regulations issued pursuant to those laws. However, the department may otherwise define this term by rule issued in accordance with IC 24-4.5-6-107.

(Formerly: Acts 1971, P.L.366, SEC.2.) As amended by Acts 1982, P.L.149, SEC.2; P.L.14-1992, SEC.10.

IC 24-4.5-1-303
Repealed

(Formerly: Acts 1971, P.L.366, SEC.2. As amended by Acts 1981, P.L.218, SEC.2; P.L.14-1992, SEC.11; P.L.122-1994, SEC.7; P.L.80-1998, SEC.3. Repealed by P.L.35-2010, SEC.209.)

IC 24-4.5-2
Chapter 2. Credit Sales

(Part 1. General Provisions)

IC 24-4.5-2-101
Short title

Sec. 101. Short Title — This Chapter shall be known and may be cited as Uniform Consumer Credit Code - Credit Sales.
(Formerly: Acts 1971, P.L.366, SEC.3.)

IC 24-4.5-2-102
Application

Sec. 102. This chapter applies to consumer credit sales, including home solicitation sales, and consumer leases. In addition, IC 24-4.5-2-601 through IC 24-4.5-2-605 apply to consumer related sales. Licensing under IC 24-4.5-3-502.1 applies to consumer credit sales that are subordinate lien mortgage transactions.
(Formerly: Acts 1971, P.L.366, SEC.3.) As amended by P.L.152-1986, SEC.60; P.L.35-2010, SEC.42.

IC 24-4.5-2-103
Definitions

Sec. 103. Definitions — The following definitions apply to this article and appear in this article as follows:

"Amount financed"	Section 111 of this chapter
"Cash price"	Section 110 of this chapter
"Consumer credit sale"	
"Consumer lease"	Section 106 of this chapter
"Consumer related sale"	Section 602 of this chapter
"Credit service charge"	Section 109 of this chapter
"Goods"	Section 105(1) of this chapter
"Home solicitation sale"	Section 501 of this chapter
"Merchandise certificate"	Section 105(2) of this chapter
"Precomputed"	Section 105(7) of this chapter
"Revolving charge account"	Section 108 of this chapter
"Sale of goods"	Section 105(4) of this chapter
"Sale of an interest in land"	Section 105(6) of this chapter
"Sale of services"	Section 105(5) of this chapter
"Seller"	Section 107 of this chapter
"Services"	Section 105(3) of this chapter

(Formerly: Acts 1971, P.L.366, SEC.3.) As amended by P.L.89-2011, SEC.13.

IC 24-4.5-2-104
Repealed

(Formerly: Acts 1971, P.L.366, SEC.3. As amended by Acts 1981, P.L.218, SEC.3; P.L.247-1983, SEC.2; P.L.14-1992, SEC.12;

P.L.122-1994, SEC.8; P.L.172-1997, SEC.2; P.L.23-2000, SEC.3. Repealed by P.L.35-2010, SEC.209.)

IC 24-4.5-2-105
"Goods"; "merchandise certificate"; "services"; "sale of goods"; "sale of services"; "sale of an interest in land"; "precomputed"

Sec. 105. Definitions: "Goods"; "Merchandise Certificate"; "Services"; "Sale of Goods"; "Sale of Services"; "Sale of an Interest in Land"; "Precomputed".

(1) "Goods" includes goods not in existence at the time the transaction is entered into and merchandise certificates, but excludes money, chattel paper, documents of title, and instruments.

(2) "Merchandise certificate" means a writing issued by a seller not redeemable in cash and usable in its face amount in lieu of cash in exchange for goods or services.

(3) "Services" includes (a) work, labor, and other personal services, (b) privileges with respect to transportation, hotel and restaurant accommodations, education, entertainment, recreation, physical culture, hospital accommodations, funerals, cemetery accommodations, and the like, and (c) insurance provided by a person other than the insurer.

(4) "Sale of goods" includes any agreement in the form of a bailment or lease of goods if the bailee or lessee agrees to pay as compensation for use a sum substantially equivalent to or in excess of the aggregate value of the goods involved and it is agreed that the bailee or lessee will become, or for no other or a nominal consideration has the option to become, the owner of the goods upon full compliance with his obligations under the agreement.

(5) "Sale of services" means furnishing or agreeing to furnish services and includes making arrangements to have services furnished by another.

(6) "Sale of an interest in land" includes a lease in which the lessee has an option to purchase the interest and all or a substantial part of the rental or other payments previously made by him are applied to the purchase price.

(7) A sale, refinancing, or consolidation is "precomputed" if the debt is expressed as a sum comprising the amount financed and the amount of the credit service charge computed in advance.
(Formerly: Acts 1971, P.L.366, SEC.3.)

IC 24-4.5-2-106
"Consumer lease"

Sec. 106. (1) "Consumer lease" means a lease of goods:

(a) which a lessor regularly engaged in the business of leasing makes to a person, other than an organization, who takes under the lease primarily for a personal, family, or household purpose;

(b) in which the amount payable under the lease does not exceed the exempt threshold amount, as adjusted in accordance

with the annual adjustment of the exempt threshold amount, specified in Regulation Z (12 CFR 226.3 or 12 CFR 1026.3(b), as applicable); and

(c) which is for a term exceeding four (4) months.

(2) "Consumer lease" does not include a lease made pursuant to a lender credit card or similar arrangement.

(Formerly: Acts 1971, P.L.366, SEC.3.) As amended by P.L.247-1983, SEC.3; P.L.122-1994, SEC.9; P.L.216-2013, SEC.8; P.L.137-2014, SEC.7; P.L.73-2016, SEC.6.

IC 24-4.5-2-107
"Seller"

Sec. 107. Definition; "Seller" - Except as otherwise provided, "seller" means a person regularly engaged as a creditor in making consumer credit sales. The term includes an assignee of the seller's right to payment but use of the term does not in itself impose on an assignee any obligation of the seller with respect to events occurring before the assignment.

(Formerly: Acts 1971, P.L.366, SEC.3.) As amended by P.L.145-2008, SEC.22.

IC 24-4.5-2-108
"Revolving charge account"

Sec. 108. Definition: "Revolving Charge Account" — "Revolving charge account" means an arrangement between a seller and a buyer pursuant to which (1) the seller may permit the buyer to purchase goods or services on credit either from the seller or pursuant to a seller credit card, (2) the unpaid balances of amounts financed arising from purchases and the credit service and other appropriate charges are debited to an account, (3) a credit service charge if made is not precomputed but is computed on the outstanding unpaid balances of the buyer's account from time to time, and (4) the buyer has the privilege of paying the balances in instalments.

(Formerly: Acts 1971, P.L.366, SEC.3.)

IC 24-4.5-2-109
"Credit service charge"

Sec. 109. "Credit service charge" means the sum of:

(1) all charges payable directly or indirectly by the buyer and imposed directly or indirectly by the seller as an incident to the extension of credit, including any of the following types of charges which are applicable: time price differential, service, carrying or other charge, however denominated, premium or other charge for any guarantee or insurance protecting the seller against the buyer's default or other credit loss; and

(2) charges incurred for investigating the collateral or credit-worthiness of the buyer.

The term does not include charges as a result of default, additional

charges (IC 24-4.5-2-202), delinquency charges (IC 24-4.5-2-203.5), or deferral charges (IC 24-4.5-2-204). The term does not include charges paid or payable to a third party that are not required by the seller as a condition or incident to the extension of credit except for borrower paid mortgage broker fees, including fees paid directly to the broker or the seller (for delivery to the broker), whether the fees are paid in cash or financed. However, borrower paid mortgage broker fees do not include fees paid to a mortgage broker by a creditor, including yield spread premiums and service release fees.
(Formerly: Acts 1971, P.L.366, SEC.3.) As amended by P.L.247-1983, SEC.4; P.L.14-1992, SEC.13; P.L.2-1995, SEC.90; P.L.172-1997, SEC.3.

IC 24-4.5-2-110
"Cash price"

Sec. 110. Definition: "Cash Price" — Except as the department may prescribe by rule, the "cash price" of goods, services, or an interest in land means the price at which the goods, services, or interest in land are offered for sale by the seller to cash buyers in the ordinary course of business, and may include (1) applicable sales, use, and excise and documentary fees, (2) the cash price of accessories or related services such as delivery, installation, servicing, repairs, alterations, service contracts, and improvements, and (3) amounts actually paid or to be paid by the seller for registration, certificate of title, or license fees. The cash price stated by the seller to the buyer pursuant to the provisions on disclosure (Part 3) of this Chapter is presumed to be the cash price.
(Formerly: Acts 1971, P.L.366, SEC.3.) As amended by P.L.14-1992, SEC.14; P.L.122-1994, SEC.10.

IC 24-4.5-2-111
"Amount financed"

Sec. 111. Definition: "Amount Financed" — "Amount financed" means the total of the following to the extent that payment is deferred:

(1) the cash price of the goods, services, or interest in land less the amount of down payment whether made in cash or property;

(2) the amount actually paid or to be paid by the seller pursuant to an agreement with the buyer to discharge a security interest or lien on property traded in; and

(3) if not included in the cash price:

(a) any applicable sales, use, excise or documentary fees;

(b) amounts actually paid or to be paid by the seller for registration, certificate of title, or license fees; and

(c) additional charges permitted by this Chapter (IC 24-4.5-2-202).

(Formerly: Acts 1971, P.L.366, SEC.3.) As amended by P.L.122-1994, SEC.11.

(Part 2. Maximum Charges)

IC 24-4.5-2-201
Credit service charge for consumer credit sales other than revolving charge accounts

Sec. 201. Credit Service Charge for Consumer Credit Sales other than Revolving Charge Accounts — (1) With respect to a consumer credit sale, other than a sale pursuant to a revolving charge account, a seller may contract for and receive a credit service charge not exceeding that permitted by this section.

(2) The credit service charge, calculated according to the actuarial method, may not exceed the equivalent of the greater of:

(a) the total of:

(i) thirty-six percent (36%) per year on that part of the unpaid balances of the amount financed which is two thousand dollars ($2,000) or less;

(ii) twenty-one percent (21%) per year on that part of the unpaid balances of the amount financed which is more than two thousand dollars ($2,000) but does not exceed four thousand dollars ($4,000); and

(iii) fifteen percent (15%) per year on that part of the unpaid balances of the amount financed which is more than four thousand dollars ($4,000); or

(b) twenty-five percent (25%) per year on the unpaid balances of the amount financed.

(3) This section does not limit or restrict the manner of contracting for the credit service charge, whether by way of add-on, discount, or otherwise, so long as the rate of the credit service charge does not exceed that permitted by this section. If the sale is precomputed:

(a) the credit service charge may be calculated on the assumption that all scheduled payments will be made when due; and

(b) the effect of prepayment is governed by the provisions on rebate upon prepayment in section 210 of this chapter.

(4) For the purposes of this section, the term of a sale agreement commences with the date the credit is granted or, if goods are delivered or services performed more than thirty (30) days after that date, with the date of commencement of delivery or performance except as set forth below:

(a) Delays attributable to the customer. Where the customer requests delivery after the thirty (30) day period or where delivery occurs after the thirty (30) day period for a reason attributable to the customer (including but not limited to failure to close on a residence or failure to obtain lease approval), the term of the sale agreement shall commence with the date credit is granted.

(b) Partial Deliveries. Where any portion of the order has been

delivered within the thirty (30) day period, the term of the sale agreement shall commence with the date credit is granted.

Differences in the lengths of months are disregarded and a day may be counted as one-thirtieth (1/30) of a month. Subject to classifications and differentiations the seller may reasonably establish, a part of a month in excess of fifteen (15) days may be treated as a full month if periods of fifteen (15) days or less are disregarded and that procedure is not consistently used to obtain a greater yield than would otherwise be permitted.

(5) Subject to classifications and differentiations the seller may reasonably establish, the seller may make the same credit service charge on all amounts financed within a specified range. A credit service charge so made does not violate subsection (2) if:

(a) when applied to the median amount within each range, it does not exceed the maximum permitted by subsection (2); and

(b) when applied to the lowest amount within each range, it does not produce a rate of credit service charge exceeding the rate calculated according to paragraph (a) by more than eight percent (8%) of the rate calculated according to paragraph (a).

(6) Notwithstanding subsection (2), the seller may contract for and receive a minimum credit service charge of not more than thirty dollars ($30). The minimum credit service charge allowed under this subsection may be imposed only if:

(a) the debtor prepays in full a consumer credit sale, refinancing, or consolidation, regardless of whether the sale, refinancing, or consolidation is precomputed;

(b) the sale, refinancing, or consolidation prepaid by the debtor is subject to a credit service charge that:

(i) is contracted for by the parties; and

(ii) does not exceed the rate prescribed in subsection (2); and

(c) the credit service charge earned at the time of prepayment is less than the minimum credit service charge contracted for under this subsection.

(7) The amounts of two thousand dollars ($2,000) and four thousand dollars ($4,000) in subsection (2) are subject to change pursuant to the provisions on adjustment of dollar amounts (IC 24-4.5-1-106). However, notwithstanding IC 24-4.5-1-106(1), the Reference Base Index to be used under this subsection is the Index for October 2012.

(8) The amount of thirty dollars ($30) in subsection (6) is subject to change under the provisions on adjustment of dollar amounts (IC 24-4.5-1-106). However, notwithstanding IC 24-4.5-1-106(1), the Reference Base Index to be used under this subsection is the Index for October 1992.

(Formerly: Acts 1971, P.L.366, SEC.3.) As amended by Acts 1981, P.L.219, SEC.1; P.L.14-1992, SEC.15; P.L.79-1998, SEC.26; P.L.80-1998, SEC.4; P.L.10-2006, SEC.4 and P.L.57-2006, SEC.4; P.L.145-2008, SEC.23; P.L.91-2013, SEC.1.

IC 24-4.5-2-202
Permitted additional charges

Sec. 202. (1) In addition to the credit service charge permitted by IC 24-4.5-2-201 through IC 24-4.5-2-210, a seller may contract for and receive any of the following additional charges in connection with a consumer credit sale:

(a) Official fees and taxes.

(b) Charges for insurance as described in subsection (2).

(c) Notwithstanding provisions of the Federal Consumer Credit Protection Act concerning disclosure, charges for other benefits, including insurance, conferred on the buyer, if the benefits are of value to the buyer and if the charges are reasonable in relation to the benefits, and are excluded as permissible additional charges from the credit service charge. With respect to any additional charge not specifically provided for in this section, to be a permitted charge under this subsection the seller must submit a written explanation of the charge to the department indicating how the charge would be assessed and the value or benefit to the buyer. Supporting documents may be required by the department. The department shall determine whether the charge would be of benefit to the buyer and is reasonable in relation to the benefits.

(d) A charge not to exceed twenty-five dollars ($25) for each return by a bank or other depository institution of a dishonored check, negotiable order of withdrawal, or share draft issued by the debtor.

(e) Annual participation fees assessed in connection with a revolving charge account. Annual participation fees must:

(i) be reasonable in amount;

(ii) bear a reasonable relationship to the seller's costs to maintain and monitor the charge account; and

(iii) not be assessed for the purpose of circumvention or evasion of this article, as determined by the department.

(2) An additional charge may be made for insurance written in connection with the sale, other than insurance protecting the seller against the buyer's default or other credit loss:

(a) with respect to insurance against loss of or damage to property, or against liability, if the seller furnishes a clear and specific statement in writing to the buyer, setting forth the cost of the insurance if obtained from or through the seller and stating that the buyer may choose the person, subject to the seller's reasonable approval, through whom the insurance is to be obtained; and

(b) with respect to consumer credit insurance providing life, accident, unemployment or other loss of income, or health coverage, if the insurance coverage is not a factor in the approval by the seller of the extension of credit and is clearly disclosed in writing to the buyer, and if, in order to obtain the

insurance in connection with the extension of credit, the buyer gives specific, affirmative, written indication of the desire to do so after written disclosure of the cost.

(3) With respect to a subordinate lien mortgage transaction, the following closing costs, if the costs are bona fide, reasonable in amount, and not for the purpose of circumvention or evasion of this article:

(a) fees for title examination, abstract of title, title insurance, property surveys, or similar purposes;

(b) fees for preparing deeds, mortgages, and reconveyance, settlement, and similar documents;

(c) notary and credit report fees;

(d) amounts required to be paid into escrow or trustee accounts if the amounts would not otherwise be included in the credit service charge; and

(e) appraisal fees.

(Formerly: Acts 1971, P.L.366, SEC.3.) As amended by P.L.247-1983, SEC.5; P.L.181-1991, SEC.1; P.L.14-1992, SEC.16; P.L.122-1994, SEC.12; P.L.45-1995, SEC.4; P.L.80-1998, SEC.5; P.L.213-2007, SEC.7; P.L.217-2007, SEC.6; P.L.35-2010, SEC.43; P.L.89-2011, SEC.14.

IC 24-4.5-2-203
Repealed

(Repealed by P.L.122-1994, SEC.122.)

IC 24-4.5-2-203.5
Delinquency charges

Sec. 203.5. Delinquency Charges — (1) With respect to a consumer credit sale, refinancing, or consolidation, the parties may contract for a delinquency charge of not more than five dollars ($5) on any installment or minimum payment due not paid in full within ten (10) days after its scheduled due date.

(2) A delinquency charge under this section may be collected only once on an installment however long it remains in default. A delinquency charge on consumer credit sales made under a revolving charge account may be applied each month that the payment is less than the minimum required payment. A delinquency charge may be collected any time after it accrues. No delinquency charge may be collected if the installment has been deferred and a deferral charge (IC 24-4.5-2-204) has been paid or incurred.

(3) A delinquency charge may not be collected on an installment or payment due that is paid in full within ten (10) days after its scheduled due date even though an earlier maturing installment, minimum payment, or a delinquency charge on:

(a) an earlier installment; or

(b) payment due;

may not have been paid in full. For purposes of this subsection,

payments are applied first to current installments or payments due and then to delinquent installments or payments due.

(4) If two (2) installments or parts of two (2) installments of a precomputed consumer credit sale are in default for ten (10) days or more, the creditor may elect to convert the consumer credit sale from a precomputed consumer credit sale to a consumer credit sale in which the credit service charge is based on unpaid balances. A creditor that makes this election shall make a rebate under the provisions on rebates upon prepayment under IC 24-4.5-2-210 as of the maturity date of the first delinquent installment, and thereafter may make a credit service charge as authorized by the provisions on credit service charges for consumer credit sales under IC 24-4.5-2-201. The amount of the rebate shall not be reduced by the amount of any permitted minimum charge under IC 24-4.5-2-210. Any deferral charges made on installments due at or after the maturity date of the first delinquent installment shall be rebated, and no further deferral charges shall be made.

(5) The amount of five dollars ($5) in subsection (1) is subject to change under the section on adjustment of dollar amounts (IC 24-4.5-1-106).

(6) If the parties provide by contract for a delinquency charge that is subject to change, the seller shall disclose in the contract that the amount of the delinquency charge is subject to change as allowed by IC 24-4.5-1-106.

As added by P.L.247-1983, SEC.6. Amended by P.L.181-1991, SEC.2; P.L.115-1992, SEC.1; P.L.122-1994, SEC.13; P.L.45-1995, SEC.5.

IC 24-4.5-2-204
Deferral charges

Sec. 204. Deferral Charges — (1) With respect to a precomputed consumer credit sale, refinancing, or consolidation, the parties before or after default may agree in writing to a deferral of all or part of one (1) or more unpaid instalments, and the seller may make and collect a charge not exceeding the lesser of thirty-six percent (36%) per year or the rate previously stated to the buyer pursuant to the provisions on disclosure (Part 3) applied to the amount or amounts deferred for the period of deferral calculated without regard to differences in lengths of months, but proportionately for a part of a month, counting each day as one-thirtieth (1/30) of a month. A deferral charge may be collected at the time it is assessed or at any time thereafter.

(2) The seller, in addition to the deferral charge, may make appropriate additional charges (IC 24-4.5-2-202), and the amount of these charges which is not paid in cash may be added to the amount deferred for the purpose of calculating the deferral charge.

(3) The parties may agree in writing at the time of a precomputed consumer credit sale, refinancing, or consolidation that if an instalment is not paid within ten (10) days after its due date, the

seller may unilaterally grant a deferral and make charges as provided in this section. No deferral charge may be made for a period after the date that the seller elects to accelerate the maturity of the agreement.

(4) A delinquency charge made by the seller on an instalment may not be retained if a deferral charge is made pursuant to this section with respect to the period of delinquency.

(Formerly: Acts 1971, P.L.366, SEC.3.) As amended by P.L.186-2015, SEC.12.

IC 24-4.5-2-205

Credit service charge on refinancing

Sec. 205. Credit Service Charge on Refinancing — With respect to a consumer credit sale, refinancing, or consolidation, the seller may by agreement with the buyer refinance the unpaid balance and may contract for and receive a credit service charge based on the amount financed resulting from the refinancing at a rate not exceeding that permitted by the provisions on credit service charge for consumer credit sales (IC 24-4.5-2-201). For the purpose of determining the credit service charge permitted, the amount financed resulting from the refinancing comprises the following:

(1) If the transaction was not precomputed, the total of the unpaid balance and accrued charges on the date of refinancing, or, if the transaction was precomputed, the amount which the buyer would have been required to pay upon prepayment pursuant to the provisions on rebate upon prepayment (IC 24-4.5-2-210) on the date of refinancing.

(2) Appropriate additional charges (IC 24-4.5-2-202), payment of which is deferred.

(Formerly: Acts 1971, P.L.366, SEC.3.) As amended by P.L.14-1992, SEC.17.

IC 24-4.5-2-206

Credit service charge on consolidation

Sec. 206. Credit Service Charge on Consolidation — If a buyer owes an unpaid balance to a seller with respect to a consumer credit sale, refinancing, or consolidation, and becomes obligated on another consumer credit sale, refinancing, or consolidation with the same seller, the parties may agree to a consolidation resulting in a single schedule of payments pursuant to either of the following subsections:

(1) The parties may agree to refinance the unpaid balance with respect to the previous sale pursuant to the provisions on refinancing (24-4.5-2-205) and to consolidate the amount financed resulting from the refinancing by adding it to the amount financed with respect to the subsequent sale. The seller may contract for and receive a credit service charge based on the aggregate amount financed resulting from the consolidation at a rate not exceeding that permitted by the provisions on credit service charge for consumer credit sales (24-4.5-2-201).

(2) The parties may agree to consolidate by adding together the unpaid balances with respect to the two sales.
(Formerly: Acts 1971, P.L.366, SEC.3.)

IC 24-4.5-2-207
Credit service charge for revolving charge accounts

Sec. 207. Credit Service Charge for Revolving Charge Accounts — (1) With respect to a consumer credit sale made pursuant to a revolving charge account, the parties to the sale may contract for the payment by the buyer of a credit service charge not exceeding that permitted in this section.

(2) A charge may be made in each billing cycle which is a percentage of an amount no greater than:

(a) the average daily balance of the account,

(b) the unpaid balance of the account on the same day of the billing cycle, or

(c) the median amount within a specified range within which the average daily balance of the account or the unpaid balance of the account on the same day of the billing cycle is included. A charge may be made pursuant to this subdivision only if the seller, subject to classification and differentiations the seller may reasonably establish, makes the same charge on all balances within the specified range and if the percentage when applied to the median amount within the range does not produce a charge exceeding the charge resulting from applying that percentage to the lowest amount within the range by more than eight percent (8%) of the charge on the median amount.

(3) If the billing cycle is monthly, the charge may not exceed two and eighty-three thousandths percent (2.083%) of the amount pursuant to subsection (2). If the billing cycle is not monthly, the maximum charge is that percentage which bears the same relation to the applicable monthly percentage as the number of days in the billing cycle bears to thirty (30). For the purposes of this section, a variation of not more than four (4) days from month to month is "the same day of the billing cycle".

(4) Notwithstanding subsection (3), if there is an unpaid balance on the date as of which the credit service charge is applied, the seller may contract for and receive a charge not exceeding fifty cents ($.50), if the billing cycle is monthly or longer, or the pro rata part of fifty cents ($.50) which bears the same relation to fifty cents ($.50) as the number of days in the billing cycle bears to thirty (30) if the billing cycle is shorter than monthly.
(Formerly: Acts 1971, P.L.366, SEC.3.) As amended by Acts 1981, P.L.219, SEC.2; Acts 1982, P.L.150, SEC.1; P.L.73-2016, SEC.7.

IC 24-4.5-2-208
Advances to perform covenants of buyer

Sec. 208. Advances to Perform Covenants of Buyer — (1) If the

agreement with respect to a consumer credit sale, refinancing, or consolidation contains covenants by the buyer to perform certain duties pertaining to insuring or preserving collateral and the seller pursuant to the agreement pays for performance of the duties on behalf of the buyer, the seller may add the amounts paid to the debt. Within a reasonable time after advancing any sums, he shall state to the buyer in writing the amount of the sums advanced, any charges with respect to this amount, and any revised payment schedule and, if the duties of the buyer performed by the seller pertain to insurance, a brief description of the insurance paid for by the seller including the type and amount of coverages. No further information need be given.

(2) A credit service charge may be made for sums advanced pursuant to subsection (1) at a rate not exceeding the rate stated to the buyer pursuant to the provisions on disclosure (Part 3) with respect to the sale, refinancing or consolidation, except that with respect to a revolving charge account the amount of the advance may be added to the unpaid balance of the account and the seller may make a credit service charge not exceeding that permitted by the provisions on credit service charge for revolving charge accounts (24-4.5-2-207).

(Formerly: Acts 1971, P.L.366, SEC.3.)

IC 24-4.5-2-209

Right to prepay without penalty; payoff statement; liability for failure to provide; short sales; foreclosed property; no protection from deficiency judgment

Sec. 209. (1) Subject to the provisions on rebate upon prepayment (section 210 of this chapter), the buyer may prepay in full the unpaid balance of a consumer credit sale, refinancing, or consolidation at any time without penalty.

(2) At the time of prepayment of a credit sale not subject to the provisions of rebate upon prepayment (section 210 of this chapter), the total credit service charge, including the prepaid credit service charge, may not exceed the maximum charge allowed under this chapter for the period the credit sale was in effect.

(3) The creditor or mortgage servicer shall provide, in writing, an accurate payoff amount for the consumer credit sale to the debtor within seven (7) business days (excluding legal public holidays, Saturdays, and Sundays) after the creditor or mortgage servicer receives the debtor's written request for the accurate consumer credit sale payoff amount. A payoff statement provided by a creditor or mortgage servicer under this subsection must show the date the statement was prepared and itemize the unpaid principal balance and each fee, charge, or other sum included within the payoff amount. A creditor or mortgage servicer who fails to provide the accurate consumer credit sale payoff amount is liable for:

(A) one hundred dollars ($100) if an accurate consumer credit

sale payoff amount is not provided by the creditor or mortgage servicer within seven (7) business days (excluding legal public holidays, Saturdays, and Sundays) after the creditor or mortgage servicer receives the debtor's first written request; and

(B) the greater of:

(i) one hundred dollars ($100); or

(ii) the credit service charge that accrues on the sale from the date the creditor or mortgage servicer receives the first written request until the date on which the accurate consumer credit sale payoff amount is provided;

if an accurate consumer credit sale payoff amount is not provided by the creditor or mortgage servicer within seven (7) business days (excluding legal public holidays, Saturdays, and Sundays) after the creditor or mortgage servicer receives the debtor's second written request, and the creditor or mortgage servicer failed to comply with clause (A).

A liability under this subsection is an excess charge under IC 24-4.5-5-202.

(4) As used in this subsection, "mortgage transaction" means a consumer credit sale in which a mortgage or a land contract (or another consensual security interest equivalent to a mortgage or a land contract) that constitutes a lien is created or retained against land upon which there is constructed or intended to be constructed a dwelling that is or will be used by the debtor primarily for personal, family, or household purposes. This subsection applies to a mortgage transaction with respect to which any installment or minimum payment due is delinquent for at least sixty (60) days. The creditor, servicer, or the creditor's agent shall acknowledge a written offer made in connection with a proposed short sale not later than five (5) business days (excluding legal public holidays, Saturdays, and Sundays) after the date of the offer if the offer complies with the requirements for a qualified written request set forth in 12 U.S.C. 2605(e)(1)(B). The creditor, servicer, or creditor's agent is required to acknowledge a written offer made in connection with a proposed short sale from a third party acting on behalf of the debtor only if the debtor has provided written authorization for the creditor, servicer, or creditor's agent to do so. Not later than thirty (30) business days (excluding legal public holidays, Saturdays, and Sundays) after receipt of an offer under this subsection, the creditor, servicer, or creditor's agent shall respond to the offer with an acceptance or a rejection of the offer. The thirty (30) day period described in this subsection may be extended for not more than fifteen (15) business days (excluding legal public holidays, Saturdays, and Sundays) if, before the end of the thirty (30) day period, the creditor, the servicer, or the creditor's agent notifies the debtor of the extension and the reason the extension is needed. Payment accepted by a creditor, servicer, or creditor's agent in connection with a short sale constitutes payment in full satisfaction of the mortgage transaction unless the

creditor, servicer, or creditor's agent obtains:

(a) the following statement: "The debtor remains liable for any amount still owed under the mortgage transaction."; or

(b) a statement substantially similar to the statement set forth in subdivision (a);

acknowledged by the initials or signature of the debtor, on or before the date on which the short sale payment is accepted. As used in this subsection, "short sale" means a transaction in which the property that is the subject of a mortgage transaction is sold for an amount that is less than the amount of the debtor's outstanding obligation under the mortgage transaction. A creditor or mortgage servicer that fails to respond to an offer within the time prescribed by this subsection is liable in accordance with 12 U.S.C. 2605(f) in any action brought under that section.

(5) This section is not intended to provide the owner of real estate subject to the issuance of process under a judgment or decree of foreclosure any protection or defense against a deficiency judgment for purposes of the borrower protections from liability that must be disclosed under 12 CFR 1026.38(p)(3) on the form required by 12 CFR 1026.38 ("Closing Disclosures" form under the Amendments to the 2013 Integrated Mortgage Disclosures Rule Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth In Lending Act (Regulation Z) and the 2013 Loan Originator Rule Under the Truth in Lending Act (Regulation Z)).

(Formerly: Acts 1971, P.L.366, SEC.3.) As amended by P.L.23-2000, SEC.5; P.L.63-2001, SEC.2 and P.L.134-2001, SEC.2; P.L.145-2008, SEC.24; P.L.35-2010, SEC.44; P.L.89-2011, SEC.15; P.L.27-2012, SEC.16; P.L.54-2016, SEC.2; P.L.73-2016, SEC.8.

IC 24-4.5-2-210

Rebate upon prepayment

Sec. 210. Rebate upon Prepayment — (1) Except as provided in subsection (2), upon prepayment in full of the unpaid balance of a precomputed consumer credit sale, refinancing, or consolidation, an amount not less than the unearned portion of the credit service charge calculated according to this section shall be rebated to the buyer. If the rebate required is less than one dollar ($1), no rebate need be made.

(2) Upon prepayment in full of a consumer credit sale, refinancing, or consolidation, other than one pursuant to a revolving charge account, if the credit service charge then earned is less than any permitted minimum credit service charge (IC 24-4.5-2-201(6)) contracted for, whether or not the sale, refinancing, or consolidation is precomputed, the seller may collect or retain the minimum charge, as if earned, not exceeding the credit service charge contracted for.

(3) The unearned portion of the credit service charge is a fraction of the credit service charge of which the numerator is the sum of the periodic balances scheduled to follow the computational period in

which prepayment occurs, and the denominator is the sum of all periodic balances under either the sale agreement or, if the balance owing resulted from a refinancing (IC 24-4.5-2-205) or a consolidation (IC 24-4.5-2-206), under the refinancing agreement or consolidation agreement.

(4) In this section:

(a) "periodic balance" means the amount scheduled to be outstanding on the last day of a computational period before deducting the payment, if any, scheduled to be made on that day;

(b) "computational period" means one (1) month if one-half (1/2) or more of the intervals between scheduled payments under the agreement is one (1) month or more, and otherwise means one (1) week;

(c) the "interval" to the due date of the first scheduled installment or the final scheduled payment date is measured from the date of a sale, refinancing, or consolidation, or any later date prescribed for calculating maximum credit service charges (IC 24-4.5-2-201(4)) and includes either the first or last day of the interval; and

(d) if the interval to the due date of the first scheduled installment does not exceed one (1) month by more than fifteen (15) days when the computational period is one (1) month, or eleven (11) days when the computational period is one (1) week, the interval shall be considered as one (1) computational period.

(5) This subsection applies only if the schedule of payments is not regular.

(a) If the computational period is one (1) month and:

(i) if the number of days in the interval to the due date of the first scheduled installment is less than one (1) month by more than five (5) days, or more than one (1) month by more than five (5) but not more than fifteen (15) days, the unearned credit service charge shall be increased by an adjustment for each day by which the interval is less than one (1) month and, at the option of the seller, may be reduced by an adjustment for each day by which the interval is more than one (1) month; the adjustment for each day shall be one-thirtieth (1/30) of that part of the credit service charge earned in the computational period prior to the due date of the first scheduled installment assuming that period to be one (1) month; and

(ii) if the interval to the final scheduled payment date is a number of computational periods plus an additional number of days less than a full month, the additional number of days shall be considered a computational period only if sixteen (16) days or more. This subparagraph applies whether or not clause (i) applies.

(b) Notwithstanding paragraph (a), if the computational period is one (1) month, the number of days in the interval to the due date of the first installment exceeds one (1) month by not more than fifteen (15) days, and the schedule of payments is otherwise regular, the seller, at the seller's option, may exclude the extra days and the charge for the extra days in computing the unearned credit service charge; but if the seller does so and a rebate is required before the due date of the first scheduled installment, the seller shall compute the earned charge for each elapsed day as one-thirtieth (1/30) of the amount the earned charge would have been if the first interval had been one (1) month.

(c) If the computational period is one (1) week and:

(i) if the number of days in the interval to the due date of this first scheduled installment is less than five (5) days or more than nine (9) days but not more than eleven (11) days, the unearned credit service charge shall be increased by an adjustment for each day by which the interval is less than seven (7) days and, at the option of the seller, may be reduced by an adjustment for each day by which the interval is more than seven (7) days; the adjustment for each day shall be one-seventh (1/7) of that part of the credit service charge earned in the computational period prior to the due date of the first scheduled installment assuming that period to be one (1) week; and

(ii) if the interval to the final scheduled payment date is a number of computational periods plus an additional number of days less than a full week, the additional number of days shall be considered a computational period only if five (5) days or more. This subparagraph applies whether or not subparagraph (i) applies.

(6) If a deferral (IC 24-4.5-2-204) has been agreed to, the unearned portion of the credit service charge shall be computed without regard to the deferral. The amount of deferral charge earned at the date of prepayment shall also be calculated. If the deferral charge earned is less than the deferral charge paid, the difference shall be added to the unearned portion of the credit service charge. If any part of a deferral charge has been earned but has not been paid, that part shall be subtracted from the unearned portion of the credit service charge or shall be added to the unpaid balance.

(7) This section does not preclude the collection or retention by the seller of delinquency charges (IC 24-4.5-2-203, repealed in 1994).

(8) If the maturity is accelerated for any reason and judgment is obtained, the buyer is entitled to the same rebate as if payment had been made on the date judgment is entered.

(9) Upon prepayment in full of a consumer credit sale by the proceeds of consumer credit insurance (IC 24-4.5-4-103), the buyer

or the buyer's estate shall pay the same credit service charge or receive the same rebate as though the buyer had prepaid the agreement on the date the proceeds of the insurance are paid to the seller, but no later than ten (10) business days after satisfactory proof of loss is furnished to the seller. This subsection applies whether or not the credit sale is precomputed.

(10) Upon prepayment in full of a transaction with a term of more than sixty-one (61) months, the unearned part of the credit service charge shall be computed by applying the disclosed annual percentage rate that would yield the credit service charge originally contracted for to the unpaid balances of the amount financed for the full computational periods following the prepayment, as originally scheduled or as deferred.

(Formerly: Acts 1971, P.L.366, SEC.3.) As amended by P.L.14-1992, SEC.18; P.L.122-1994, SEC.14; P.L.2-1995, SEC.91; P.L.176-1996, SEC.4.

(Part 3. Disclosure)

IC 24-4.5-2-301
Disclosures required by Federal Consumer Credit Protection Act

Sec. 301. (1) For purposes of this section, "consumer credit sale" includes the sale of an interest in land which is a first lien mortgage transaction if the sale is otherwise a consumer credit sale (IC 24-4.5-1-301.5(8)).

(2) The seller shall disclose to the buyer to whom credit is extended with respect to a consumer credit sale, and the lessor shall disclose to the lessee with respect to a consumer lease, the information required by the Federal Consumer Credit Protection Act.

(3) For purposes of subsection (2), disclosures shall not be required on a consumer credit sale if the transaction is exempt from the Federal Consumer Credit Protection Act.

(Formerly: Acts 1971, P.L.366, SEC.3.) As amended by Acts 1981, P.L.218, SEC.4; P.L.247-1983, SEC.7; P.L.45-1995, SEC.6; P.L.35-2010, SEC.45.

IC 24-4.5-2-302
Repealed

(Repealed by P.L.247-1983, SEC.26.)

IC 24-4.5-2-303
Repealed

(Repealed by P.L.247-1983, SEC.26.)

IC 24-4.5-2-304
Repealed

(Repealed by P.L.247-1983, SEC.26.)

IC 24-4.5-2-305
Repealed
(Repealed by P.L.247-1983, SEC.26.)

IC 24-4.5-2-306
Repealed
(Repealed by P.L.247-1983, SEC.26.)

IC 24-4.5-2-307
Repealed
(Repealed by P.L.247-1983, SEC.26.)

IC 24-4.5-2-308
Repealed
(Repealed by P.L.247-1983, SEC.26.)

IC 24-4.5-2-309
Repealed
(Repealed by P.L.247-1983, SEC.26.)

IC 24-4.5-2-310
Repealed
(Repealed by P.L.247-1983, SEC.26.)

IC 24-4.5-2-311
Repealed
(Repealed by P.L.247-1983, SEC.26.)

IC 24-4.5-2-312
Repealed
(Repealed by P.L.247-1983, SEC.26.)

(Part 4. Limitations on Agreements and Practices)

IC 24-4.5-2-401
Scope
Sec. 401. Scope — This Part applies to consumer credit sales and consumer leases.
(Formerly: Acts 1971, P.L.366, SEC.3.)

IC 24-4.5-2-402
Use of multiple agreements
Sec. 402. Use of Multiple Agreements — A seller may not use multiple agreements with intent to obtain a higher credit service charge than would otherwise be permitted by this Article or to avoid disclosure of an annual percentage rate pursuant to the provisions on disclosure and advertising (Part 3). The excess amount of credit service charge provided for in agreements in violation of this section

is an excess charge for the purposes of the provisions on the effect of violations on rights of parties (IC 24-4.5-5-202) and the provisions on civil actions by the department (IC 24-4.5-6-113).
(Formerly: Acts 1971, P.L.366, SEC.3.) As amended by P.L.14-1992, SEC.19.

IC 24-4.5-2-403
Repealed
(Repealed by P.L.122-1994, SEC.122 and P.L.129-1994, SEC.3.)

IC 24-4.5-2-404
Repealed
(Repealed by P.L.45-1995, SEC.33.)

IC 24-4.5-2-405
Balloon payments
Sec. 405. (1) With respect to a consumer credit sale, other than one pursuant to a revolving charge account or one on which only credit service charges are payable before the time that the final scheduled payment is due, if any scheduled payment is more than twice as large as the average of earlier scheduled payments, the buyer has the right to refinance the amount of that payment at the time it is due without penalty. The terms of the refinancing shall be no less favorable to the buyer than the terms of the original sale. This section does not apply to the extent that the payment schedule is adjusted to the seasonal or irregular income of the buyer.
(2) For the purposes of this section, "terms of the refinancing" means:
(a) in the case of a fixed-rate consumer credit sale, the individual payment amounts, the charges as a result of default by the buyer, and the rate of the credit service charge; and
(b) in the case of a variable rate consumer credit sale, the method used to determine the individual payment amounts, the charges as a result of default by the buyer, the method used to determine the rate of the credit service charge, the circumstances under which the rate of the credit service charge may increase, and any limitations on the increase in the rate of the credit service charge.
(Formerly: Acts 1971, P.L.366, SEC.3.) As amended by P.L.247-1983, SEC.10.

IC 24-4.5-2-406
Restriction on liability in consumer lease
Sec. 406. The obligation of a lessee upon expiration of a consumer lease may not exceed three (3) times the average payment allocable to a monthly period under the lease. This limitation does not apply to charges for damages to the leased property or for other default.

(Formerly: Acts 1971, P.L.366, SEC.3.) As amended by P.L.247-1983, SEC.11; P.L.45-1995, SEC.7.

IC 24-4.5-2-407
Security interests

Sec. 407. (1) With respect to a consumer credit sale, a seller may take a security interest in the property sold. In addition, a seller may take a security interest in goods upon which services are performed or in which goods sold are installed or to which they are annexed, or in land to which the goods are affixed or which is maintained, repaired or improved as a result of the sale of the goods or services, if, in the case of a subordinate lien mortgage transaction, the debt secured is four thousand dollars ($4,000) or more, or, in the case of a security interest in goods the debt secured is three hundred dollars ($300) or more. Except as provided with respect to cross-collateral (IC 24-4.5-2-408), a seller may not otherwise take a security interest in property of the buyer to secure the debt arising from a consumer credit sale.

(2) With respect to a consumer lease, a lessor may not take a security interest in property of the lessee to secure the debt arising from the lease.

(3) A security interest taken in violation of this section is void.

(4) The amounts of four thousand dollars ($4,000) and three hundred dollars ($300) in subsection (1) are subject to change pursuant to the provisions on adjustment of dollar amounts (IC 24-4.5-1-106). However, notwithstanding IC 24-4.5-1-106(1), the Reference Base Index to be used with respect to the amount of:

(a) three hundred dollars ($300) is the Index for October 1992; and

(b) four thousand dollars ($4,000) is the Index for October 2012.

(Formerly: Acts 1971, P.L.366, SEC.3.) As amended by P.L.247-1983, SEC.12; P.L.35-2010, SEC.46; P.L.137-2014, SEC.8; P.L.186-2015, SEC.13.

IC 24-4.5-2-408
Cross-collateral

Sec. 408. Cross-Collateral — (1) In addition to contracting for a security interest pursuant to the provisions on security in sales or leases (24-4.5-2-407), a seller in a consumer credit sale may secure the debt arising from the sale by contracting for a security interest in other property if as a result of a prior sale the seller has an existing security interest in the other property. The seller may also contract for a security interest in the property sold in the subsequent sale as security for the previous debt.

(2) If the seller contracts for a security interest in other property pursuant to this section, the rate of credit service charge thereafter on the aggregate unpaid balances so secured may not exceed that

permitted if the balances so secured were consolidated pursuant to the provisions on consolidation involving a refinancing (subsection (1) of 24-4.5-2-206). The seller has a reasonable time after so contracting to make any adjustments required by this section. "Seller" in this section does not include an assignee not related to the original seller.
(Formerly: Acts 1971, P.L.366, SEC.3.)

IC 24-4.5-2-409
Debt secured by cross-collateral

Sec. 409. (1) If debts arising from two (2) or more consumer credit sales, other than sales pursuant to a revolving charge account, are secured by cross-collateral (IC 24-4.5-2-408) or consolidated into one (1) debt payable on a single schedule of payments, and the debt is secured by security interests taken with respect to one (1) or more of the sales, payments received by the seller after the taking of the cross-collateral or the consolidation are deemed, for the purpose of determining the amount of the debt secured by the various security interests, to have been first applied to the payment of the debts arising from the sales first made. To the extent debts are paid according to this section, security interests in items of property terminate as the debt originally incurred with respect to each item is paid.

(2) Payments received by the seller upon a revolving charge account are deemed, for the purpose of determining the amount of the debt secured by the various security interests, to have been applied first to the payment of credit service charges in the order of their entry to the account and then to the payment of debts in the order in which the entries to the account showing the debts were made.

(3) If the debts consolidated arose from two (2) or more sales made on the same day, payments received by the seller are deemed, for the purpose of determining the amount of the debts secured by the various security interests, to have been applied first to the payment of the smallest debt.
(Formerly: Acts 1971, P.L.366, SEC.3.) As amended by P.L.247-1983, SEC.13.

IC 24-4.5-2-410
No assignment of earnings

Sec. 410. No Assignment of Earnings — A seller or lessor may not take an assignment of earnings of the buyer or lessee for payment or as security for payment of a claim, whether arising out of a consumer credit sale, consumer lease or otherwise. An assignment of earnings in violation of this section is unenforceable by the assignees of the earnings and revocable by the buyer or lessee. This section does not prohibit an employee from authorizing deductions from his earnings if the authorization is revocable and is otherwise permitted

by law.
(Formerly: Acts 1971, P.L.366, SEC.3.)

IC 24-4.5-2-411
Referral sales

Sec. 411. Referral Sales — With respect to a consumer credit sale or consumer lease the seller or lessor may not give or offer to give a rebate or discount or otherwise pay or offer to pay value to the buyer or lessee as an inducement for a sale or lease in consideration of his giving to the seller or lessor the names of prospective purchasers or lessees, or otherwise aiding the seller or lessor in making a sale or lease to another person, if the earning of the rebate, discount or other value is contingent upon the occurrence of an event subsequent to the time the buyer or lessee agrees to buy or lease. If a buyer or lessee is induced by a violation of this section to enter into a consumer credit sale or consumer lease, the agreement is unenforceable by the seller or lessor and the buyer or lessee, at his option, may rescind the agreement or retain the goods delivered and the benefit of any services performed, without any obligation to pay for them.
(Formerly: Acts 1971, P.L.366, SEC.3.) As amended by Acts 1978, P.L.127, SEC.1.

IC 24-4.5-2-412
Notice of assignment

Sec. 412. Notice of Assignment — The buyer or lessee is authorized to pay the original seller or lessor until the buyer or lessee receives notification of assignment of the rights to payment pursuant to a consumer credit sale or consumer lease and that payment is to be made to the assignee. A notification which does not reasonably identify the rights assigned is ineffective. If requested by the buyer or lessee, the assignee must seasonably furnish reasonable proof that the assignment has been made and unless he does so the buyer or lessee may pay the seller or lessor.
(Formerly: Acts 1971, P.L.366, SEC.3.)

IC 24-4.5-2-413
Attorney's fees

Sec. 413. Attorney's Fees — With respect to a consumer credit sale or consumer lease the agreement may provide for the payment by the buyer or lessee of reasonable attorney's fees and after default and referral to an attorney not a salaried employee of the seller, or of the lessor or his assignee. A provision in violation of this section is unenforceable.
(Formerly: Acts 1971, P.L.366, SEC.3.)

IC 24-4.5-2-414
Limitation on default charges

Sec. 414. Limitation on Default Charges — Except for reasonable

expenses incurred in realizing on a security interest, the agreement with respect to a consumer credit sale may not provide for any charges as a result of default by the buyer other than those authorized by this Article. A provision in violation of this section is unenforceable.
(Formerly: Acts 1971, P.L.366, SEC.3.)

IC 24-4.5-2-415
Authorization to confess judgment prohibited
Sec. 415. Authorization to Confess Judgment Prohibited - A buyer or lessee may not authorize any person to confess judgment on a claim arising out of a consumer credit sale or consumer lease. An authorization in violation of this section is void.
(Formerly: Acts 1971, P.L.366, SEC.3.)

IC 24-4.5-2-416
Repealed
(Repealed by P.L.122-1994, SEC.122.)

(Part 5. Home Solicitation Sales)

IC 24-4.5-2-501
"Home solicitation sale"
Sec. 501. Definition: "Home Solicitation Sale" — "Home solicitation sale" means a consumer credit sale of goods, other than farm equipment, or services in which:

(1) the seller or a person acting for him engages in a personal solicitation of the sale, including a solicitation over the telephone, at a residence of the buyer and the buyer's agreement or offer to purchase is there given to the seller or a person acting for him; or

(2) the seller or his agent, solicits a sale in a city or town in which the seller does not have a permanent business establishment, through mailings, advertisements, or telephone calls, which require the buyer to meet the seller or his agent at a place other than the seller's permanent business establishment.

It does not include a sale made pursuant to a preexisting revolving charge account, or a sale made pursuant to prior negotiations between the parties at a business establishment at a fixed location where goods or services are offered or exhibited for sale.
(Formerly: Acts 1971, P.L.366, SEC.3.) As amended by Acts 1979, P.L.237, SEC.1.

IC 24-4.5-2-502
Buyer's right to cancel
Sec. 502. Buyer's Right to Cancel — The requirements of 16 CFR 429 must be met in regard to the following provisions concerning home solicitation sales:

(1) Period within which cancellation may be made by the buyer.
(2) Notice of cancellation.
(3) Form of cancellation.
(4) Form of agreement or offer to purchase.
(5) Statement of buyer's rights.
(6) Restoration of down payment.
(7) Retention of cancellation fee.
(8) Duty of buyer.
(9) Any other relevant requirements in 16 CFR 429.

(Formerly: Acts 1971, P.L.366, SEC.3.) As amended by P.L.14-1992, SEC.22.

IC 24-4.5-2-503
Repealed

(Repealed by P.L.14-1992, SEC.165.)

IC 24-4.5-2-504
Repealed

(Repealed by P.L.14-1992, SEC.165.)

IC 24-4.5-2-505
Repealed

(Repealed by P.L.14-1992, SEC.165.)

(Part 6. Sales Other Than Consumer Credit Sales)

IC 24-4.5-2-601
Sale subject to article by agreement of parties

Sec. 601. Sale Subject to Article by Agreement of Parties — The parties to a sale other than a consumer credit sale may agree in a writing signed by the parties that the sale is subject to the provisions of this Article applying to consumer credit sales. If the parties so agree, the sale is a consumer credit sale for the purposes of this Article.

(Formerly: Acts 1971, P.L.366, SEC.3.)

IC 24-4.5-2-602
"Consumer related sale"; credit service charge; annual notice to department not required

Sec. 602. (1) A "consumer related sale" is a sale of goods, services, or an interest in land in which:

(a) credit is granted by a person that is not regularly engaged as a seller in credit transactions of the same kind;
(b) the buyer is a person other than an organization;
(c) the goods, services, or interest in land are purchased primarily for a personal, family, or household purpose;
(d) either the debt is payable in installments or a credit service charge is made; and

(e) with respect to a sale of goods or services:

(i) either the amount of credit extended, the written credit limit, or the initial advance does not exceed the exempt threshold amount, as adjusted in accordance with the annual adjustment of the exempt threshold amount, specified in Regulation Z (12 CFR 226.3 or 12 CFR 1026.3(b), as applicable); or

(ii) the debt is secured by personal property used or expected to be used as the principal dwelling of the buyer.

(2) With respect to a consumer related sale not made pursuant to a revolving charge account, the parties may contract for an amount comprising the amount financed and a credit service charge not in excess of twenty-five percent (25%) per year calculated according to the actuarial method on the unpaid balances of the amount financed.

(3) With respect to a consumer related sale made pursuant to a revolving charge account, the parties may contract for a credit service charge not in excess of that permitted by the provisions on credit service charge for revolving charge accounts (IC 24-4.5-2-207).

(4) A person engaged in consumer related sales is not required to comply with IC 24-4.5-6-201 through IC 24-4.5-6-203.

(Formerly: Acts 1971, P.L.366, SEC.3.) As amended by Acts 1981, P.L.219, SEC.3; Acts 1982, P.L.149, SEC.3; P.L.5-1988, SEC.130; P.L.122-1994, SEC.15; P.L.27-2012, SEC.17; P.L.216-2013, SEC.9; P.L.137-2014, SEC.9; P.L.73-2016, SEC.9.

IC 24-4.5-2-603

Applicability of other provisions to consumer related sales

Sec. 603. Applicability of other Provisions to Consumer Related Sales - Except for the rate of the credit service charge (24-4.5-2-201) and the rights to prepay and to rebate upon prepayment, the provisions of Part 2 of this Chapter apply to a consumer related sale.

(Formerly: Acts 1971, P.L.366, SEC.3.)

IC 24-4.5-2-604

Limitation on default charges in consumer related sales

Sec. 604. Limitation on Default Charges in Consumer Related Sales — (1) The agreement with respect to a consumer related sale may provide for only the following charges as a result of the buyer's default:

(a) reasonable attorney's fees and reasonable expenses incurred in realizing on a security interest;

(b) deferral charges not in excess of twenty-five percent (25%) per year of the amount deferred for the period of deferral; and

(c) other charges that could have been made had the sale been a consumer credit sale.

(2) A provision in violation of this section is unenforceable.

(Formerly: Acts 1971, P.L.366, SEC.3.) As amended by Acts 1982,

P.L.150, SEC.2; P.L.73-2016, SEC.10.

IC 24-4.5-2-605
Credit service charge for other sales

Sec. 605. Credit Service Charge for Other Sales — With respect to a sale other than a consumer credit sale or a consumer related sale, the parties may contract for the payment by the buyer of any credit service charge.

(Formerly: Acts 1971, P.L.366, SEC.3.)

IC 24-4.5-3
Chapter 3. Loans

(Part 1. General Provisions)

IC 24-4.5-3-0.1
Application of certain amendments to chapter

Sec. 0.1. The following amendments to this chapter apply as follows:

(1) The amendments made to section 201 of this chapter by P.L.163-1999 do not apply to consumer loans in existence before July 1, 1999.

(2) The amendments made to section 209(1) of this chapter by P.L.159-2001 apply to a contract between a lender and a debtor that is entered into or renewed after June 30, 2001.

As added by P.L.220-2011, SEC.390.

IC 24-4.5-3-101
Short title

Sec. 101. Short Title — This Chapter shall be known and may be cited as Uniform Consumer Credit Code — Loans.

(Formerly: Acts 1971, P.L.366, SEC.4.)

IC 24-4.5-3-102
Application

Sec. 102. This chapter applies to consumer loans, including supervised loans. In addition, IC 24-4.5-3-601 through IC 24-4.5-3-605 apply to consumer related loans. The licensing provisions of this chapter apply to consumer credit sales under IC 24-4.5-2 that are subordinate lien mortgage transactions.

(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by P.L.152-1986, SEC.62; P.L.35-2010, SEC.47.

IC 24-4.5-3-103
Repealed

(Formerly: Acts 1971, P.L.366, SEC.4. As amended by P.L.1-1994, SEC.118; P.L.122-1994, SEC.16. Repealed by P.L.35-2010, SEC.209.)

IC 24-4.5-3-104
Repealed

(Formerly: Acts 1971, P.L.366, SEC.4. As amended by P.L.247-1983, SEC.14; P.L.122-1994, SEC.17. Repealed by P.L.35-2010, SEC.209.)

IC 24-4.5-3-105
"Consumer loan"; first lien mortgage transaction not included

Sec. 105. Unless the loan is made subject to IC 24-4.5-3 by

agreement (IC 24-4.5-3-601), and except with respect to disclosure (IC 24-4.5-3-301), debtors' remedies (IC 24-4.5-5-201), providing payoff amounts (IC 24-4.5-3-209), providing property tax information (IC 24-4.5-3-701), and powers and functions of the department (IC 24-4.5-6-104), "consumer loan" does not include a first lien mortgage transaction.

(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by Acts 1979, P.L.238, SEC.1; Acts 1981, P.L.218, SEC.5; P.L.152-1986, SEC.63; P.L.14-1992, SEC.23; P.L.176-1996, SEC.5; P.L.23-2000, SEC.4; P.L.90-2008, SEC.7; P.L.35-2010, SEC.48.

IC 24-4.5-3-106
"Loan"

Sec. 106. Definition: "Loan" — "Loan" includes

(1) the creation of debt by the lender's payment of or agreement to pay money to the debtor or to a third party for the account of the debtor;

(2) the creation of debt by a credit to an account with the lender upon which the debtor is entitled to draw immediately;

(3) the creation of debt pursuant to a lender credit card or similar arrangement; and

(4) the forbearance of debt arising from a loan.

(Formerly: Acts 1971, P.L.366, SEC.4.)

IC 24-4.5-3-107
Definitions; "lender"; "precomputed"; "principal"

Sec. 107. Definitions: "Lender"; "Precomputed"; "Principal"–(1) Except as otherwise provided, "lender" means a person regularly engaged in making consumer loans. The term includes an assignee of the lender's right to payment but use of the term does not in itself impose on an assignee any obligation of the lender with respect to events occurring before the assignment.

(2) A loan, refinancing, or consolidation is "precomputed" if the debt is expressed as a sum comprising the principal and the amount of the loan finance charge computed in advance.

(3) "Principal" of a loan means the total of:

(a) the net amount paid to, receivable by, or paid or payable for the account of the debtor;

(b) the amount of any discount excluded from the loan finance charge (subsection (2) of IC 24-4.5-3-109); and

(c) to the extent that payment is deferred:

(i) amounts actually paid or to be paid by the lender for registration, certificate of title, or license fees if not included in (a); and

(ii) additional charges permitted by this chapter (IC 24-4.5-3-202).

(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by P.L.145-2008, SEC.25.

IC 24-4.5-3-108
"Revolving loan account"

Sec. 108. Definition: "Revolving Loan Account" — "Revolving loan account" means an arrangement between a lender and a debtor pursuant to which (1) the lender may permit the debtor to obtain loans from time to time, (2) the unpaid balances of principal and the loan finance and other appropriate charges are debited to an account, (3) a loan finance charge if made is not precomputed but is computed on the outstanding unpaid balances of the debtor's account from time to time, and (4) the debtor has the privilege of paying the balances in instalments.

(Formerly: Acts 1971, P.L.366, SEC.4.)

IC 24-4.5-3-109
"Loan finance charge"

Sec. 109. (1) "Loan finance charge" means the sum of:

(a) all charges payable directly or indirectly by the debtor and imposed directly or indirectly by the lender as an incident to the extension of credit, including any of the following types of charges which are applicable: interest or any amount payable under a point, discount, or other system of charges, however denominated, premium or other charge for any guarantee or insurance protecting the lender against the debtor's default or other credit loss; and

(b) charges incurred for investigating the collateral or credit-worthiness of the debtor.

The term does not include charges as a result of default, additional charges (IC 24-4.5-3-202), delinquency charges (IC 24-4.5-3-203.5), or deferral charges (IC 24-4.5-3-204). The term does not include charges paid or payable to a third party that are not required by the lender as a condition or incident to the extension of credit except for borrower paid mortgage broker fees, including fees paid directly to the broker or the lender (for delivery to the broker), whether the fees are paid in cash or financed. However, borrower paid mortgage broker fees do not include fees paid to a mortgage broker by a creditor, including yield spread premiums and service release fees.

(2) If a lender makes a loan to a debtor by purchasing or satisfying obligations of the debtor pursuant to a lender credit card or similar arrangement, and the purchase or satisfaction is made at less than the face amount of the obligation, the discount is not part of the loan finance charge.

(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by P.L.247-1983, SEC.15; P.L.14-1992, SEC.24; P.L.172-1997, SEC.4.

IC 24-4.5-3-110
"Civil proceeding advance payment transaction"

Sec. 110. (1) "Civil proceeding advance payment transaction", or "CPAP transaction", means a nonrecourse transaction in which a

CPAP provider provides a funded amount to a consumer claimant to use for any purpose other than prosecuting the consumer claimant's civil proceeding, if the repayment of the funded amount is:

(a) required only if the consumer claimant prevails in the civil proceeding; and

(b) sourced from the proceeds of the civil proceeding, whether the proceeds result from a judgment, a settlement, or some other resolution.

(2) The term includes a transaction:

(a) that is termed or described as:

(i) a purchase; or

(ii) an assignment of an interest in a consumer claimant's civil proceeding, or in the proceeds of a consumer claimant's civil proceeding;

by the CPAP provider; or

(b) with respect to which the CPAP provider sets forth in a CPAP contract, an agreement by:

(i) the CPAP provider to purchase from the consumer claimant; or

(ii) the consumer claimant to assign to the CPAP provider;

a contingent right to receive a share of the potential proceeds of the consumer claimant's civil proceeding, whether the proceeds result from a judgment, a settlement, or some other resolution.

(3) Notwithstanding section 202(1)(i) of this chapter and section 502(6) of this chapter, a CPAP transaction is not a consumer loan.

As added by P.L.153-2016, SEC.3.

IC 24-4.5-3-110.5

Definitions; "civil proceeding"; "civil proceeding advance payment contract"; "civil proceeding advance payment provider"; "consumer claimant"; "funded amount"

Sec. 110.5. (1) "Civil proceeding", with respect to a CPAP transaction, means:

(a) a civil action;

(b) a mediation, an arbitration, or any other alternative dispute resolution proceeding; or

(c) an administrative proceeding before:

(i) an agency or instrumentality of the state; or

(ii) a political subdivision, or an agency or instrumentality of a political subdivision, of the state;

that is filed in, or is under the jurisdiction of, a court with jurisdiction in Indiana, a tribunal in Indiana, or an agency or instrumentality described in subdivision (c) in Indiana. The term includes all proceedings arising out of or relating to the proceeding, including any proceedings on appeal or remand, and any enforcement, ancillary, or parallel proceedings.

(2) "Civil proceeding advance payment contract", or "CPAP contract", means a contract for a CPAP transaction that a CPAP

provider enters into, or offers to enter into, with a consumer claimant.

(3) "Civil proceeding advance payment provider", or "CPAP provider", means a person that:

(a) enters into, or offers to enter into, a CPAP transaction with a consumer claimant in connection with a civil proceeding; and

(b) notwithstanding section 110(3) of this chapter, and subject to IC 24-12-9, is licensed with the department in accordance with this chapter and IC 24-12-9.

(4) "Consumer claimant" means an individual:

(a) who is or may become a plaintiff, a claimant, or a demandant in a civil proceeding; and

(b) who:

(i) is offered a CPAP transaction by a CPAP provider; or

(ii) enters into a CPAP transaction with a CPAP provider;

regardless of whether the individual is a resident of Indiana.

(5) "Funded amount", with respect to a CPAP transaction, means the amount of money:

(a) that is provided to the consumer claimant by the CPAP provider; and

(b) the repayment of which is:

(i) required only if the consumer claimant prevails in the consumer claimant's civil proceeding; and

(ii) sourced from the proceeds of the civil proceeding, whether the proceeds result from a judgment, a settlement, or some other resolution;

regardless of the term used by the CPAP provider in the CPAP contract to identify the amount.

As added by P.L.153-2016, SEC.4.

(Part 2. Maximum Charges)

IC 24-4.5-3-201

Loan finance charge and origination fee for consumer loans other than supervised loans

Sec. 201. Loan Finance Charge for Consumer Loans other than Supervised Loans—(1) Except as provided in subsections (6) and (8), with respect to a consumer loan other than a supervised loan (as defined in section 501 of this chapter), a lender may contract for a loan finance charge, calculated according to the actuarial method, not exceeding twenty-five percent (25%) per year on the unpaid balances of the principal.

(2) This section does not limit or restrict the manner of contracting for the loan finance charge, whether by way of add-on, discount, or otherwise, so long as the rate of the loan finance charge does not exceed that permitted by this section. If the loan is precomputed:

(a) the loan finance charge may be calculated on the assumption

that all scheduled payments will be made when due; and

(b) the effect of prepayment is governed by the provisions on rebate upon prepayment in section 210 of this chapter.

(3) For the purposes of this section, the term of a loan commences with the date the loan is made. Differences in the lengths of months are disregarded, and a day may be counted as one-thirtieth (1/30) of a month. Subject to classifications and differentiations the lender may reasonably establish, a part of a month in excess of fifteen (15) days may be treated as a full month if periods of fifteen (15) days or less are disregarded and if that procedure is not consistently used to obtain a greater yield than would otherwise be permitted. For purposes of computing average daily balances, the creditor may elect to treat all months as consisting of thirty (30) days.

(4) With respect to a consumer loan made pursuant to a revolving loan account:

(a) the loan finance charge shall be deemed not to exceed the maximum annual percentage rate if the loan finance charge contracted for and received does not exceed a charge in each monthly billing cycle which is two and eighty-three thousandths percent (2.083%) of an amount not greater than:

(i) the average daily balance of the debt;

(ii) the unpaid balance of the debt on the same day of the billing cycle; or

(iii) subject to subsection (5), the median amount within a specified range within which the average daily balance or the unpaid balance of the debt, on the same day of the billing cycle, is included; for the purposes of this subparagraph and subparagraph (ii), a variation of not more than four (4) days from month to month is "the same day of the billing cycle";

(b) if the billing cycle is not monthly, the loan finance charge shall be deemed not to exceed the maximum annual percentage rate if the loan finance charge contracted for and received does not exceed a percentage which bears the same relation to one-twelfth (1/12) the maximum annual percentage rate as the number of days in the billing cycle bears to thirty (30); and

(c) notwithstanding subsection (1), if there is an unpaid balance on the date as of which the loan finance charge is applied, the lender may contract for and receive a charge not exceeding fifty cents ($0.50) if the billing cycle is monthly or longer, or the pro rata part of fifty cents ($0.50) which bears the same relation to fifty cents ($0.50) as the number of days in the billing cycle bears to thirty (30) if the billing cycle is shorter than monthly, but no charge may be made pursuant to this paragraph if the lender has made an annual charge for the same period as permitted by the provisions on additional charges in section 202(1)(c) of this chapter.

(5) Subject to classifications and differentiations the lender may reasonably establish, the lender may make the same loan finance

charge on all amounts financed within a specified range. A loan finance charge does not violate subsection (1) if:

(a) when applied to the median amount within each range, it does not exceed the maximum permitted by subsection (1); and

(b) when applied to the lowest amount within each range, it does not produce a rate of loan finance charge exceeding the rate calculated according to paragraph (a) by more than eight percent (8%) of the rate calculated according to paragraph (a).

(6) With respect to a consumer loan not made pursuant to a revolving loan account, the lender may contract for and receive a minimum loan finance charge of not more than thirty dollars ($30). The minimum loan finance charge allowed under this subsection may be imposed only if the lender does not assess a loan origination fee under subsection (8) and:

(a) the debtor prepays in full a consumer loan, refinancing, or consolidation, regardless of whether the loan, refinancing, or consolidation is precomputed;

(b) the loan, refinancing, or consolidation prepaid by the debtor is subject to a loan finance charge that:

(i) is contracted for by the parties; and

(ii) does not exceed the rate prescribed in subsection (1); and

(c) the loan finance charge earned at the time of prepayment is less than the minimum loan finance charge contracted for under this subsection.

(7) The amount of thirty dollars ($30) in subsection (6) is subject to change under the provisions on adjustment of dollar amounts (IC 24-4.5-1-106). However, notwithstanding IC 24-4.5-1-106(1), the Reference Base Index to be used under this subsection is the Index for October 1992.

(8) Except as provided in subsection (6), in addition to the loan finance charge provided for in this section and to any other charges and fees permitted by this chapter, a lender may contract for and receive a loan origination fee of not more than the following:

(a) In the case of a consumer loan that is secured by an interest in land and that:

(i) is not made under a revolving loan account, two percent (2%) of the loan amount; or

(ii) is made under a revolving loan account, two percent (2%) of the line of credit.

(b) In the case of consumer loan that is not secured by an interest in land, fifty dollars ($50).

(9) The loan origination fee provided for in subsection (8) is not subject to refund or rebate.

(10) Notwithstanding subsections (8) and (9), in the case of a consumer loan that is not secured by an interest in land, if a lender retains any part of a loan origination fee charged on a loan that is paid in full by a new loan from the same lender, the following apply:

(a) If the loan is paid in full by the new loan within three (3)

months after the date of the prior loan, the lender may not charge a loan origination fee on the new loan, or, in the case of a revolving loan, on the increased credit line.

(b) The lender may not assess more than two (2) loan origination fees in any twelve (12) month period.

(11) In the case of a consumer loan that is secured by an interest in land, this section does not prohibit a lender from contracting for and receiving a fee for preparing deeds, mortgages, reconveyances, and similar documents under section 202(1)(d)(ii) of this chapter, in addition to the loan origination fee provided for in subsection (8).

(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by Acts 1982, P.L.150, SEC.3; P.L.14-1992, SEC.25; P.L.122-1994, SEC.18; P.L.45-1995, SEC.8; P.L.163-1999, SEC.1; P.L.10-2006, SEC.5 and P.L.57-2006, SEC.5; P.L.145-2008, SEC.26; P.L.91-2013, SEC.2.

IC 24-4.5-3-202
Additional charges

Sec. 202. (1) In addition to the loan finance charge permitted by IC 24-4.5-3-201 through IC 24-4.5-3-210, a lender may contract for and receive the following additional charges in connection with a consumer loan:

(a) Official fees and taxes.

(b) Charges for insurance as described in subsection (2).

(c) Annual participation fees assessed in connection with a revolving loan account. Annual participation fees must:

(i) be reasonable in amount;

(ii) bear a reasonable relationship to the lender's costs to maintain and monitor the loan account; and

(iii) not be assessed for the purpose of circumvention or evasion of this article, as determined by the department.

(d) With respect to a debt secured by an interest in land, the following closing costs, if they are bona fide, reasonable in amount, and not for the purpose of circumvention or evasion of this article:

(i) Fees for title examination, abstract of title, title insurance, property surveys, or similar purposes.

(ii) Fees for preparing deeds, mortgages, and reconveyance, settlement, and similar documents.

(iii) Notary and credit report fees.

(iv) Amounts required to be paid into escrow or trustee accounts if the amounts would not otherwise be included in the loan finance charge.

(v) Appraisal fees.

(e) Notwithstanding provisions of the Federal Consumer Credit Protection Act concerning disclosure, charges for other benefits, including insurance, conferred on the debtor, if the benefits are of value to the debtor and if the charges are reasonable in relation to the benefits, and are excluded as

permissible additional charges from the loan finance charge. With respect to any other additional charge not specifically provided for in this section to be a permitted charge under this subsection, the creditor must submit a written explanation of the charge to the department indicating how the charge would be assessed and the value or benefit to the debtor. Supporting documents may be required by the department. The department shall determine whether the charge would be of benefit to the debtor and is reasonable in relation to the benefits.

(f) A charge not to exceed twenty-five dollars ($25) for each return by a bank or other depository institution of a dishonored check, negotiable order of withdrawal, or share draft issued by the debtor.

(g) With respect to a revolving loan account, a fee not to exceed twenty-five dollars ($25) in each billing cycle during which the balance due under the revolving loan account exceeds by more than one hundred dollars ($100) the maximum credit limit for the account established by the lender.

(h) With respect to a revolving loan account, a transaction fee that may not exceed the lesser of the following:

(i) Two percent (2%) of the amount of the transaction.

(ii) Ten dollars ($10).

(i) This subdivision applies to a CPAP transaction offered or entered into after June 30, 2016. With respect to a CPAP transaction, a CPAP provider may impose the following charges and fees:

(i) A fee calculated at an annual rate that does not exceed thirty-six percent (36%) of the funded amount.

(ii) A servicing charge calculated at an annual rate that does not exceed seven percent (7%) of the funded amount.

(iii) If the funded amount of the CPAP transaction is less than five thousand dollars ($5,000), a one (1) time charge that does not exceed two hundred fifty dollars ($250) for obtaining and preparing documents.

(iv) If the funded amount of the CPAP transaction is at least five thousand dollars ($5,000), a one (1) time charge that does not exceed five hundred dollars ($500) for obtaining and preparing documents.

A CPAP provider may not assess, or collect from the consumer claimant, any other fee or charge in connection with a CPAP transaction, including any finance charges under section 201 or 508 of this chapter.

The additional charges provided for in subdivisions (f), (g), (h), and (i) are not subject to refund or rebate.

(2) An additional charge may be made for insurance in connection with the loan, other than insurance protecting the lender against the debtor's default or other credit loss:

(a) with respect to insurance against loss of or damage to

property or against liability, if the lender furnishes a clear and specific statement in writing to the debtor, setting forth the cost of the insurance if obtained from or through the lender and stating that the debtor may choose the person, subject to the lender's reasonable approval, through whom the insurance is to be obtained; and

(b) with respect to consumer credit insurance providing life, accident, unemployment or other loss of income, or health coverage, if the insurance coverage is not a factor in the approval by the lender of the extension of credit and this fact is clearly disclosed in writing to the debtor, and if, in order to obtain the insurance in connection with the extension of credit, the debtor gives specific affirmative written indication of the desire to do so after written disclosure of the cost of the insurance.

(Formerly: Acts 1971, P.L.366, SEC.4; Acts 1975, P.L.266, SEC.1.) As amended by P.L.247-1983, SEC.16; P.L.139-1990, SEC.1; P.L.181-1991, SEC.3; P.L.14-1992, SEC.26; P.L.122-1994, SEC.19; P.L.45-1995, SEC.9; P.L.80-1998, SEC.6; P.L.213-2007, SEC.8; P.L.217-2007, SEC.7; P.L.153-2016, SEC.5.

IC 24-4.5-3-203
Repealed

(Repealed by P.L.122-1994, SEC.122.)

IC 24-4.5-3-203.5
Delinquency charges; credit charges not precomputed

Sec. 203.5. Delinquency Charges — (1) With respect to a consumer loan, refinancing, or consolidation, the parties may contract for a delinquency charge of not more than five dollars ($5) on any installment or minimum payment due not paid in full within ten (10) days after its scheduled due date.

(2) A delinquency charge under this section may be collected only once on an installment however long it remains in default. With regard to a delinquency charge on consumer loans made under a revolving loan account, the delinquency charge may be applied each month that the payment is less than the minimum required payment on the account. A delinquency charge may be collected any time after it accrues. A delinquency charge may not be collected if the installment has been deferred and a deferral charge (IC 24-4.5-3-204) has been paid or incurred.

(3) A delinquency charge may not be collected on an installment or payment due that is paid in full within ten (10) days after its scheduled due date even though an earlier maturing installment, minimum payment, or a delinquency charge on:

(a) an earlier installment; or

(b) payment due;

may not have been paid in full. For purposes of this subsection,

payments are applied first to current installments or payments due and then to delinquent installments or payments due.

(4) If two (2) installments or parts of two (2) installments of a precomputed loan are in default for ten (10) days or more, the lender may elect to convert the loan from a precomputed loan to a loan in which the finance charge is based on unpaid balances. A lender that makes this election shall make a rebate under the provisions on rebates upon prepayment (IC 24-4.5-3-210) as of the maturity date of the first delinquent installment, and thereafter may make a loan finance charge as authorized by the provisions on loan finance charges for consumer loans (IC 24-4.5-3-201) or supervised loans (IC 24-4.5-3-508). The amount of the rebate shall not be reduced by the amount of any permitted minimum charge (IC 24-4.5-3-210). Any deferral charges made on installments due at or after the maturity date of the first delinquent installment shall be rebated, and no further deferral charges shall be made.

(5) The amount of five dollars ($5) in subsection (1) is subject to change pursuant to the section on adjustment of dollar amounts (IC 24-4.5-1-106).

(6) If the parties provide by contract for a delinquency charge that is subject to change, the lender shall disclose in the contract that the amount of the delinquency charge is subject to change as allowed by IC 24-4.5-1-106.

As added by P.L.247-1983, SEC.17. Amended by P.L.181-1991, SEC.4; P.L.115-1992, SEC.2; P.L.14-1992, SEC.27; P.L.122-1994, SEC.20; P.L.45-1995, SEC.10.

IC 24-4.5-3-204
Deferral charges

Sec. 204. Deferral Charges — (1) With respect to a precomputed consumer loan, refinancing, or consolidation, the parties before or after default may agree in writing to a deferral of all or part of one (1) or more unpaid instalments, and the lender may make and collect a charge not exceeding the lesser of thirty-six percent (36%) per year or the rate previously stated to the debtor pursuant to the provisions on disclosure (Part 3) applied to the amount or amounts deferred for the period of deferral calculated without regard to difference in the lengths of months, but proportionally for a part of a month, counting each day as one-thirtieth (1/30) of a month. A deferral charge may be collected at the time it is assessed or at any time thereafter.

(2) The lender, in addition to the deferral charge, may make appropriate additional charges (IC 24-4.5-3-202), and the amount of these charges which is not paid in cash may be added to the amount deferred for the purpose of calculating the deferral charge.

(3) The parties may agree in writing at the time of a precomputed consumer loan, refinancing, or consolidation that if an instalment is not paid within ten (10) days after its due date, the lender may unilaterally grant a deferral and make charges as provided in this

section. No deferral charge may be made for a period after the date that the lender elects to accelerate the maturity of the agreement.

(4) A delinquency charge made by the lender on an instalment may not be retained if a deferral charge is made pursuant to this section with respect to the period of delinquency.

(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by P.L.186-2015, SEC.14.

IC 24-4.5-3-205

Loan finance charge on refinancing

Sec. 205. Loan Finance Charge on Refinancing — With respect to a consumer loan, refinancing, or consolidation, the lender may by agreement with the debtor refinance the unpaid balance and may contract for and receive a loan finance charge based on the principal resulting from the refinancing at a rate not exceeding that permitted by the provisions on a loan finance charge for consumer loans (IC 24-4.5-3-201) or the provisions on a loan finance charge for supervised loans (IC 24-4.5-3-508), whichever is appropriate. For the purpose of determining the loan finance charge permitted, the principal resulting from the refinancing comprises the following:

(1) if the transaction was not precomputed, the total of the unpaid balance and the accrued charges on the date of the refinancing, or, if the transaction was precomputed, the amount which the debtor would have been required to pay upon prepayment pursuant to the provisions on rebate upon prepayment (IC 24-4.5-3-210) on the date of refinancing; and

(2) appropriate additional charges (IC 24-4.5-3-202), payment of which is deferred.

(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by P.L.14-1992, SEC.28.

IC 24-4.5-3-206

Loan finance charge on consolidation

Sec. 206. Loan Finance Charge on Consolidation — (1) If a debtor owes an unpaid balance to a lender with respect to a consumer loan, refinancing, or consolidation, and becomes obligated on another consumer loan, refinancing, or consolidation with the same lender, the parties may agree to a consolidation resulting in a single schedule of payments. If the previous consumer loan, refinancing, or consolidation was not precomputed, the parties may agree to add the unpaid amount of principal and accrued charges on the date of consolidation to the principal with respect to the subsequent loan. If the previous consumer loan, refinancing, or consolidation was precomputed, the parties may agree to refinance the unpaid balance pursuant to the provisions on refinancing (24-4.5-3-205) and to consolidate the principal resulting from the refinancing by adding it to the principal with respect to the subsequent loan. In either case the lender may contract for and receive a loan finance charge based on

the aggregate principal resulting from the consolidation at a rate not in excess of that permitted by the provisions on loan finance charge for consumer loans (24-4.5-3-201) or the provisions on loan finance charge for supervised loans (24-4.5-3-508), whichever is appropriate.

(2) The parties may agree to consolidate the unpaid balance of a consumer loan with the unpaid balance of a consumer credit sale. The parties may agree to refinance the previous unpaid balance pursuant to the provisions on refinancing sales (24-4.5-2-205) or the provisions on refinancing loans (24-4.5-3-205), whichever is appropriate, and to consolidate the amount financed resulting from the refinancing or the principal resulting from the refinancing by adding it to the amount financed or principal with respect to the subsequent sale or loan. The aggregate amount resulting from the consolidation shall be deemed principal, and the creditor may contract for and receive a loan finance charge based on the principal at a rate not in excess of that permitted by the provisions on loan finance charge for consumer loans (24-4.5-3-201) or the provisions on loan finance charge for supervised loans (24-4.5-3-508), whichever is appropriate.

(Formerly: Acts 1971, P.L.366, SEC.4.)

IC 24-4.5-3-207

Conversion to revolving loan account

Sec. 207. Conversion to Revolving Loan Account. — The parties may agree to add to a revolving loan account the unpaid balance of a consumer loan, not made pursuant to a revolving loan account, or a refinancing, or consolidation thereof, or the unpaid balance of a consumer credit sale, refinancing or consolidation, for the purpose of this section.

(1) the unpaid balance of a consumer loan, refinancing, or consolidation is an amount equal to the principal determined according to the provisions on refinancing (24-4.5-3-205); and

(2) the unpaid balance of a consumer credit sale, refinancing, or consolidation is an amount equal to the amount financed determined according to the provisions on refinancing (24-4.5-2-205).

(Formerly: Acts 1971, P.L.366, SEC.4.)

IC 24-4.5-3-208

Advances to perform covenants of debtor

Sec. 208. Advances to Perform Covenants of Debtor. — (1) If the agreement with respect to a consumer loan, refinancing, or consolidation contains covenants by the debtor to perform certain duties pertaining to insuring or preserving collateral and if the lender pursuant to the agreement pays for performance of the duties on behalf of the debtor, the lender may add the amounts paid to the debt. Within a reasonable time after advancing any sums, he shall state to the debtor in writing the amount of the sums advanced, any charges with respect to this amount, and any revised payment schedule and,

if the duties of the debtor performed by the lender pertain to insurance, a brief description of the insurance paid for by the lender including the type and amount of coverages. No further information need be given.

(2) A loan finance charge may be made for sums advanced pursuant to subsection (1) at a rate not exceeding the rate stated to the debtor pursuant to the provisions on disclosure (Part 3) with respect to the loan, refinancing, or consolidation, except that with respect to a revolving loan account the amount of the advance may be added to the unpaid balance of the debt and the lender may make a loan finance charge not exceeding that permitted by the provisions on loan finance charge for consumer loans (24-4.5-3-201) or for supervised loans (24-4.5-3-508), whichever is appropriate.
(Formerly: Acts 1971, P.L.366, SEC.4.)

IC 24-4.5-3-209
Right to prepay; prepayment penalty; total finance charge; payoff statement; liability for failure to provide; short sales; foreclosed property; no protection from deficiency judgment

Sec. 209. Right to Prepay - (1) Subject to the provisions on rebate upon prepayment (section 210 of this chapter), the debtor may prepay in full the unpaid balance of a consumer loan, refinancing, or consolidation at any time without penalty. With respect to a consumer loan that is primarily secured by an interest in land, a lender may contract for a penalty for prepayment of the loan in full, not to exceed two percent (2%) of any amount prepaid within sixty (60) days of the date of the prepayment in full, after deducting all refunds and rebates as of the date of the prepayment. However, the penalty may not be imposed:

(a) if the loan is refinanced or consolidated with the same creditor;

(b) for prepayment by proceeds of any insurance or acceleration after default; or

(c) after three (3) years from the contract date.

(2) At the time of prepayment of a consumer loan not subject to the provisions of rebate upon prepayment (section 210 of this chapter), the total finance charge, including the prepaid finance charge but excluding the loan origination fee allowed under this chapter, may not exceed the maximum charge allowed under this chapter for the period the loan was in effect. For the purposes of determining compliance with this subsection, the total finance charge does not include the following:

(a) The loan origination fee allowed under this chapter.

(b) The debtor paid mortgage broker fee, if any, paid to a person who does not control, is not controlled by, or is not under common control with, the creditor holding the loan at the time a consumer loan is prepaid.

(3) The creditor or mortgage servicer shall provide, in writing, an

accurate payoff amount for the consumer loan to the debtor within seven (7) business days (excluding legal public holidays, Saturdays, and Sundays) after the creditor or mortgage servicer receives the debtor's written request for the accurate consumer loan payoff amount. A payoff statement provided by a creditor or mortgage servicer under this subsection must show the date the statement was prepared and itemize the unpaid principal balance and each fee, charge, or other sum included within the payoff amount. A creditor or mortgage servicer who fails to provide the accurate consumer loan payoff amount is liable for:

(a) one hundred dollars ($100) if an accurate consumer loan payoff amount is not provided by the creditor or mortgage servicer within seven (7) business days (excluding legal public holidays, Saturdays, and Sundays) after the creditor or mortgage servicer receives the debtor's first written request; and

(b) the greater of:

(i) one hundred dollars ($100); or

(ii) the loan finance charge that accrues on the loan from the date the creditor or mortgage servicer receives the first written request until the date on which the accurate consumer loan payoff amount is provided;

if an accurate consumer loan payoff amount is not provided by the creditor or mortgage servicer within seven (7) business days (excluding legal public holidays, Saturdays, and Sundays) after the creditor or mortgage servicer receives the debtor's second written request, and the creditor or mortgage servicer failed to comply with subdivision (a).

A liability under this subsection is an excess charge under IC 24-4.5-5-202.

(4) As used in this subsection, "mortgage transaction" means a consumer loan in which a mortgage or a land contract (or another consensual security interest equivalent to a mortgage or a land contract) that constitutes a lien is created or retained against land upon which there is constructed or intended to be constructed a dwelling that is or will be used by the debtor primarily for personal, family, or household purposes. This subsection applies to a mortgage transaction with respect to which any installment or minimum payment due is delinquent for at least sixty (60) days. The creditor, servicer, or the creditor's agent shall acknowledge a written offer made in connection with a proposed short sale not later than five (5) business days (excluding legal public holidays, Saturdays, and Sundays) after the date of the offer if the offer complies with the requirements for a qualified written request set forth in 12 U.S.C. 2605(e)(1)(B). The creditor, servicer, or creditor's agent is required to acknowledge a written offer made in connection with a proposed short sale from a third party acting on behalf of the debtor only if the debtor has provided written authorization for the creditor, servicer, or creditor's agent to do so. Not later than thirty (30) business days

(excluding legal public holidays, Saturdays, and Sundays) after receipt of an offer under this subsection, the creditor, servicer, or creditor's agent shall respond to the offer with an acceptance or a rejection of the offer. The thirty (30) day period described in this subsection may be extended for not more than fifteen (15) business days (excluding legal public holidays, Saturdays, and Sundays) if, before the end of the thirty (30) day period, the creditor, the servicer, or the creditor's agent notifies the debtor of the extension and the reason the extension is needed. Payment accepted by a creditor, servicer, or creditor's agent in connection with a short sale constitutes payment in full satisfaction of the mortgage transaction unless the creditor, servicer, or creditor's agent obtains:

(a) the following statement: "The debtor remains liable for any amount still owed under the mortgage transaction."; or

(b) a statement substantially similar to the statement set forth in subdivision (a);

acknowledged by the initials or signature of the debtor, on or before the date on which the short sale payment is accepted. As used in this subsection, "short sale" means a transaction in which the property that is the subject of a mortgage transaction is sold for an amount that is less than the amount of the debtor's outstanding obligation under the mortgage transaction. A creditor or mortgage servicer that fails to respond to an offer within the time prescribed by this subsection is liable in accordance with 12 U.S.C. 2605(f) in any action brought under that section.

(5) This section is not intended to provide the owner of real estate subject to the issuance of process under a judgment or decree of foreclosure any protection or defense against a deficiency judgment for purposes of the borrower protections from liability that must be disclosed under 12 CFR 1026.38(p)(3) on the form required by 12 CFR 1026.38 ("Closing Disclosures" form under the Amendments to the 2013 Integrated Mortgage Disclosures Rule Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth In Lending Act (Regulation Z) and the 2013 Loan Originator Rule Under the Truth in Lending Act (Regulation Z)).

(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by P.L.14-1992, SEC.29; P.L.122-1994, SEC.21; P.L.23-2000, SEC.6; P.L.159-2001, SEC.1; P.L.145-2008, SEC.27; P.L.35-2010, SEC.49; P.L.89-2011, SEC.16; P.L.27-2012, SEC.18; P.L.54-2016, SEC.3; P.L.73-2016, SEC.11.

IC 24-4.5-3-210

Rebate upon prepayment

Sec. 210. Rebate upon Prepayment. — (1) Except as provided in subsection (2), upon prepayment in full of the unpaid balance of a precomputed consumer loan, refinancing, or consolidation, an amount not less than the unearned portion of the loan finance charge calculated according to this section shall be rebated to the debtor. If

the rebate otherwise required is less than one dollar ($1), no rebate need be made.

(2) Upon prepayment in full of a consumer loan, refinancing, or consolidation, other than one (1) under a revolving loan account, if the loan finance charge earned is less than any permitted minimum loan finance charge (IC 24-4.5-3-201(6) or IC 24-4.5-3-508(7)) contracted for, whether or not the consumer loan, refinancing, or consolidation is precomputed, the lender may collect or retain the minimum loan finance charge, as if earned, not exceeding the loan finance charge contracted for.

(3) The unearned portion of the loan finance charge is a fraction of the loan finance charge of which the numerator is the sum of the periodic balances scheduled to follow the computational period in which prepayment occurs, and the denominator is the sum of all periodic balances under either the loan agreement or, if the balance owing resulted from a refinancing (IC 24-4.5-3-205) or a consolidation (IC 24-4.5-3-206), under the refinancing agreement or consolidation agreement.

(4) In this section:

(a) "periodic balance" means the amount scheduled to be outstanding on the last day of a computational period before deducting the payment, if any, scheduled to be made on that day;

(b) "computation period" means one (1) month if one-half (1/2) or more of the intervals between scheduled payments under the agreement is one (1) month or more, and otherwise means one (1) week;

(c) the "interval" to the due date of the first scheduled installment or the final scheduled payment date is measured from the date of a loan, refinancing, or consolidation, and includes either the first or last day of the interval; and

(d) if the interval to the due date of the first scheduled installment does not exceed one (1) month by more than fifteen (15) days when the computational period is one (1) month, or eleven (11) days when the computational period is one (1) week, the interval shall be considered as one (1) computational period.

(5) This subsection applies only if the schedule of payments is not regular.

(a) If the computational period is one (1) month and:

(i) if the number of days in the interval to the due date of the first scheduled installment is less than one (1) month by more than five (5) days, or more than one (1) month by more than five (5) but not more than fifteen (15) days, the unearned loan finance charge shall be increased by an adjustment for each day by which the interval is less than one (1) month and, at the option of the lender, may be reduced by an adjustment for each day by which the interval

is more than one (1) month; the adjustment for each day shall be one-thirtieth (1/30) of that part of the loan finance charge earned in the computational period prior to the due date of the first scheduled installment assuming that period to be one (1) month; and

(ii) if the interval to the final scheduled payment date is a number of computational periods plus an additional number of days less than a full month, the additional number of days shall be considered a computational period only if sixteen (16) days or more. This subparagraph applies whether or not subparagraph (i) applies.

(b) Notwithstanding paragraph (a), if the computational period is one (1) month, the number of days in the interval to the due date of the first installment exceeds one (1) month by not more than fifteen (15) days, and the schedule of payments is otherwise regular, the lender, at the lender's option, may exclude the extra days and the charge for the extra days in computing the unearned loan finance charge; but if the lender does so and a rebate is required before the due date of the first scheduled installment, the lender shall compute the earned charge for each elapsed day as one-thirtieth (1/30) of the amount the earned charge would have been if the first interval had been one (1) month.

(c) If the computational period is one (1) week and:

(i) if the number of days in the interval to the due date of the first scheduled installment is less than five (5) days, or more than nine (9) days, but not more than eleven (11) days, the unearned loan finance charge shall be increased by an adjustment for each day by which the interval is less than seven (7) days and, at the option of the lender, may be reduced by an adjustment for each day by which the interval is more than seven (7) days; the adjustment for each day shall be one-seventh (1/7) of that part of the loan finance charge earned in the computational period prior to the due date of the first scheduled installment, assuming that period to be one (1) week; and

(ii) if the interval to the final scheduled payment date is a number of computational periods plus an additional number of days less than a full week, the additional number of days shall be considered a computational period only if five (5) days or more. This subparagraph applies whether or not subparagraph (i) applies.

(6) If a deferral (IC 24-4.5-3-204) has been agreed to, the unearned portion of the loan finance charge shall be computed without regard to the deferral. The amount of deferral charge earned at the date of prepayment shall also be calculated. If the deferral charge earned is less than the deferral charge paid, the difference shall be added to the unearned portion of the loan finance charge. If

any part of a deferral charge has been earned but has not been paid, that part shall be subtracted from the unearned portion of the loan finance charge or shall be added to the unpaid balance.

(7) This section does not preclude the collection or retention by the lender of delinquency charges (IC 24-4.5-3-203, repealed in 1994).

(8) If the maturity is accelerated for any reason and judgment is obtained, the debtor is entitled to the same rebate as if payment had been made on the date judgment is entered.

(9) Upon prepayment in full of a consumer loan by the proceeds of consumer credit insurance (IC 24-4.5-4-103), the debtor or the debtor's estate shall pay the same loan finance charge or receive the same rebate as though the debtor had prepaid the agreement on the date the proceeds of the insurance are paid to the lender, but no later than ten (10) business days after satisfactory proof of loss is furnished to the lender. This subsection applies whether or not the loan is precomputed.

(10) Upon prepayment in full of a transaction with a term of more than sixty-one (61) months, the unearned loan finance charge shall be computed by applying the disclosed annual percentage rate that would yield the loan finance charge originally contracted for to the unpaid balances of the amount financed for the full computational periods following the prepayment, as originally scheduled or as deferred.

(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by P.L.14-1992, SEC.30; P.L.122-1994, SEC.22; P.L.2-1995, SEC.92; P.L.176-1996, SEC.6.

(Part 3. Disclosure and Advertising)

IC 24-4.5-3-301
Disclosures required by Federal Consumer Credit Protection Act

Sec. 301. (1) For the purposes of this section, "consumer loan" includes a loan that is a first lien mortgage transaction if the loan is otherwise a consumer loan (IC 24-4.5-1-301.5(9)).

(2) The lender shall disclose to the debtor to whom credit is extended with respect to a consumer loan the information required by the Federal Consumer Credit Protection Act.

(3) For purposes of subsection (2), disclosures shall not be required on a consumer loan if the transaction is exempt from the Federal Consumer Credit Protection Act.

(Formerly: Acts 1971, P.L.366, SEC.4; Acts 1975, P.L.267, SEC.1.) As amended by Acts 1981, P.L.218, SEC.6; Acts 1981, P.L.217, SEC.2; P.L.247-1983, SEC.18; P.L.45-1995, SEC.11; P.L.35-2010, SEC.50.

IC 24-4.5-3-302
Repealed

(Repealed by P.L.247-1983, SEC.26.)

IC 24-4.5-3-303
Repealed
(Repealed by P.L.247-1983, SEC.26.)

IC 24-4.5-3-304
Repealed
(Repealed by P.L.247-1983, SEC.26.)

IC 24-4.5-3-305
Repealed
(Repealed by P.L.247-1983, SEC.26.)

IC 24-4.5-3-306
Repealed
(Repealed by P.L.247-1983, SEC.26.)

IC 24-4.5-3-307
Repealed
(Repealed by P.L.247-1983, SEC.26.)

IC 24-4.5-3-308
Repealed
(Repealed by P.L.247-1983, SEC.26.)

IC 24-4.5-3-309
Repealed
(Repealed by P.L.247-1983, SEC.26.)

IC 24-4.5-3-310
Repealed
(Repealed by P.L.247-1983, SEC.26.)

IC 24-4.5-3-311
Repealed
(Repealed by P.L.247-1983, SEC.26.)

(Part 4. Limitations on Agreements and Practices)

IC 24-4.5-3-401
Scope
Sec. 401. Scope — This Part applies to consumer loans.
(Formerly: Acts 1971, P.L.366, SEC.4.)

IC 24-4.5-3-402
Balloon payments; compliance with Alternative Mortgage Transaction Parity Act

Sec. 402. (1) This section does not apply to a first lien mortgage transaction.

(2) Except as provided in IC 24-9-4-3 with respect to a high cost home loan (as defined in IC 24-9-2-8), with respect to a consumer loan, other than one pursuant to a revolving loan account or one on which only loan finance charges are payable prior to the time that the final scheduled payment is due, if any scheduled payment is more than twice as large as the average of earlier scheduled payments, the debtor has the right to refinance the amount of that payment at the time it is due without penalty. The terms of the refinancing shall be no less favorable to the debtor than the terms of the original loan. This section does not apply to the extent that the payment schedule is adjusted to the seasonal or irregular income of the debtor.

(3) For the purposes of this section, "terms of the refinancing" means:

(a) in the case of a fixed-rate consumer loan, the individual payment amounts, the charges as a result of default by the debtor, and the rate of the loan finance charge; and

(b) in the case of a variable rate consumer loan, the method used to determine the individual payment amounts, the charges as a result of default by the debtor, the method used to determine the rate of the loan finance charge, the circumstances under which the rate of the loan finance charge may increase, and any limitations on the increase in the rate of the loan finance charge.

(4) If a consumer loan is made under the authority of the Alternative Mortgage Transaction Parity Act (12 U.S.C. 3802 et seq.), the note evidencing the mortgage must contain a reference to the applicable federal law.

(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by P.L.247-1983, SEC.19; P.L.213-2007, SEC.9; P.L.217-2007, SEC.8; P.L.90-2008, SEC.8.

IC 24-4.5-3-403

No assignment of earnings

Sec. 403. No Assignment of Earnings — (1) A lender may not take an assignment of earnings of the debtor for payment or as security for payment of a debt arising out of a consumer loan or otherwise. An assignment of earnings in violation of this section is unenforceable by the assignee of the earnings and revocable by the debtor. This section does not prohibit an employee from authorizing deductions from his earnings if the authorization is revocable and is otherwise permitted by law.

(2) A sale of unpaid earnings made in consideration of the payment of money to or for the account of the seller of the earnings is deemed to be a loan to him secured by an assignment of earnings.

(Formerly: Acts 1971, P.L.366, SEC.4.)

IC 24-4.5-3-404
Attorney's fees

Sec. 404. With respect to a consumer loan the agreement may provide for the payment by the debtor of reasonable attorney's fees after default and referral to an attorney not a salaried employee of the lender. A provision in violation of this section is unenforceable.
(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by P.L.152-1986, SEC.64; P.L.14-1992, SEC.31.

IC 24-4.5-3-405
Limitation on default charges

Sec. 405. Limitation on Default Charges — Except for reasonable expenses incurred in realizing on a security interest, the agreement with respect to a consumer loan may not provide for charges as a result of default by the debtor other than those authorized by this Article. A provision in violation of this section is unenforceable.
(Formerly: Acts 1971, P.L.366, SEC.4.)

IC 24-4.5-3-406
Notice of assignment

Sec. 406. Notice of Assignment — The debtor is authorized to pay the original lender until he receives notification of assignment of rights to payment pursuant to a consumer loan and that payment is to be made to the assignee. A notification which does not reasonably identify the rights assigned is ineffective. If requested by the debtor, the assignee must seasonably furnish reasonable proof that the assignment has been made and unless he does so the debtor may pay the original lender.
(Formerly: Acts 1971, P.L.366, SEC.4.)

IC 24-4.5-3-407
Authorization to confess judgment prohibited

Sec. 407. Authorization to Confess Judgment Prohibited — A debtor may not authorize any person to confess judgment on a claim arising out of a consumer loan. An authorization in violation of this section is void.
(Formerly: Acts 1971, P.L.366, SEC.4.)

IC 24-4.5-3-408
Time for crediting payments

Sec. 408. (1) This section also applies to revolving loan accounts.

(2) Except as provided in subsection (3) a creditor shall credit a payment to a consumer's account as of the date of receipt, except when a delay in crediting does not result in a finance charge or other charge, including a late charge. A delay in posting does not violate this section so long as the payment is credited as of the date of receipt.

(3) If a creditor specifies requirements for the consumer to follow

in making payments of the contract, payment coupon book, payment coupon or statement, or periodic statement, but accepts a payment that does not conform to the requirements, the creditor shall credit the payment within two (2) days of receipt of the payment.

(4) If a creditor fails to credit a payment as required by this section in time to avoid the imposition of a finance or other charge, including a delinquency charge, the creditor shall adjust the consumer's account so that the charges imposed are credited to the consumer's account during the next payment period.

As added by P.L.163-1999, SEC.2.

(Part 5. Regulated and Supervised Loans)

IC 24-4.5-3-501

Definitions; "supervised loan"; "supervised lender"

Sec. 501. Definitions:

(1) "Supervised loan" means a consumer loan in which the rate of the loan finance charge exceeds twenty-five percent (25%) per year as determined according to the provisions on loan finance charge for consumer loans in section 201 of this chapter.

(2) "Supervised lender" means a person authorized to make or take assignments of supervised loans.

(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by Acts 1982, P.L.150, SEC.4; P.L.122-1994, SEC.23; P.L.91-2013, SEC.3.

IC 24-4.5-3-501.5

Persons also engaging in loan brokerage business; applicability of loan broker statutes; examination by department; cooperation with securities division

Sec. 501.5. (1) If a person licensed or required to be licensed under section 502.1 of this chapter also engages in the loan brokerage business, the person's loan brokerage business is subject to the following sections of the Indiana Code and any rules adopted to implement these sections:

(a) IC 23-2-5-9.
(b) IC 23-2-5-9.1.
(c) IC 23-2-5-15.
(d) IC 23-2-5-16.
(e) IC 23-2-5-17.
(f) IC 23-2-5-18.
(g) IC 23-2-5-18.5.
(h) IC 23-2-5-20.
(i) IC 23-2-5-23, except for IC 23-2-5-23(2)(B).
(j) IC 23-2-5-24.

(2) Loan broker business transactions engaged in by persons licensed or required to be licensed under section 502.1 of this chapter are subject to examination by the department and to the examination fees described in section 503(8)(b) of this chapter. The department

may cooperate with the securities division of the office of the secretary of state in the department's examination of loan broker business transactions and may use the securities division's examiners to conduct examinations.
As added by P.L.186-2015, SEC.15.

IC 24-4.5-3-502
Authority to make, take assignment of, or collect consumer loans other than mortgage transactions; license required; exempt persons; branches; separate license required for small loans; CPAP contracts

Sec. 502. (1) A person that is a:

(a) depository institution;

(b) subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency; or

(c) credit union service organization;

may engage in Indiana in the making of consumer loans (including small loans that are subject to IC 24-4.5-7) that are not mortgage transactions without obtaining a license under this article.

(2) A collection agency licensed under IC 25-11-1 may engage in:

(a) taking assignments of consumer loans (including small loans that are subject to IC 24-4.5-7) that are not mortgage transactions; and

(b) undertaking the direct collection of payments from or the enforcement of rights against debtors arising from consumer loans (including small loans that are subject to IC 24-4.5-7) that are not mortgage transactions;

in Indiana without obtaining a license under this article.

(3) A person that does not qualify under subsection (1) or (2) shall acquire and retain a license under this chapter in order to regularly engage in Indiana in the following actions with respect to consumer loans that are not small loans (as defined in IC 24-4.5-7-104) or mortgage transactions:

(a) The making of consumer loans.

(b) Taking assignments of consumer loans.

(c) Undertaking the direct collection of payments from or the enforcement of rights against debtors arising from consumer loans.

(4) A separate license under this chapter is required for each legal entity that engages in Indiana in any activity described in subsection (3). However, a separate license under this chapter is not required for each branch of a legal entity licensed under this chapter to perform an activity described in subsection (3).

(5) Except as otherwise provided in subsections (1) and (2), a separate license under IC 24-4.5-7 is required in order to regularly engage in Indiana in the following actions with respect to small loans (as defined in IC 24-4.5-7-104):

(a) The making of small loans (as defined in IC 24-4.5-7-104).

(b) Taking assignments of small loans (as defined in IC 24-4.5-7-104).

(c) Undertaking the direct collection of payments from or the enforcement of rights against debtors arising from small loans (as defined in IC 24-4.5-7-104).

A person that seeks licensure under IC 24-4.5-7 in order to regularly engage in Indiana in the actions set forth in this subsection shall apply to the department for that license in the form and manner prescribed by the department, and is subject to the same licensure requirements and procedures as an applicant for a license to make consumer loans (other than small loans or mortgage transactions) under this section.

(6) A CPAP contract must comply with IC 24-12-2.

(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by P.L.14-1992, SEC.32; P.L.122-1994, SEC.24; P.L.176-1996, SEC.7; P.L.23-2000, SEC.7; P.L.10-2006, SEC.6 and P.L.57-2006, SEC.6; P.L.35-2010, SEC.51; P.L.186-2015, SEC.16; P.L.153-2016, SEC.6.

IC 24-4.5-3-502.1

Authority to make, take assignment of, or collect subordinate lien mortgage transactions; license required; exempt persons; registration with NMLSR; licensed mortgage loan originators; applications for licensure; director's authority to contract with NMLSR

Sec. 502.1. (1) A person that is a:

(a) depository institution;

(b) subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency; or

(c) credit union service organization;

may engage in Indiana in the making of subordinate lien mortgage transactions without obtaining a license under this article.

(2) A collection agency licensed under IC 25-11-1 or an institution regulated by the Farm Credit Administration may engage in:

(a) taking assignments of subordinate lien mortgage transactions; and

(b) undertaking the direct collection of payments from or the enforcement of rights against debtors arising from subordinate lien mortgage transactions;

in Indiana without obtaining a license under this article.

(3) A person that does not qualify under subsection (1) or (2) shall acquire and retain a license relating to subordinate lien mortgage transactions under this chapter in order to regularly engage in Indiana in the following actions with respect to subordinate lien mortgage transactions:

(a) The making of subordinate lien mortgage loans.

(b) Taking assignments of subordinate lien mortgage loans.

(c) Undertaking the direct collection of payments from or the

enforcement of rights against debtors arising from subordinate lien mortgage loans.

(4) Each:

(a) creditor licensed by the department under this chapter to engage in subordinate lien mortgage transactions; and

(b) entity that is exempt from licensing under this article or under IC 24-4.4-1-202(b)(6)(a) and that:

(i) employs a licensed mortgage loan originator; or

(ii) sponsors under an exclusive written agreement, as permitted by IC 24-4.4-1-202(b)(6)(a), a licensed mortgage loan originator as an independent agent;

shall register with and maintain a valid unique identifier issued by the NMLSR. Each licensed mortgage loan originator must be employed by, or sponsored under an exclusive written agreement (as permitted by IC 24-4.4-1-202(b)(6)(a)) and as an independent agent, and associated with, a creditor licensed under this chapter to engage in subordinate lien mortgage transactions or an exempt entity described under subdivision (b) in the NMLSR in order to originate loans.

(5) Applicants for a license to engage in subordinate lien mortgage transactions must apply for a license under this chapter in a form prescribed by the director. Each form:

(a) must contain content as set forth by rule, instruction, or procedure of the director; and

(b) may be changed or updated as necessary by the director to carry out the purposes of this article.

(6) To fulfill the purposes of this article, the director may establish relationships or contracts with the NMLSR or other entities designated by the NMLSR to:

(a) collect and maintain records; and

(b) process transaction fees or other fees;

related to licensees or other persons subject to this article.

(7) For the purpose of participating in the NMLSR, the director or the department may:

(a) waive or modify, in whole or in part, by rule, regulation, or order, any or all of the requirements of this article; and

(b) establish new requirements as reasonably necessary to participate in the NMLSR.

As added by P.L.35-2010, SEC.52. Amended by P.L.103-2014, SEC.5; P.L.186-2015, SEC.17.

IC 24-4.5-3-502.2

Use of NMLSR in department's licensing system; reporting of information to NMLSR; confidentiality; director's authority to enter agreements; waiver of privilege; processing fee; electronic records

Sec. 502.2. (1) Subject to subsection (6), the director may designate the NMLSR to serve as the sole entity responsible for:

(a) processing applications and renewals for licenses required under section 502 of this chapter;

(b) issuing unique identifiers for licensees and entities exempt from licensing under section 502 of this chapter; and

(c) performing other services that the director determines are necessary for the orderly administration of the department's licensing system under section 502 of this chapter.

(2) Subject to the confidentiality provisions contained in IC 5-14-3, this section, and IC 28-1-2-30, the director shall regularly report to the NMLSR significant or recurring violations of this article related to consumer loans that are not mortgage transactions, including small loans under IC 24-4.5-7.

(3) Subject to the confidentiality provisions contained in IC 5-14-3, this section, and IC 28-1-2-30, the director may report to the NMLSR complaints received regarding licensees under section 502 of this chapter in connection with consumer loans that are not mortgage transactions, including small loans under IC 24-4.5-7.

(4) The director may report to the NMLSR publicly adjudicated licensure actions against licensees under section 502 of this chapter.

(5) The director shall establish a process in which persons licensed in accordance with section 502 of this chapter may challenge information reported to the NMLSR by the department.

(6) The director's authority to designate the NMLSR under subsection (1) is subject to the following:

(a) Information stored in the NMLSR is subject to the confidentiality provisions of IC 28-1-2-30 and IC 5-14-3. A person may not:

(i) obtain information from the NMLSR unless the person is authorized to do so by statute;

(ii) initiate any civil action based on information obtained from the NMLSR if the information is not otherwise available to the person under any other state law; or

(iii) initiate any civil action based on information obtained from the NMLSR if the person could not have initiated the action based on information otherwise available to the person under any other state law.

(b) Documents, materials, and other forms of information in the control or possession of the NMLSR that are confidential under IC 28-1-2-30 and that are:

(i) furnished by the director, the director's designee, or a licensee; or

(ii) otherwise obtained by the NMLSR;

are confidential and privileged by law and are not subject to inspection under IC 5-14-3, subject to subpoena, subject to discovery, or admissible in evidence in any civil action. However, the director may use the documents, materials, or other information available to the director in furtherance of any action brought in connection with the director's duties under

this article.

(c) Disclosure of documents, materials, and information:

(i) to the director; or

(ii) by the director;

under this subsection does not result in a waiver of any applicable privilege or claim of confidentiality with respect to the documents, materials, or information.

(d) Information provided to the NMLSR is subject to IC 4-1-11.

(e) This subsection does not limit or impair a person's right to:

(i) obtain information;

(ii) use information as evidence in a civil action or proceeding; or

(iii) use information to initiate a civil action or proceeding;

if the information may be obtained from the director or the director's designee under any law.

(f) The requirements under any federal law or IC 5-14-3 regarding the privacy or confidentiality of any information or material provided to the NMLSR, and any privilege arising under federal or state law, including the rules of any federal or state court, with respect to the information or material, continue to apply to the information or material after the information or material has been disclosed to the NMLSR. The information and material may be shared with all state and federal regulatory officials with financial services industry oversight authority without the loss of privilege or the loss of confidentiality protections provided by federal law or IC 5-14-3.

(g) For purposes of this section, the director may enter agreements or sharing arrangements with other governmental agencies, the Conference of State Bank Supervisors, or other associations representing governmental agencies as established by rule or order of the director.

(h) Information or material that is subject to a privilege or confidentiality under subdivision (f) is not subject to:

(i) disclosure under any federal or state law governing the disclosure to the public of information held by an officer or an agency of the federal government or the respective state; or

(ii) subpoena, discovery, or admission into evidence, in any private civil action or administrative process, unless with respect to any privileged information or material held by the NMLSR, the person to whom the information or material pertains waives, in whole or in part, in the discretion of the person, that privilege.

(i) Any provision of IC 5-14-3 that concerns the disclosure of:

(i) confidential supervisory information; or

(ii) any information or material described in subdivision (f);

and that is inconsistent with subdivision (f) is superseded by this section.

(j) This section does not apply with respect to information or material that concerns the employment history of, and publicly adjudicated disciplinary and enforcement actions against, a person licensed in accordance with section 502 of this chapter and described in section 503(2) of this chapter and that is included in the NMLSR for access by the public.

(k) The director may require a licensee required to submit information to the NMLSR to pay a processing fee considered reasonable by the director. In determining whether an NMLSR processing fee is reasonable, the director shall:

(i) require review of; and

(ii) make available;

the audited financial statements of the NMLSR.

(7) Notwithstanding any other provision of law, any:

(a) application, renewal, or other form or document that:

(i) relates to licenses issued under section 502 of this chapter; and

(ii) is made or produced in an electronic format;

(b) document filed as an electronic record in a multistate automated repository established and operated for the licensing or registration of financial services entities and their employees; or

(c) electronic record filed through the NMLSR;

is considered a valid original document when reproduced in paper form by the department.

As added by P.L.137-2014, SEC.10.

IC 24-4.5-3-503

Applications for licenses; issuance; evidence of compliance; use of NMLSR; denial of application; right to hearing; fees; license not assignable or transferable

Sec. 503. (1) The department shall receive and act on all applications for licenses to make consumer loans. Applications must be as prescribed by the director of the department of financial institutions. If, at any time, the information or record contained in:

(a) an application filed under section 502 of this chapter or section 502.1 of this chapter; or

(b) a renewal application filed under section 503.6 of this chapter;

is or becomes inaccurate or incomplete in a material respect, the applicant shall promptly file a correcting amendment with the department.

(2) A license shall not be issued unless the department finds that the professional training and experience, financial responsibility, character, and fitness of:

(a) the applicant and any significant affiliate of the applicant;

(b) each executive officer, director, or manager of the applicant, or any other individual having a similar status or performing a

similar function for the applicant; and

(c) if known, each person directly or indirectly owning of record or owning beneficially at least ten percent (10%) of the outstanding shares of any class of equity security of the applicant;

are such as to warrant belief that the business will be operated honestly and fairly within the purposes of this article.

(3) The director is entitled to request evidence of compliance with this section at:

(a) the time of application;

(b) the time of renewal of a license; or

(c) any other time considered necessary by the director.

(4) Evidence of compliance with this section concerning a person licensed under section 502 of this chapter may include and for a person licensed under section 502.1 of this chapter must include:

(a) criminal background checks as described in section 503.1 of this chapter, including a national criminal history background check (as defined in IC 10-13-3-12) by the Federal Bureau of Investigation, for any individual described in subsection (2);

(b) credit histories as described in section 503.2 of this chapter;

(c) surety bond requirements as described in section 503.3 of this chapter;

(d) a review of licensure actions in Indiana and other states; and

(e) other background checks considered necessary by the director.

(5) For purposes of this section and in order to reduce the points of contact that the director may have to maintain under this section, the director may use the NMLSR as a channeling agent for requesting and distributing information to and from any source as directed by the director.

(6) The department may deny an application under this section if the director of the department determines that the application was submitted for the benefit of, or on behalf of, a person who does not qualify for a license.

(7) Upon written request, the applicant is entitled to a hearing on the question of the qualifications of the applicant for a license as provided in IC 4-21.5.

(8) The applicant shall pay the following fees at the time designated by the department:

(a) An initial license fee as established by the department under IC 28-11-3-5.

(b) Examination fees as established by the department under IC 28-11-3-5.

(c) An annual renewal fee as established by the department under IC 28-11-3-5.

(9) A fee as established by the department under IC 28-11-3-5 may be charged for each day a fee under subsection (8)(b) or (8)(c) is delinquent.

(10) The licensee may deduct the fees required under subsection (8)(a) and (8)(c) from the filing fees paid under IC 24-4.5-6-203.

(11) Except in a transaction approved under section 515 of this chapter, a license issued under this section is not assignable or transferable.

(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by P.L.14-1992, SEC.33; P.L.122-1994, SEC.25; P.L.80-1998, SEC.7; P.L.23-2000, SEC.8; P.L.10-2006, SEC.7 and P.L.57-2006, SEC.7; P.L.213-2007, SEC.10; P.L.217-2007, SEC.9; P.L.3-2008, SEC.174; P.L.90-2008, SEC.9; P.L.35-2010, SEC.53; P.L.89-2011, SEC.17; P.L.27-2012, SEC.19.

IC 24-4.5-3-503.1

National criminal history background check; fingerprints; payment of fees or costs; use of NMLSR

Sec. 503.1. (1) When the director requests a national criminal history background check under section 503(4)(a) of this chapter for an individual described in section 503(2) of this chapter, the director shall require the individual to submit fingerprints to the department, state police department, or NMLSR, as directed, at the time evidence of compliance is requested under section 503(3) of this chapter. The individual to whom the request is made shall pay any fees or costs associated with processing and evaluating the fingerprints and the national criminal history background check. The national criminal history background check may be used by the director to determine the individual's compliance with this section. The director or the department may not release the results of the national criminal history background check to any private entity.

(2) For purposes of this section and in order to reduce the points of contact that the Federal Bureau of Investigation may have to maintain for purposes of this section, the director may use the NMLSR as a channeling agent for requesting information from and distributing information to the United States Department of Justice or any governmental agency.

As added by P.L.35-2010, SEC.54.

IC 24-4.5-3-503.2

Credit reports; payment of fees or costs; demonstrated financial responsibility; considerations

Sec. 503.2. (1) If the director requests a credit report for an individual described in section 503(2) of this chapter, the individual to whom the request is made shall pay any fees or costs associated with procuring the report.

(2) The individual must submit personal history and experience information in a form prescribed by the NMLSR, including the submission of authorization for the NMLSR or the director to obtain an independent credit report obtained from a consumer reporting agency described in Section 603(p) of the Fair Credit Reporting Act

(15 U.S.C. 1681a(p)).

(3) The director may consider one (1) or more of the following when determining if an individual has demonstrated financial responsibility:

(a) Bankruptcies filed within the last ten (10) years.

(b) Current outstanding judgments, except judgments solely as a result of medical expenses.

(c) Current outstanding tax liens or other government liens or filings.

(d) Foreclosures within the past three (3) years.

(e) A pattern of serious delinquent accounts within the past three (3) years.

As added by P.L.35-2010, SEC.55.

IC 24-4.5-3-503.3

Surety bond; requirements; amount; termination; liability; notices

Sec. 503.3. (1) Each:

(a) creditor licensed by the department under this article; and

(b) person that is exempt from licensing under this article or under IC 24-4.4-1-202(b)(6)(a) and that:

(i) employs a licensed mortgage loan originator; or

(ii) sponsors under an exclusive written agreement, as permitted by IC 24-4.4-1-202(b)(6)(a), a licensed mortgage loan originator as an independent agent;

must be covered by a surety bond in accordance with this section.

(2) A surety bond must:

(a) provide coverage for:

(i) a creditor described in subsection (1)(a); and

(ii) an exempt person described in subsection (1)(b);

in an amount as prescribed in subsection (4);

(b) be in a form as prescribed by the director;

(c) be in effect:

(i) during the term of the creditor's license under this chapter; or

(ii) at any time during which the person exempt from licensing under this article or under IC 24-4.4-1-202(b)(6)(a) employs a licensed mortgage loan originator, or sponsors under an exclusive written agreement (as permitted by IC 24-4.4-1-202(b)(6)(a)) a licensed mortgage loan originator as an independent agent;

as applicable;

(d) remain in effect during the two (2) years after:

(i) the creditor ceases offering financial services to individuals in Indiana; or

(ii) the person exempt from licensing under this article or under IC 24-4.4-1-202(b)(6)(a) ceases to employ a licensed mortgage loan originator, or ceases to sponsor under an exclusive written agreement (as permitted by

IC 24-4.4-1-202(b)(6)(a)) a licensed mortgage loan originator as an independent agent, or to offer financial services to individuals in Indiana, whichever is later;

as applicable;

(e) be payable to the department for the benefit of:

(i) the state; and

(ii) individuals who reside in Indiana when they agree to receive financial services from the creditor or the person exempt from licensing under this article or under IC 24-4.4-1-202(b)(6)(a), as applicable;

(f) be issued by a bonding, surety, or insurance company authorized to do business in Indiana and rated at least "A-" by at least one (1) nationally recognized investment rating service; and

(g) have payment conditioned upon:

(i) the creditor's or any of the creditor's licensed mortgage loan originators'; or

(ii) the exempt person's or any of the exempt person's licensed mortgage loan originators';

noncompliance with or violation of this chapter, 750 IAC 9, or other federal or state laws or regulations applicable to mortgage lending.

(3) The director may adopt rules or guidance documents with respect to the requirements for surety bonds as necessary to accomplish the purposes of this article.

(4) The penal sum of the surety bond shall be maintained in an amount that reflects the dollar amount of mortgage transactions originated as determined by the director. If the principal amount of a surety bond required under this section is reduced by payment of a claim or judgment, the creditor or exempt person for whom the bond is issued shall immediately notify the director of the reduction and, not later than thirty (30) days after notice by the director, file a new or an additional surety bond in an amount set by the director. The amount of the new or additional bond set by the director must be at least the amount of the bond before payment of the claim or judgment.

(5) If for any reason a surety terminates a bond issued under this section, the creditor or the exempt person shall immediately notify the department and file a new surety bond in an amount determined by the director.

(6) Cancellation of a surety bond issued under this section does not affect any liability incurred or accrued during the period when the surety bond was in effect.

(7) The director may obtain satisfaction from a surety bond issued under this section if the director incurs expenses, issues a final order, or recovers a final judgment under this chapter.

(8) Notices required under this section must be in writing and delivered by certified mail, return receipt requested and postage

prepaid, or by overnight delivery using a nationally recognized carrier.

As added by P.L.35-2010, SEC.56. Amended by P.L.216-2013, SEC.10; P.L.103-2014, SEC.6.

IC 24-4.5-3-503.4

Use of NMLSR in department's licensing system for subordinate lien mortgage transactions; reporting of information to NMLSR; confidentiality; director's authority to enter agreements; waiver of privilege; processing fee; electronic records

Sec. 503.4. (1) Subject to subsection (6), the director shall designate the NMLSR to serve as the sole entity responsible for:

(a) processing applications and renewals for licenses under section 502.1 of this chapter;

(b) issuing unique identifiers for licensees under section 502.1 of this chapter and for entities exempt from licensing under this article that employ licensed mortgage loan originators; and

(c) performing other services that the director determines necessary for the orderly administration of the department's licensing system under section 502.1 of this chapter.

(2) Subject to the confidentiality provisions contained in IC 5-14-3, this section, and IC 28-1-2-30, the director shall regularly report significant or recurring violations of this article related to subordinate lien mortgage transactions to the NMLSR.

(3) Subject to the confidentiality provisions contained in IC 5-14-3, this section, and IC 28-1-2-30, the director may report complaints received regarding licensees under this article related to subordinate lien mortgage transactions to the NMLSR.

(4) The director may report publicly adjudicated licensure actions against licensees under section 502.1 of this chapter to the NMLSR.

(5) The director shall establish a process in which persons licensed in accordance with section 502.1 of this chapter may challenge information reported to the NMLSR by the department.

(6) The director's authority to designate the NMLSR under subsection (1) is subject to the following:

(a) Information stored in the NMLSR is subject to the confidentiality provisions of IC 28-1-2-30 and IC 5-14-3. A person may not:

(i) obtain information from the NMLSR unless the person is authorized to do so by statute;

(ii) initiate any civil action based on information obtained from the NMLSR if the information is not otherwise available to the person under any other state law; or

(iii) initiate any civil action based on information obtained from the NMLSR if the person could not have initiated the action based on information otherwise available to the person under any other state law.

(b) Documents, materials, and other forms of information in the

control or possession of the NMLSR that are confidential under IC 28-1-2-30 and that are:

(i) furnished by the director, the director's designee, or a licensee; or

(ii) otherwise obtained by the NMLSR;

are confidential and privileged by law and are not subject to inspection under IC 5-14-3, subject to subpoena, subject to discovery, or admissible in evidence in any civil action. However, the director may use the documents, materials, or other information available to the director in furtherance of any action brought in connection with the director's duties under this article.

(c) Disclosure of documents, materials, and information:

(i) to the director; or

(ii) by the director;

under this subsection does not result in a waiver of any applicable privilege or claim of confidentiality with respect to the documents, materials, or information.

(d) Information provided to the NMLSR is subject to IC 4-1-11.

(e) This subsection does not limit or impair a person's right to:

(i) obtain information;

(ii) use information as evidence in a civil action or proceeding; or

(iii) use information to initiate a civil action or proceeding;

if the information may be obtained from the director or the director's designee under any law.

(f) Except as otherwise provided in the federal Housing and Economic Recovery Act of 2008, Public Law 110-289, Section 1512, the requirements under any federal law or IC 5-14-3 regarding the privacy or confidentiality of any information or material provided to the NMLSR, and any privilege arising under federal or state law, including the rules of any federal or state court, with respect to the information or material, continue to apply to the information or material after the information or material has been disclosed to the NMLSR. The information and material may be shared with all state and federal regulatory officials with mortgage industry oversight authority without the loss of privilege or the loss of confidentiality protections provided by federal law or IC 5-14-3.

(g) For purposes of this section, the director may enter agreements or sharing arrangements with other governmental agencies, the Conference of State Bank Supervisors, the American Association of Residential Mortgage Regulators, or other associations representing governmental agencies as established by rule or order of the director.

(h) Information or material that is subject to a privilege or confidentiality under subdivision (f) is not subject to:

(i) disclosure under any federal or state law governing the

disclosure to the public of information held by an officer or an agency of the federal government or the respective state; or

(ii) subpoena, discovery, or admission into evidence, in any private civil action or administrative process, unless with respect to any privilege held by the NMLSR with respect to the information or material, the person to whom the information or material pertains waives, in whole or in part, in the discretion of the person, that privilege.

(i) Any provision of IC 5-14-3 that concerns the disclosure of:

(i) confidential supervisory information; or

(ii) any information or material described in subdivision (f);

and that is inconsistent with subdivision (f) is superseded by this section.

(j) This section does not apply with respect to information or material that concerns the employment history of, and publicly adjudicated disciplinary and enforcement actions against, a person licensed in accordance with section 502.1 of this chapter and described in section 503(2) of this chapter and that is included in the NMLSR for access by the public.

(k) The director may require a licensee required to submit information to the NMLSR to pay a processing fee considered reasonable by the director. In determining whether an NMLSR processing fee is reasonable, the director shall:

(i) require review of; and

(ii) make available;

the audited financial statements of the NMLSR.

(7) Notwithstanding any other provision of law, any:

(a) application, renewal, or other form or document that:

(i) relates to licenses issued under this article; and

(ii) is made or produced in an electronic format;

(b) document filed as an electronic record in a multistate automated repository established and operated for the licensing or registration of mortgage lenders, brokers, or loan originators; or

(c) electronic record filed through the NMLSR;

is considered a valid original document when reproduced in paper form by the department.

As added by P.L.35-2010, SEC.57. Amended by P.L.27-2012, SEC.20.

IC 24-4.5-3-503.5
Repealed

(As added by P.L.176-1996, SEC.8. Repealed by P.L.35-2010, SEC.209.)

IC 24-4.5-3-503.6
License renewal; revocation or suspension of license not renewed;

reinstatement or appeal; correcting amendments

Sec. 503.6. (1) A license issued under this article must be renewed not later than December 31 of each calendar year. A license issued under section 502.1 of this chapter must be renewed through the NMLSR. The minimum standards for license renewal for a creditor include the following:

(a) If the creditor is licensed in accordance with section 502 of this chapter, the creditor has:

(i) paid all required fees for renewal of the license; and

(ii) filed all reports and information required by the director.

(b) If the creditor is licensed under section 502.1 of this chapter, the following:

(i) The creditor has continued to meet the surety bond requirement under section 503.3 of this chapter.

(ii) The creditor has filed the creditor's call report in a manner that satisfies section 505(4) of this chapter.

(iii) The creditor has paid all required fees for renewal of the license.

(iv) The creditor and individuals described in section 503(2) of this chapter have certified to the department that they continue to meet all the standards for licensing established under section 503 of this chapter.

(v) The creditor has filed all reports and information required by the director.

(vi) The creditor has provided in the creditor's renewal application any information describing material changes in the information contained in the creditor's original application for licensure, or in any previous application, including any previous renewal application, along with any other information the director requires in order to evaluate the renewal of the license issued under this article.

(2) A license issued by the department authorizing a person to engage as a creditor in consumer loans or consumer credit sales under this article may be revoked or suspended by the department if the person fails to:

(a) file any renewal form required by the department; or

(b) pay any license renewal fee described under section 503(8)(c) of this chapter;

not later than sixty (60) days after the due date.

(3) A person whose license is revoked or suspended under this section may do either of the following:

(a) Pay all delinquent fees and apply for reinstatement of the license.

(b) Appeal the revocation or suspension to the department for an administrative review under IC 4-21.5-3.

Pending the decision from a hearing under IC 4-21.5-3 concerning license revocation or suspension, a license remains in force.

(4) If, at any time, the information or record contained in:

(a) an original application for licensure filed under section 502 or 502.1 of this chapter; or

(b) a renewal application filed under this section;

is or becomes inaccurate or incomplete in a material respect, the applicant shall promptly file a correcting amendment with the department.

As added by P.L.35-2010, SEC.58. Amended by P.L.89-2011, SEC.18; P.L.27-2012, SEC.21.

IC 24-4.5-3-504

Suspension or revocation of license; order to show cause; order of suspension or revocation; relinquishment of license; preexisting contracts; emergency order for revocation

Sec. 504. (1) The department may issue to a person licensed to:

(a) make consumer loans; or

(b) engage in consumer credit sales that are mortgage transactions;

an order to show cause why the license should not be revoked or suspended for a period determined by the department.

(2) An order issued under subsection (1) must:

(a) include:

(i) a statement of the place, date, and time for a meeting with the department, which date may not be less than ten (10) days from the date of the order;

(ii) a description of the action contemplated by the department; and

(iii) a statement of the facts or conduct supporting the issuance of the order; and

(b) be accompanied by a notice stating that the licensee is entitled to:

(i) a reasonable opportunity to be heard; and

(ii) show the licensee's compliance with all lawful requirements for retention of the license;

at the meeting described in subdivision (a)(i).

(3) After the meeting described in subsection (2)(a)(i), the department may revoke or suspend the license if the department finds that:

(a) the licensee has repeatedly and willfully violated:

(i) this article or any applicable rule, order, or guidance document adopted or issued by the department; or

(ii) any other state or federal laws, rules, or regulations applicable to consumer credit transactions;

(b) the licensee does not meet the licensing qualifications under section 503 of this chapter;

(c) the licensee obtained the license for the benefit of, or on behalf of, a person who does not qualify for the license;

(d) the licensee knowingly or intentionally made material misrepresentations to, or concealed material information from,

the department; or

(e) facts or conditions exist that, had they existed at the time the licensee applied for the license, would have been grounds for the department to deny the issuance of the license.

(4) Whenever the department revokes or suspends a license, the department shall enter an order to that effect and forthwith notify the licensee of:

(a) the revocation or suspension;

(b) if a suspension has been ordered, the duration of the suspension;

(c) the procedure for appealing the revocation or suspension under IC 4-21.5-3-6; and

(d) any other terms and conditions that apply to the revocation or suspension.

Not later than five (5) days after the entry of the order the department shall deliver to the licensee a copy of the order and the findings supporting the order.

(5) Any person holding a license to make consumer loans may relinquish the license by notifying the department in writing of its relinquishment, but this relinquishment does not affect the person's liability for acts previously committed and coming within the scope of this article.

(6) If the director determines it is in the public interest, the director may pursue revocation of a license of a licensee that has relinquished the license under subsection (5).

(7) If a person's license is revoked, suspended, or relinquished, the revocation, suspension, or relinquishment does not impair or affect any obligation owed by any person under any preexisting lawful contract.

(8) If the director has just cause to believe an emergency exists from which it is necessary to protect the interests of the public, the director may proceed with the revocation of a license through an emergency or another temporary order under IC 4-21.5-4.

(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by P.L.14-1992, SEC.34; P.L.176-1996, SEC.9; P.L.80-1998, SEC.8; P.L.213-2007, SEC.11; P.L.217-2007, SEC.10; P.L.90-2008, SEC.10; P.L.35-2010, SEC.59; P.L.27-2012, SEC.22; P.L.186-2015, SEC.18.

IC 24-4.5-3-505

Record keeping; use of unique identifier on forms and documents; use of examination and regulatory software; submitting call reports to NMLSR; composite reports; notice to department of certain events or changes

Sec. 505. (1) Every creditor required to be licensed under this article shall maintain records in conformity with generally accepted accounting principles and practices in a manner that will enable the department to determine whether the licensee is complying with the provisions of this article. The record keeping system of a licensee

shall be sufficient if the licensee makes the required information reasonably available. The department shall determine the sufficiency of the records and whether the licensee has made the required information reasonably available. The department shall be given free access to the records wherever located. The records pertaining to any loan shall be retained for two (2) years after making the final entry relating to the loan, but in the case of a revolving loan account the two (2) years is measured from the date of each entry. A person licensed or required to be licensed under this chapter is subject to IC 28-1-2-30.5 with respect to any records maintained by the person. A person that is exempt from licensing under this article or under IC 24-4.4-1-202(b)(6)(a) and that sponsors one (1) or more licensed mortgage loan originators as independent agents under an exclusive written agreement, as permitted by IC 24-4.4-1-202(b)(6)(a), shall:

(a) cooperate with the department; and

(b) provide access to records and documents;

as required by the department in carrying out examinations of the activities of the licensed mortgage loan originators sponsored by the federal savings bank.

(2) The unique identifier of any person originating a mortgage transaction must be clearly shown on all mortgage transaction application forms and any other documents as required by the director.

(3) Every licensee that engages in mortgage transactions shall use automated examination and regulatory software designated by the director, including third party software. Use of the software consistent with guidance documents and policies issued by the director is not a violation of IC 28-1-2-30.

(4) Each:

(a) creditor that is licensed by the department under this article and that engages in mortgage transactions; and

(b) entity that is exempt from licensing under this article or under IC 24-4.4-1-202(b)(6)(a) and that:

(i) employs one (1) or more licensed mortgage loan originators; or

(ii) sponsors under an exclusive written agreement, as permitted by IC 24-4.4-1-202(b)(6)(a), one (1) or more licensed mortgage loan originators as independent agents;

shall submit to the NMLSR a call report, which must be in the form and contain information the NMLSR requires.

(5) Every creditor required to be licensed under this article shall file with the department a composite report as required by the department, but not more frequently than annually, in the form prescribed by the department relating to all consumer loans made by the licensee. The department shall consult with comparable officials in other states for the purpose of making the kinds of information required in the reports uniform among the states. Information contained in the reports shall be confidential and may be published

only in composite form. The department may impose a fee in an amount fixed by the department under IC 28-11-3-5 for each day that a creditor fails to file the report required by this subsection.

(6) A creditor required to be licensed under this article shall file notification with the department if the licensee:

(a) has a change in name, address, or principals;

(b) opens a new branch, closes an existing branch, or relocates an existing branch;

(c) files for bankruptcy or reorganization; or

(d) is subject to revocation or suspension proceedings by a state or governmental authority with regard to the licensee's activities;

not later than thirty (30) days after the date of the event described in this subsection.

(7) Every licensee shall file notification with the department if the licensee or any director, executive officer, or manager of the licensee has been convicted of a felony under the laws of Indiana or any other jurisdiction. The licensee shall file the notification required by this subsection not later than thirty (30) days after the date of the event described in this subsection.

(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by P.L.14-1992, SEC.35; P.L.122-1994, SEC.26; P.L.45-1995, SEC.12; P.L.172-1997, SEC.5; P.L.63-2001, SEC.3 and P.L.134-2001, SEC.3; P.L.213-2007, SEC.12; P.L.217-2007, SEC.11; P.L.90-2008, SEC.11; P.L.35-2010, SEC.60; P.L.27-2012, SEC.23; P.L.103-2014, SEC.7.

IC 24-4.5-3-505.5

Automated loan machines

Sec. 505.5. (a) As used in this section, "automated loan machine" means an unmanned machine that performs routine lending functions.

(b) A licensee may make loans through an automated loan machine at an offsite location if the licensee:

(1) notifies the department in writing of the existence and location of the automated loan machine;

(2) maintains at a location licensed or approved by the department the books, accounts, records, and files concerning transactions performed through the automated loan machine; and

(3) posts at the offsite location where the automated loan machine is located the:

(A) address where the books, accounts, records and files are located; and

(B) telephone number at which the licensee may be contacted.

As added by P.L.172-1997, SEC.6.

IC 24-4.5-3-506
Repealed

(Formerly: Acts 1971, P.L.366, SEC.4. As amended by P.L.14-1992, SEC.36; P.L.45-1995, SEC.13. Repealed by P.L.35-2010, SEC.209.)

IC 24-4.5-3-507
Repealed

(Formerly: Acts 1971, P.L.366, SEC.4. As amended by P.L.152-1986, SEC.65; P.L.7-1987, SEC.106; P.L.14-1992, SEC.37. Repealed by P.L.35-2010, SEC.209.)

IC 24-4.5-3-508
Loan finance charge and origination fee for supervised loans

Sec. 508. Loan Finance Charge for Supervised Loans – (1) With respect to a supervised loan, including a loan pursuant to a revolving loan account, a supervised lender may contract for and receive a loan finance charge not exceeding that permitted by this section.

(2) The loan finance charge, calculated according to the actuarial method, may not exceed the equivalent of the greater of:

(a) the total of:

(i) thirty-six percent (36%) per year on that part of the unpaid balances of the principal which is two thousand dollars ($2,000) or less;

(ii) twenty-one percent (21%) per year on that part of the unpaid balances of the principal which is more than two thousand dollars ($2,000) but does not exceed four thousand dollars ($4,000); and

(iii) fifteen percent (15%) per year on that part of the unpaid balances of the principal which is more than four thousand dollars ($4,000); or

(b) twenty-five percent (25%) per year on the unpaid balances of the principal.

(3) This section does not limit or restrict the manner of contracting for the loan finance charge, whether by way of add-on, discount, or otherwise, so long as the rate of the loan finance charge does not exceed that permitted by this section. If the loan is precomputed:

(a) the loan finance charge may be calculated on the assumption that all scheduled payments will be made when due; and

(b) the effect of prepayment is governed by the provisions on rebate upon prepayment in section 210 of this chapter.

(4) The term of a loan for the purposes of this section commences on the date the loan is made. Differences in the lengths of months are disregarded, and a day may be counted as one-thirtieth (1/30) of a month. Subject to classifications and differentiations the lender may reasonably establish, a part of a month in excess of fifteen (15) days may be treated as a full month if periods of fifteen (15) days or less

are disregarded and that procedure is not consistently used to obtain a greater yield than would otherwise be permitted.

(5) Subject to classifications and differentiations the lender may reasonably establish, the lender may make the same loan finance charge on all principal amounts within a specified range. A loan finance charge does not violate subsection (2) if:

(a) when applied to the median amount within each range, it does not exceed the maximum permitted in subsection (2); and

(b) when applied to the lowest amount within each range, it does not produce a rate of loan finance charge exceeding the rate calculated according to paragraph (a) by more than eight percent (8%) of the rate calculated according to paragraph (a).

(6) The amounts of two thousand dollars ($2,000) and four thousand dollars ($4,000) in subsection (2) and thirty dollars ($30) in subsection (7) are subject to change pursuant to the provisions on adjustment of dollar amounts (IC 24-4.5-1-106). However, notwithstanding IC 24-4.5-1-106(1), for the adjustment of the amount of thirty dollars ($30), the Reference Base Index to be used is the Index for October 1992. Notwithstanding IC 24-4.5-1-106(1), for the adjustment of the amounts of two thousand dollars ($2,000) and four thousand dollars ($4,000), the Reference Base Index to be used is the Index for October 2012.

(7) With respect to a supervised loan not made pursuant to a revolving loan account, the lender may contract for and receive a minimum loan finance charge of not more than thirty dollars ($30). The minimum loan finance charge allowed under this subsection may be imposed only if the lender does not assess a loan origination fee under subsection (8) and:

(a) the debtor prepays in full a consumer loan, refinancing, or consolidation, regardless of whether the loan, refinancing, or consolidation is precomputed;

(b) the loan, refinancing, or consolidation prepaid by the debtor is subject to a loan finance charge that:

(i) is contracted for by the parties; and

(ii) does not exceed the rate prescribed in subsection (2); and

(c) the loan finance charge earned at the time of prepayment is less than the minimum loan finance charge contracted for under this subsection.

(8) Except as provided in subsection (7), in addition to the loan finance charge provided for in this section and to any other charges and fees permitted by this chapter, the lender may contract for and receive a loan origination fee of not more than fifty dollars ($50).

(9) The loan origination fee provided for in subsection (8) is not subject to refund or rebate.

(10) Notwithstanding subsections (8) and (9), in the case of a supervised loan that is not secured by an interest in land, if a lender retains any part of a loan origination fee charged on a loan that is paid in full by a new loan from the same lender, the following apply:

(a) If the loan is paid in full by the new loan within three (3) months after the date of the prior loan, the lender may not charge a loan origination fee on the new loan, or, in the case of a revolving loan, on the increased credit line.

(b) The lender may not assess more than two (2) loan origination fees in any twelve (12) month period.

(11) In the case of a supervised loan that is secured by an interest in land, this section does not prohibit a lender from contracting for and receiving a fee for preparing deeds, mortgages, reconveyances, and similar documents under section 202(1)(d)(ii) of this chapter, in addition to the loan origination fee provided for in subsection (8).

(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by Acts 1981, P.L.219, SEC.4; Acts 1982, P.L.149, SEC.4; Acts 1982, P.L.150, SEC.5; P.L.14-1992, SEC.38; P.L.122-1994, SEC.27; P.L.10-2006, SEC.8 and P.L.57-2006, SEC.8; P.L.145-2008, SEC.28; P.L.91-2013, SEC.4.

IC 24-4.5-3-508.5
Repealed

(Repealed by Acts 1982, P.L.150, SEC.8.)

IC 24-4.5-3-509
Use of multiple agreements

Sec. 509. Use of Multiple Agreements. — With respect to a consumer loan, no lender may permit any person, or husband and wife, to become obligated in any way under more than one loan agreement with the lender or with a person related to the lender, with intent to obtain a higher rate of loan finance charge than would otherwise be permitted by the provisions on loan finance charge for supervised loans (IC 24-4.5-3-508) or to avoid disclosure of an annual percentage rate pursuant to the provisions on disclosure (Part 3). The excess amount of loan finance charge provided for in agreements in violation of this section is an excess charge for the purposes of the provisions on effect of violations on rights of parties (IC 24-4.5-5-202) and the provisions on civil actions by the department (IC 24-4.5-6-113).

(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by P.L.14-1992, SEC.39.

IC 24-4.5-3-510
Restrictions on interest in land as security

Sec. 510. Restrictions on Interest in Land as Security — (1) With respect to a supervised loan in which the principal is four thousand dollars ($4,000) or less, a lender may not contract for an interest in land as security. A security interest taken in violation of this section is void.

(2) The amount of four thousand dollars ($4,000) in subsection (1) is subject to change pursuant to the provisions on adjustment of

dollar amounts (IC 24-4.5-1-106). However, notwithstanding IC 24-4.5-1-106(1), the Reference Base Index to be used under this subsection is the Index for October 2012.
(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by P.L.137-2014, SEC.11; P.L.186-2015, SEC.19.

IC 24-4.5-3-511
Regular schedule of payments; maximum loan term

Sec. 511. Regular Schedule of Payments; Maximum Loan Term — (1) Supervised loans not made pursuant to a revolving loan account and in which the principal is four thousand dollars ($4,000) or less are payable in a single instalment or shall be scheduled to be payable in substantially equal instalments that are payable at equal periodic intervals, except to the extent that the schedule of payments is adjusted to the seasonal or irregular income of the debtor, and:

(a) over a period of not more than thirty-seven (37) months if the principal is more than three hundred dollars ($300), or

(b) over a period of not more than twenty-five (25) months if the principal is three hundred dollars ($300) or less.

(2) The amounts of three hundred dollars ($300) and four thousand dollars ($4,000) in subsection (1) are subject to change pursuant to the provisions on adjustment of dollar amounts (IC 24-4.5-1-106). However, notwithstanding IC 24-4.5-1-106(1), the Reference Base Index to be used with respect to the amount of:

(1) three hundred dollars ($300) is the Index for October 1992; and

(2) four thousand dollars ($4,000) is the Index for October 2012.

(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by Acts 1982, P.L.149, SEC.5; P.L.137-2014, SEC.12; P.L.186-2015, SEC.20.

IC 24-4.5-3-512
Conduct of business other than making loans

Sec. 512. Conduct of Business Other than Making Loans — A licensee may carry on other business at a location where he makes consumer loans unless he carries on other business for the purpose of evasion or violation of this Article.
(Formerly: Acts 1971, P.L.366, SEC.4.)

IC 24-4.5-3-513
Application of other provisions

Sec. 513. Application of Other Provisions — Except as otherwise provided, all provisions of this Article applying to consumer loans apply to supervised loans.
(Formerly: Acts 1971, P.L.366, SEC.4.)

IC 24-4.5-3-514
Repealed

(Repealed by P.L.14-1992, SEC.165.)

IC 24-4.5-3-515
Change in control of creditor; application to department; timeframe for department's decision; conditions for approval; creditor's duty to report transfer of securities; director's discretion to require new license

Sec. 515. (1) As used in this section, "control" means possession of the power directly or indirectly to:

(a) direct or cause the direction of the management or policies of a creditor, whether through the beneficial ownership of voting securities, by contract, or otherwise; or

(b) vote at least twenty-five percent (25%) of the voting securities of a creditor, whether the voting rights are derived through the beneficial ownership of voting securities, by contract, or otherwise.

(2) An organization or an individual acting directly, indirectly, or through or in concert with one (1) or more other organizations or individuals may not acquire control of any creditor unless the department has received and approved an application for change in control. The department has not more than one hundred twenty (120) days after receipt of an application to issue a notice approving the proposed change in control. The application must contain the name and address of the organization, individual, or individuals who propose to acquire control and any other information required by the director.

(3) The period for approval under subsection (2) may be extended:

(a) in the discretion of the director for an additional thirty (30) days; and

(b) not more than two (2) additional times for not more than forty-five (45) days each time if:

(i) the director determines that the organization, individual, or individuals who propose to acquire control have not submitted substantial evidence of the qualifications described in subsection (4);

(ii) the director determines that any material information submitted is substantially inaccurate; or

(iii) the director has been unable to complete the investigation of the organization, individual, or individuals who propose to acquire control because of any delay caused by or the inadequate cooperation of the organization, individual, or individuals.

(4) The department shall issue a notice approving the application only after the department is satisfied that both of the following apply:

(a) The organization, individual, or individuals who propose to acquire control are qualified by competence, experience, character, and financial responsibility to control and operate the

creditor in a legal and proper manner.

(b) The interests of the owners and creditors of the creditor and the interests of the public generally will not be jeopardized by the proposed change in control.

(5) The director may determine, in the director's discretion, that subsection (2) does not apply to a transaction if the director determines that the direct or beneficial ownership of the creditor will not change as a result of the transaction.

(6) The president or other chief executive officer of a creditor shall report to the director any transfer or sale of securities of the creditor that results in direct or indirect ownership by a holder or an affiliated group of holders of at least ten percent (10%) of the outstanding securities of the creditor. The report required by this subsection must be made not later than ten (10) days after the transfer of the securities on the books of the creditor.

(7) Depending on the circumstances of the transaction, the director may reserve the right to require the organization, individual, or individuals who propose to acquire control of a creditor licensed under this article to apply for a new license under section 503 of this chapter, instead of acquiring control of the licensee under this section.

As added by P.L.89-2011, SEC.19. Amended by P.L.6-2012, SEC.167.

IC 24-4.5-3-601

Loans subject to article by agreement of parties

Sec. 601. Loans Subject to Article by Agreement of Parties — The parties to a loan other than a consumer loan may agree in writing signed by the parties that the loan is subject to the provisions of this Article applying to consumer loans. If the parties so agree, the loan is a consumer loan for the purposes of this Article.

(Formerly: Acts 1971, P.L.366, SEC.4.)

IC 24-4.5-3-602

"Consumer related loan"; loan finance charge; licensing and annual notice to department not required

Sec. 602. (1) A "consumer related loan" is a loan in which the following apply:

(a) The loan is made by a person who is not regularly engaged as a lender in credit transactions of the same kind.

(b) The debtor is a person other than an organization.

(c) The debt is primarily for a personal, family, or household purpose.

(d) Either the debt is payable in installments or a loan finance charge is made.

(e) Either:

(i) the amount of credit extended, the written credit limit, or the initial advance does not exceed the exempt threshold

amount, as adjusted in accordance with the annual adjustment of the exempt threshold amount, specified in Regulation Z (12 CFR 226.3 or 12 CFR 1026.3(b), as applicable); or

(ii) the debt is secured by an interest in land or by personal property used or expected to be used as the principal dwelling of the debtor.

(2) With respect to a consumer related loan, including one made pursuant to a revolving loan account, the parties may contract for the payment by the debtor of a loan finance charge not in excess of that permitted by the provisions on loan finance charge for consumer loans other than supervised loans (IC 24-4.5-3-201).

(3) A person engaged in consumer related loans is not required to comply with:

(a) the licensing requirements set forth in section 503 of this chapter; or

(b) IC 24-4.5-6-201 through IC 24-4.5-6-203.

(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by Acts 1981, P.L.219, SEC.6; Acts 1982, P.L.149, SEC.6; Acts 1982, P.L.150, SEC.6; P.L.14-1992, SEC.40; P.L.122-1994, SEC.28; P.L.27-2012, SEC.24; P.L.216-2013, SEC.11; P.L.137-2014, SEC.13; P.L.73-2016, SEC.12.

IC 24-4.5-3-603

Applicability of other provisions to consumer related loans

Sec. 603. Applicability of Other Provisions to Consumer Related Loans — Except for the rate of the loan finance charge and the rights to prepay and to rebate upon prepayment, the provisions of Part 2 of this Chapter apply to a consumer related loan.

(Formerly: Acts 1971, P.L.366, SEC.4.)

IC 24-4.5-3-604

Limitation on default charges in consumer related loans

Sec. 604. Limitation on Default Charges in Consumer Related Loans — (1) The agreement with respect to a consumer related loan may provide for only the following charges as a result of the debtor's default:

(a) reasonable attorney's fees and reasonable expenses incurred in realizing on a security interest;

(b) deferral charges not in excess of twenty-five percent (25%) per year of the amount deferred for the period of deferral; and

(c) other charges that could have been made had the loan been a consumer loan.

(2) A provision in violation of this section is unenforceable.

(Formerly: Acts 1971, P.L.366, SEC.4.) As amended by Acts 1982, P.L.150, SEC.7; P.L.73-2016, SEC.13.

IC 24-4.5-3-605

Loan finance charge for other loans

Sec. 605. Loan Finance Charge for Other Loans — With respect to a loan other than a consumer loan or a consumer related loan, the parties may contract for the payment by the debtor of any loan finance charge.

(Formerly: Acts 1971, P.L.366, SEC.4.)

IC 24-4.5-3-606

Required disclosures; liability on fraudulently cashed instruments

Sec. 606. (1) In addition to any disclosures otherwise provided by law, a lender soliciting loans using a negotiable check, facsimile, or other negotiable instrument that may be used by a consumer to activate a new loan shall disclose the following:

> "This is a solicitation for a loan. Read the enclosed disclosures before signing this agreement."

This notice shall be printed in at least ten point type and shall appear conspicuously on the offer.

(2) If a negotiable check, a facsimile, or another instrument is stolen or incorrectly received by someone other than the intended payee and the instrument is fraudulently cashed, the consumer who was the intended payee is not liable for the loan obligation.

As added by P.L.163-1999, SEC.3.

IC 24-4.5-3-701

Requirement to provide property tax information in certain transactions

Sec. 701. With respect to a consumer loan secured by an interest in land used or expected to be used as the principal dwelling of the debtor, a lender shall comply with IC 6-1.1-12-43.

As added by P.L.64-2004, SEC.15.

IC 24-4.5-4
Chapter 4. Insurance

(Part 1. Insurance in General)

IC 24-4.5-4-101
Short title
Sec. 101. Short Title — This Chapter shall be known and may be cited as Uniform Consumer Credit Code - Insurance.
(Formerly: Acts 1971, P.L.366, SEC.5.)

IC 24-4.5-4-102
Application; relation to credit insurance act
Sec. 102. (1) Except as provided in subsection (2), this chapter applies to insurance provided or to be provided in relation to a consumer credit sale (IC 24-4.5-1-301.5(8)), a consumer lease (IC 24-4.5-2-106), or a consumer loan (IC 24-4.5-1-301.5(9)).
(2) The provision on cancellation by a creditor (IC 24-4.5-4-304) applies to loans the primary purpose of which is the financing of insurance. No other provision of this chapter applies to insurance so financed.
(3) This chapter supplements and does not repeal IC 27-8-4 (the credit insurance act). The provisions of this article concerning administrative controls, liabilities, and penalties do not apply to persons acting as insurers, and the similar provisions of IC 27-8-4 do not apply to creditors and debtors.
(Formerly: Acts 1971, P.L.366, SEC.5.) As amended by P.L.153-1986, SEC.1; P.L.35-2010, SEC.61.

IC 24-4.5-4-103
"Consumer credit insurance" defined
Sec. 103. In this article, "consumer credit insurance" means insurance, other than insurance on property, by which the satisfaction of debt in whole or in part is a benefit provided, but does not include:
(1) insurance issued as an isolated transaction on the part of the insurer not related to an agreement or plan for insuring debtors of the creditor; or
(2) insurance indemnifying the creditor against loss due to the debtor's default.
(Formerly: Acts 1971, P.L.366, SEC.5.) As amended by P.L.153-1986, SEC.2.

IC 24-4.5-4-104
Creditor's provisions of and charge for insurance; excess amount of charge
Sec. 104. Creditor's Provisions of and Charge for Insurance; Excess Amount of Charge - (1) Except as otherwise provided in this Chapter and subject to the provisions on additional charges (IC

24-4.5-2-202 and IC 24-4.5-3-202) and maximum charges (Part 2 of Chapter 2 and Chapter 3), a creditor may agree to provide insurance, and may contract for and receive a charge for insurance separate from and in addition to other charges. A creditor need not make a separate charge for insurance provided or required by him. This Article does not authorize the issuance of any insurance prohibited under any statute, or rule thereunder, governing the business of insurance.

(2) The excess amount of a charge for insurance provided for in agreements in violation of this Chapter is an excess charge for the purposes of the provisions of the Chapter on remedies and penalties (Chapter 5) as to effect of violations on rights of parties (IC 24-4.5-5-202) and of the provisions of the Chapter on administration (Chapter 6) as to civil actions by the department (IC 24-4.5-6-113).
(Formerly: Acts 1971, P.L.366, SEC.5.) As amended by P.L.14-1992, SEC.41.

IC 24-4.5-4-105
Conditions applying to insurance to be provided by creditor

Sec. 105. Conditions Applying to Insurance to be Provided by Creditor — If a creditor agrees with a debtor to provide insurance

(1) the insurance shall be evidenced by an individual policy or certificate of insurance delivered to the debtor, or sent to him at his address as stated by him, within thirty (30) days after the term of the insurance commences under the agreement between the creditor and debtor; or

(2) the creditor shall promptly notify the debtor of any failure or delay in providing the insurance.
(Formerly: Acts 1971, P.L.366, SEC.5.)

IC 24-4.5-4-106
Unconscionability

Sec. 106. Unconscionability — (1) In applying the provisions of the Article on unconscionability (24-4.5-5-108 and 24-4.5-6-111) to a separate charge for insurance, consideration shall be given, among other factors, to

(a) potential benefits to the debtor including the satisfaction of his obligations;

(b) the creditor's need for the protection provided by the insurance; and

(c) the relation between the amount and terms of credit granted and the insurance benefits provided.

(2) If consumer credit insurance otherwise complies with this Chapter and other applicable law, neither the amount nor the term of the insurance nor the amount of a charge therefor is in itself unconscionable.
(Formerly: Acts 1971, P.L.366, SEC.5.)

IC 24-4.5-4-107

Maximum charge by creditor for insurance; methods for calculating charge

Sec. 107. Maximum Charge by Creditor for Insurance - (1) Except as provided in subsection (2), if a creditor contracts for or receives a separate charge for insurance, the amount charged to the debtor for the insurance may not exceed the premium to be charged by the insurer, as computed at the time the charge to the debtor is determined, conforming to any rate filings required by law and made by the insurer with the Insurance Commissioner.

(2) A creditor who provides consumer credit insurance in relation to a revolving charge account (IC 24-4.5-2-108) or revolving loan account (IC 24-4.5-3-108) may calculate the charge to the debtor in each billing cycle by applying the current premium rate to:

(a) the average daily unpaid balance of the debt in the cycle;

(b) the unpaid balance of the debt or a median amount within a specified range of unpaid balances of debt on approximately the same day of the cycle. The day of the cycle need not be the day used in calculating the credit service charge (IC 24-4.5-2-207) or loan finance charge (IC 24-4.5-3-201 and IC 24-4.5-3-508), but the specified range shall be the range used for that purpose;

(c) the unpaid balances of principal calculated according to the actuarial method; or

(d) the amount of the insurance benefit for the cycle.

(Formerly: Acts 1971, P.L.366, SEC.5.) As amended by P.L.141-2005, SEC.2.

IC 24-4.5-4-108

Prepayment by proceeds of consumer credit insurance; refund required; documentation; amount; interest; civil penalty

Sec. 108. Refund or Credit Required; Amount — (1) Upon prepayment in full of a consumer credit sale or consumer loan by the proceeds of consumer credit insurance, the debtor or the debtor's estate is entitled to a refund of:

(a) any portion of a separate charge for insurance which by reason of prepayment is retained by the creditor or returned to the creditor by the insurer unless the charge was computed from time to time on the basis of the balances of the debtor's account; and

(b) any portion of an additional charge that is:

(i) assessed in accordance with IC 24-4.5-2-202(1)(c) or IC 24-4.5-3-202(1)(e); and

(ii) subject to rebate upon prepayment.

(2) This chapter does not require a creditor to grant a refund or credit to the debtor if all refunds and credits due to the debtor under this chapter amount to less than one dollar ($1), and except as provided in subsection (1) does not require the creditor to account to the debtor for any portion of a separate charge for insurance because:

(a) the insurance is terminated by performance of the insurer's obligation;

(b) the creditor pays or accounts for premiums to the insurer in amounts and at times determined by the agreement between them; or

(c) the creditor receives directly or indirectly under any policy of insurance a gain or advantage not prohibited by law.

(3) Except as provided in subsection (2), the creditor or the creditor's assignee shall promptly make an appropriate refund or credit to the debtor for any separate charge made for insurance or for an additional charge described in subsection (1)(b) if:

(a) the insurance is not provided or is provided for a term shorter than the term for which the charge to the debtor for insurance was computed; or

(b) the insurance or the protection provided in exchange for the additional charge described in subsection (1)(b) terminates prior to the end of the scheduled term of the coverage because of prepayment in full or otherwise.

(4) An initial creditor, a subsequent creditor, or an assignee of an initial or a subsequent creditor, shall maintain documentation of any account that is subject to a refund or credit under this section. The information maintained under this subsection shall be made available to the department as necessary to determine compliance with this section.

(5) A refund or credit required by subsection (3) is appropriate as to amount if it is computed according to a method prescribed or approved by the insurance commissioner or a formula filed by the insurer with the insurance commissioner at least thirty (30) days before the debtor's right to a refund or credit becomes determinable, unless the method or formula is used after the insurance commissioner notifies the insurer that it is disapproved.

(6) If a refund or credit required by subsection (1) or (3) is not made to the debtor within sixty (60) days after the date the debt is terminated, due to prepayment in full or otherwise, the creditor shall pay to the debtor for each day after the sixty (60) day period has expired an amount equal to the daily interest at the contracted annual percentage rate on the amount of the refund required by subsection (1) due at the time of prepayment or termination. The director may impose an additional civil penalty of not greater than one thousand dollars ($1,000) per occurrence if a creditor engages in a pattern or practice of failing to comply with this subsection.

(Formerly: Acts 1971, P.L.366, SEC.5.) As amended by P.L.122-1994, SEC.29; P.L.172-1997, SEC.7; P.L.213-2007, SEC.13; P.L.217-2007, SEC.12; P.L.90-2008, SEC.12.

IC 24-4.5-4-109

Existing insurance; choice of insurer

Sec. 109. Existing Insurance; Choice of Insurer — If a creditor

requires insurance, upon notice to the creditor the debtor shall have the option of providing the required insurance through an existing policy of insurance owned or controlled by the debtor, or through a policy to be obtained and paid for by the debtor, but the creditor may for reasonable cause decline the insurance provided by the debtor.
(Formerly: Acts 1971, P.L.366, SEC.5.)

IC 24-4.5-4-110
Charge for insurance connection with a deferral, refinancing, or consolidation; duplicate charges

Sec. 110. (1) A creditor may not contract for or receive a separate charge for insurance in connection with a deferral (IC 24-4.5-2-204 or IC 24-4.5-3-204), a refinancing (IC 24-4.5-2-205 or IC 24-4.5-3-205), or a consolidation (IC 24-4.5-2-206 or IC 24-4.5-3-206), unless:

(a) the debtor agrees at or before the time of the deferral, refinancing, or consolidation that the charge may be made;

(b) the debtor is or is to be provided with insurance for an amount or a term, or insurance of a kind, in addition to that to which he would have been entitled had there been no deferral, refinancing, or consolidation;

(c) the debtor receives a refund or credit on account of any unexpired term of existing insurance in the amount that would be required if the insurance were terminated (IC 24-4.5-4-108); and

(d) the charge does not exceed the amount permitted by this chapter (IC 24-4.5-4-107).

(2) A creditor may not contract for or receive a separate charge for insurance which duplicates insurance with respect to which the creditor has previously contracted for or received a separate charge.
(Formerly: Acts 1971, P.L.366, SEC.5.) As amended by P.L.152-1986, SEC.66.

IC 24-4.5-4-111
Cooperation between administrator and insurance commissioner

Sec. 111. Cooperation Between the Department and Insurance Commissioner - The department and the Insurance Commissioner are authorized and directed to consult and assist one another in maintaining compliance with this Chapter. They may jointly pursue investigations, prosecute suits, and take other official action, as may seem to them appropriate, if either of them is otherwise empowered to take the action. If the department is informed of a violation or suspected violation by an insurer of this Chapter, or of the insurance laws, rules, and regulations of this State, the department shall advise the Insurance Commissioner of the circumstances.
(Formerly: Acts 1971, P.L.366, SEC.5.) As amended by P.L.14-1992, SEC.42.

IC 24-4.5-4-112
Administrative action of commissioner of insurance

Sec. 112. (1) To the extent that his responsibility under this chapter requires, the commissioner of insurance shall issue rules with respect to insurers, and with respect to refunds (IC 24-4.5-4-108), forms, schedules of premium rates and charges (IC 24-4.5-4-203), and his approval or disapproval thereof and, in case of violation, may make an order for compliance.

(2) IC 4-21.5-3 applies to and governs all agency action taken by the commissioner of insurance pursuant to this section.

(Formerly: Acts 1971, P.L.366, SEC.5.) As amended by P.L.152-1986, SEC.67; P.L.7-1987, SEC.107.

(Part 2. Consumer Credit Insurance)

IC 24-4.5-4-201
Term of insurance

Sec. 201. Term of Insurance — (1) Consumer credit insurance provided by a creditor may be subject to the furnishing of evidence of insurability satisfactory to the insurer. Whether or not such evidence is required, the term of the insurance shall commence no later than when the debtor becomes obligated to the creditor or when the debtor applies for the insurance, whichever is later, except as follows:

(a) if any required evidence of insurability is not furnished until more than thirty (30) days after the term would otherwise commence, the term may commence on the date when the insurer determines the evidence to be satisfactory; or

(b) if the creditor provides insurance not previously provided covering debts previously created, the term may commence on the effective date of the policy.

(2) The originally scheduled term of the insurance shall extend at least until the due date of the last scheduled payment of the debt except as follows:

(a) if the insurance relates to a revolving charge account or revolving loan account, the term need extend only until the payment of the debt under the account and may be sooner terminated after at least thirty (30) days' notice to the debtor; or

(b) if the debtor is advised in writing that the insurance will be written for a specified shorter time, the term need extend only until the end of the specified time.

(3) The term of the insurance shall not extend more than fifteen (15) days after the originally scheduled due date of the last scheduled payment of the debt unless it is extended without additional cost to the debtor or as an incident to a deferral; refinancing, or consolidation.

(Formerly: Acts 1971, P.L.366, SEC.5.)

IC 24-4.5-4-202
Amount of insurance

Sec. 202. (1) Except as provided in subsection (2):

(a) in the case of consumer credit insurance providing life coverage, the amount of insurance may not initially exceed the debt and, if the debt is payable in instalments, may not at any time exceed the greater of the scheduled or actual amount of the debt; or

(b) in the case of any other consumer credit insurance, the total amount of periodic benefits payable may not exceed the total of scheduled unpaid instalments of the debt, and the amount of any periodic benefit may not exceed the original amount of debt divided by the number of periodic instalments in which it is payable.

(2) If consumer credit insurance is provided in connection with a revolving charge account or revolving loan account, the amounts payable as insurance benefits may be reasonably commensurate with the amount of debt as it exists from time to time. If consumer credit insurance is provided in connection with a commitment to grant credit in the future, the amounts payable as insurance benefits may be reasonably commensurate with the total from time to time of the amount of debt and the amount of the commitment.

(Formerly: Acts 1971, P.L.366, SEC.5.) As amended by P.L.247-1983, SEC.20.

IC 24-4.5-4-203
Filing and approval of rates and forms

Sec. 203. (1) A creditor may not use a form, or a schedule of premium rates or charges, the filing of which is required by this section, if the insurance commissioner has disapproved the form or schedule and has notified the insurer of his disapproval. A creditor may not use a form or schedule unless:

(a) the form or schedule has been on file with the insurance commissioner for thirty (30) days, or has earlier been approved by him; and

(b) the insurer has complied with this section with respect to the insurance.

(2) Except as provided in subsection (3), all policies, certificates of insurance, notices of proposed insurance, applications for insurance, endorsements and riders relating to consumer credit insurance delivered or issued for delivery in this state, and the schedules of premium rates or charges pertaining thereto, shall be filed by the insurer with the insurance commissioner. Within thirty (30) days after the filing of any form or schedule, he shall disapprove it if the premium rates or charges are unreasonable in relation to the benefits provided under the form, or if the form contains provisions which are unjust, unfair, inequitable, or deceptive, or encourage misrepresentation of the coverage, or are contrary to any provision

of IC 27 or of any rule promulgated under IC 27.

(3) If a group policy has been delivered in another state, the forms to be filed by the insurer with the insurance commissioner are the group certificates and notices of proposed insurance. He shall approve them if:

(a) they provide the information that would be required if the group policy were delivered in this state; and

(b) the applicable premium rates or charges do not exceed those established by his rules.

(Formerly: Acts 1971, P.L.366, SEC.5.) As amended by P.L.152-1986, SEC.68.

(Part 3. Property and Liability Insurance)

IC 24-4.5-4-301
Property insurance

Sec. 301. Property Insurance - (1) A creditor may not contract for or receive a separate charge for insurance against loss of or damage to property unless:

(a) the insurance covers a substantial risk of loss of or damage to property related to the credit transaction;

(b) the amount, terms, and conditions of the insurance are reasonable in relation to the character and value of the property insured or to be insured; and

(c) the term of the insurance is reasonable in relation to the terms of credit.

(2) The term of the insurance is reasonable if it is customary and does not extend substantially beyond a scheduled maturity.

(3) A creditor may not contract for or receive a separate charge for insurance against loss of or damage to property unless the amount financed or principal exclusive of charges for the insurance is three hundred dollars ($300) or more, and the value of the property is three hundred dollars ($300) or more.

(4) The amounts of three hundred dollars ($300) in subsection (3) are subject to change pursuant to the provisions on adjustment of dollar amounts (IC 24-4.5-1-106). However, notwithstanding IC 24-4.5-1-106(1), the Reference Base Index to be used under this subsection is the Index for October 1992.

(Formerly: Acts 1971, P.L.366, SEC.5.) As amended by P.L.137-2014, SEC.14.

IC 24-4.5-4-302
Insurance on creditor's interest only

Sec. 302. Insurance on Creditor's Interest Only — If a creditor contracts for or receives a separate charge for insurance against loss of or damage to property, the risk of loss or damage not willfully caused by the debtor is on the debtor only to the extent of any deficiency in the effective coverage of the insurance, even though the

insurance covers only the interest of the creditor.
(Formerly: Acts 1971, P.L.366, SEC.5.)

IC 24-4.5-4-303
Liability insurance

Sec. 303. Liability Insurance — A creditor may not contract for or receive a separate charge for insurance against liability unless the insurance covers a substantial risk of liability arising out of the ownership or use of property related to the credit transaction.
(Formerly: Acts 1971, P.L.366, SEC.5.)

IC 24-4.5-4-304
Cancellation by creditor

Sec. 304. Cancellation by Creditor — A creditor shall not request cancellation of a policy of property or liability insurance except after the debtor's default or in accordance with a written authorization by the debtor, and in either case the cancellation does not take effect until written notice is delivered to the debtor or mailed to him at his address as stated by him. The notice shall state that the policy may be cancelled on a date not less than ten (10) days after the notice is delivered, or, if the notice is mailed, not less than thirteen (13) days after it is mailed.
(Formerly: Acts 1971, P.L.366, SEC.5.)

IC 24-4.5-4-305
Refund of unearned premium for property insurance upon payment of loan

Sec. 305. Upon the payment in full of a consumer credit sale or consumer loan, the creditor or creditor's assignee shall promptly make an appropriate refund of the unearned premium for any property insurance with respect to which the creditor or the credit account of the consumer is a beneficiary.
As added by P.L.122-1994, SEC.30.

IC 24-4.5-5

Chapter 5. Remedies and Penalties

(Part 1. Limitations on Creditors' Remedies)

IC 24-4.5-5-0.1

Application of certain amendments to chapter

Sec. 0.1. The amendments made to section 203 of this chapter by P.L.181-1991 apply to causes of action accruing after June 30, 1991.
As added by P.L.220-2011, SEC.391.

IC 24-4.5-5-101

Short title

Sec. 101. Short Title — This Chapter shall be known and may be cited as Uniform Consumer Credit Code — Remedies and Penalties.
(Formerly: Acts 1971, P.L.366, SEC.6.)

IC 24-4.5-5-102

Scope

Sec. 102. Scope — This Part applies to actions or other proceedings to enforce rights arising from consumer credit sales, consumer leases, and consumer loans; to garnishments of the earnings of an individual; and, in addition, to extortionate extensions of credit (24-4.5-5-107).
(Formerly: Acts 1971, P.L.366, SEC.6.)

IC 24-4.5-5-103

Restrictions on deficiency judgments in consumer credit sales

Sec. 103. Restrictions on Deficiency Judgments in Consumer Credit Sales — (1) This section applies to a consumer credit sale of goods or services.

(2) If the seller repossesses or voluntarily accepts surrender of goods which were the subject of the sale and in which the seller has a security interest, and the cash price of the goods repossessed or surrendered was four thousand dollars ($4,000) or less, the buyer is not personally liable to the seller for the unpaid balance of the debt arising from the sale of the goods, and the seller is not obligated to resell the collateral.

(3) If the seller repossesses or voluntarily accepts surrender of goods which were not the subject of the sale but in which the seller has a security interest to secure a debt arising from a sale of goods or services or a combined sale of goods and services and the cash price of the sale was four thousand dollars ($4,000) or less, the buyer is not personally liable to the seller for the unpaid balance of the debt arising from the sale.

(4) For the purpose of determining the unpaid balance of consolidated debts or debts pursuant to revolving charge accounts, the allocation of payments to a debt shall be determined in the same

manner as provided for determining the amount of debt secured by various security interests (IC 24-4.5-2-409).

(5) The buyer may be liable in damages to the seller if the buyer has wrongfully damaged the collateral or if, after default and demand, the buyer has wrongfully failed to make the collateral available to the seller.

(6) If the seller elects to bring an action against the buyer for a debt arising from a consumer credit sale of goods or services, and under this section the seller would not be entitled to a deficiency judgment if the seller repossessed the collateral, and the seller obtains a judgment:

(a) the seller may not repossess the collateral; and

(b) the collateral is not subject to levy or sale on execution or similar proceedings pursuant to the judgment.

(7) The amounts of four thousand dollars ($4,000) in subsections (2) and (3) are subject to change pursuant to the provisions on adjustment of dollar amounts (IC 24-4.5-1-106). However, notwithstanding IC 24-4.5-1-106(1), the Reference Base Index to be used under this subsection is the Index for October 2012.

(Formerly: Acts 1971, P.L.366, SEC.6.) As amended by P.L.137-2014, SEC.15; P.L.186-2015, SEC.21.

IC 24-4.5-5-104

No garnishment before judgment

Sec. 104. No Garnishment Before Judgment — Prior to entry of judgment in an action against the debtor, no creditor may attach unpaid earnings of the debtor by garnishment or like proceedings.

(Formerly: Acts 1971, P.L.366, SEC.6.)

IC 24-4.5-5-105

Limitation on garnishment and proceedings supplemental to execution; employer's fee

Sec. 105. (1) For the purposes of IC 24-4.5-5-101 through IC 24-4.5-5-108:

(a) "disposable earnings" means that part of the earnings of an individual, including wages, commissions, income, rents, or profits remaining after the deduction from those earnings of amounts required by law to be withheld;

(b) "garnishment" means any legal or equitable proceedings through which the earnings of an individual are required to be withheld by a garnishee, by the individual debtor, or by any other person for the payment of a judgment; and

(c) "support withholding" means that part of the earnings that are withheld from an individual for child support in accordance with the laws of this state.

(2) Except as provided in subsection (8), the maximum part of the aggregate disposable earnings of an individual for any workweek which is subjected to garnishment to enforce the payment of one (1)

or more judgments against the individual may not exceed the lesser of the following amounts:

(a) An amount equal to twenty-five percent (25%) of the individual's disposable earnings for that week or, upon a showing of good cause by the individual why the amount should be reduced, an amount equal to:

(i) less than twenty-five percent (25%); and

(ii) at least ten percent (10%);

of the individual's disposable earnings for that week.

(b) The amount by which the individual's disposable earnings for that week exceed thirty (30) times the federal minimum hourly wage prescribed by 29 U.S.C. 206(a)(1) in effect at the time the earnings are payable.

In the case of earnings for a pay period other than a week, the earnings shall be computed upon a multiple of the federal minimum hourly wage equivalent to thirty (30) times the federal minimum hourly wage as prescribed in this section.

(3) The maximum part of the aggregate disposable earnings of an individual for any workweek which is subject to garnishment or support withholding to enforce any order for the support of any person shall not exceed:

(a) where such individual is supporting the individual's spouse or dependent child (other than a spouse or child with respect to whose support such order is used), fifty percent (50%) of such individual's disposable earnings for that week; and

(b) where such individual is not supporting such a spouse or dependent child described in subdivision (a), sixty percent (60%) of such individual's disposable earnings for that week;

except that, with respect to the disposable earnings of any individual for any workweek, the fifty percent (50%) specified in subdivision (a) shall be deemed to be fifty-five percent (55%) and the sixty percent (60%) specified in subdivision (b) shall be deemed to be sixty-five percent (65%), if and to the extent that such earnings are subject to garnishment or support withholding to enforce a support order with respect to a period which is prior to the twelve (12) week period which ends with the beginning of such workweek.

(4) No court may make, execute, or enforce an order or process in violation of this section.

(5) An employer who is required to make deductions from an individual's disposable earnings pursuant to a garnishment order or series of orders arising out of the same judgment debt (excluding a judgment for payment of child support) may collect, as a fee to compensate the employer for making these deductions, an amount equal to the greater of twelve dollars ($12) or three percent (3%) of the total amount required to be deducted by the garnishment order or series of orders arising out of the same judgment debt. If the employer chooses to impose a fee, the fee shall be allocated as follows:

(a) One-half (1/2) of the fee shall be borne by the debtor, and that amount may be deducted by the employer directly from the employee's disposable earnings.

(b) One-half (1/2) of the fee shall be borne by the creditor, and that amount may be retained by the employer from the amount otherwise due the creditor.

The deductions made under this subsection for a collection fee do not increase the amount of the judgment debt for which the fee is collected for the purpose of calculating or collecting judgment interest. This fee may be collected by an employer only once for each garnishment order or series of orders arising out of the same judgment debt. The employer may collect the entire fee from one (1) or more of the initial deductions from the employee's disposable earnings. Alternatively, the employer may collect the fee ratably over the number of pay periods during which deductions from the employee's disposable earnings are required.

(6) The deduction of the garnishment collection fee under subsection (5)(a) or subsection (7) is not an assignment of wages under IC 22-2-6.

(7) An employer who is required to make a deduction from an individual's disposable earnings in accordance with a judgment for payment of child support may collect a fee of two dollars ($2) each time the employer is required to make the deduction. The fee may be deducted by the employer from the individual's disposable earnings each time the employer makes the deduction for support. If the employer elects to deduct such a fee, the amount to be deducted for the payment of support must be reduced accordingly if necessary to avoid exceeding the maximum amount permitted to be deducted under subsection (3).

(8) A support withholding order takes priority over a garnishment order irrespective of their dates of entry or activation. If a person is subject to a support withholding order and a garnishment order, the garnishment order shall be honored only to the extent that disposable earnings withheld under the support withholding order do not exceed the maximum amount subject to garnishment as computed under subsection (2).

(Formerly: Acts 1971, P.L.366, SEC.6.) As amended by Acts 1979, P.L.239, SEC.1; Acts 1982, P.L.151, SEC.1; P.L.248-1983, SEC.1; P.L.237-1985, SEC.1; P.L.102-1986, SEC.3; P.L.148-1988, SEC.1; P.L.78-2014, SEC.2.

IC 24-4.5-5-106

No discharge from employment for garnishment

Sec. 106. No Discharge From Employment for Garnishment—No employer shall discharge an employee for the reason that a creditor or creditors of the employee has subjected or attempted to subject unpaid earnings of the employee to garnishment or like proceedings directed to the employer for the purpose of paying a judgment or

judgments.
(Formerly: Acts 1971, P.L.366, SEC.6.)

IC 24-4.5-5-107
Extortionate extensions of credit

Sec. 107. Extortionate Extensions of Credit — (1) If it is the understanding of the creditor and the debtor at the time an extension of credit is made that delay in making repayment or failure to make repayment could result in the use of violence or other criminal means to cause harm to the person, reputation, or property of any person, the repayment of the extension of credit is unenforceable through civil judicial processes against the debtor.

(2) If it is shown that an extension of credit was made at an annual rate exceeding forty-five percent (45%) calculated according to the actuarial method and that the creditor then had a reputation for the use or threat of use of violence or other criminal means to cause harm to the person, reputation, or property of any person to collect extensions of credit or to punish the nonrepayment thereof, there is prima facie evidence that the extension of credit was unenforceable under subsection (1).
(Formerly: Acts 1971, P.L.366, SEC.6.)

IC 24-4.5-5-108
Unconscionability

Sec. 108. Unconscionability — (1) With respect to a consumer credit sale, consumer lease, or consumer loan, if the court as a matter of law finds the agreement or any clause of the agreement to have been unconscionable at the time it was made the court may refuse to enforce the agreement, or it may enforce the remainder of the agreement without the unconscionable clause, or it may so limit the application of any unconscionable clause as to avoid any unconscionable result.

(2) If it is claimed or appears to the court that the agreement or any clause thereof may be unconscionable the parties shall be afforded a reasonable opportunity to present evidence as to its setting, purpose, and effect to aid the court in making the determination.

(3) For the purpose of this section, a charge or practice expressly permitted by this Article is not in itself unconscionable.
(Formerly: Acts 1971, P.L.366, SEC.6.)

(Part 2. Debtors' Remedies)

IC 24-4.5-5-201
First lien mortgage transactions; civil liability for disclosure violations; debtor's right to rescind

Sec. 201. For purposes of the provisions on civil liability for violation of disclosure provisions (IC 24-4.5-5-203) and on debtor's

right to rescind certain transactions (IC 24-4.5-5-204):

(1) consumer credit sale includes a sale that is a first lien mortgage transaction if the sale is otherwise a consumer credit sale; and

(2) consumer loan includes a loan that is a first lien mortgage transaction if the loan is otherwise a consumer loan.

(Formerly: Acts 1971, P.L.366, SEC.6.) As amended by Acts 1981, P.L.218, SEC.7; P.L.152-1986, SEC.69; P.L.35-2010, SEC.62.

IC 24-4.5-5-202

Effect of violations on rights of parties

Sec. 202. Effect of Violations on Rights of Parties — (1) If a creditor has violated the provision of this Article applying to limitations on the schedule of payments or loan term for supervised loans (IC 24-4.5-3-511), the debtor is not obligated to pay the loan finance charge, and has a right to recover from the person violating this Article or from an assignee of that person's rights who undertakes direct collection of payments or enforcement of rights arising from the debt a penalty in an amount determined by the court not in excess of three times the amount of the loan finance charge. No action pursuant to this subsection may be brought more than one (1) year after the due date of the last scheduled payment of the agreement with respect to which the violation occurred.

(2) If a creditor has violated the provisions of this Article applying to authority to make consumer loans (IC 24-4.5-3-502), the loan is void and the debtor is not obligated to pay either the principal or loan finance charge. If the debtor has paid any part of the principal or of the loan finance charge, the debtor has a right to recover the payment from the person violating this Article or from an assignee of that person's rights who undertakes direct collection of payments or enforcement of rights arising from the debt. With respect to violations arising from loans made pursuant to revolving loan accounts, no action pursuant to this subsection may be brought more than two (2) years after the violation occurred. With respect to violations arising from other loans, no action pursuant to this subsection may be brought more than one (1) year after the due date of the last scheduled payment of the agreement pursuant to which the charge was paid.

(3) A debtor is not obligated to pay a charge in excess of that allowed by this Article, and if the debtor has paid an excess charge the debtor has a right to a refund. A refund may be made by reducing the debtor's obligation by the amount of the excess charge. If the debtor has paid an amount in excess of the lawful obligation under the agreement, the debtor may recover the excess amount from the person who made the excess charge or from an assignee of that person's rights who undertakes direct collection of payments from or enforcement of rights against debtors arising from the debt.

(4) If a debtor is entitled to a refund and a person liable to the

debtor refuses to make a refund within a reasonable time after demand, the debtor may recover from that person a penalty in an amount determined by a court not exceeding the greater of either the amount of the credit service or loan finance charge or ten (10) times the amount of the excess charge. If the creditor has made an excess charge in deliberate violation of or in reckless disregard for this Article, the penalty may be recovered even though the creditor has refunded the excess charge. No penalty pursuant to this subsection may be recovered if a court has ordered a similar penalty assessed against the same person in a civil action by the department (IC 24-4.5-6-113). With respect to excess charges arising from sales made pursuant to revolving charge accounts or from loans made pursuant to revolving loan accounts, no action pursuant to this subsection may be brought more than two (2) years after the time the excess charge was made. With respect to excess charges arising from other consumer credit sales or consumer loans, no action pursuant to this subsection may be brought more than one (1) year after the due date of the last scheduled payment of the agreement pursuant to which the charge was made.

(5) Except as otherwise provided, no violation of this Article impairs rights on a debt.

(6) If an employer discharges an employee in violation of the provisions prohibiting discharge (IC 24-4.5-5-106), the employee may within six (6) months bring a civil action for recovery of wages lost as a result of the violation and for an order requiring the reinstatement of the employee. Damages recoverable shall not exceed lost wages for six (6) weeks.

(7) If the creditor establishes by a preponderance of evidence that a violation is unintentional or the result of a bona fide error, no liability is imposed under subsections (1), (2), and (4) and the validity of the transaction is not affected.

(8) In any case in which it is found that a creditor has violated this Article, the court may award reasonable attorney's fees incurred by the debtor.

(9) The department may act on behalf of a debtor to enforce the debtor's rights under this section against a creditor who is licensed or registered with the department or is required to be licensed or registered with the department.

(Formerly: Acts 1971, P.L.366, SEC.6.) As amended by P.L.14-1992, SEC.43; P.L.122-1994, SEC.31; P.L.172-1997, SEC.8.

IC 24-4.5-5-203

Civil liability for violation of disclosure provisions

Sec. 203. Civil Liability for Violation of Disclosure Provisions — (1) Except as otherwise provided in this section, a creditor who, in violation of the provisions on disclosure (Part 3), of the Chapter on Credit Sales (Chapter 2) and the Chapter on Loans (Chapter 3), fails to disclose information to a person entitled to the information under

this Article is liable to that person in an amount equal to the sum of:

(a) the following:

(1) in the case of an individual action, twice the amount of the credit service or loan finance charge in connection with the transaction, but the liability pursuant to this subdivision shall be not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000); or

(2) in the case of a class action, an amount the court allows, except that as to each member of the class no minimum recovery is applicable, and the total recovery under this subdivision in any class action or series of class actions arising out of the same failure to comply by the same creditor may not be more than the lesser of:

(i) five hundred thousand dollars ($500,000); or

(ii) one percent (1%) of the net worth of the creditor; and

(b) in the case of a successful action to enforce the liability under paragraph (a), the costs of the action together with reasonable attorney's fees as determined by the court. In determining the amount of the award in a class action, the court shall consider, among other relevant factors, the amount of any award granted under the federal Consumer Credit Protection Act (15 U.S.C. 1601 et seq.), the frequency and persistence of failures of compliance by the creditor, the resources of the creditor, the number of persons adversely affected, and the extent to which the creditor's failure of compliance was intentional.

(2) A creditor has no liability under this section if within sixty (60) days after discovering an error, and prior to the institution of an action under this section or the receipt of written notice of the error, the creditor notifies the person concerned of the error and makes whatever adjustments in the appropriate account are necessary to assure that the person will not be required to pay a credit service charge or loan finance charge in excess of the amount or percentage rate actually disclosed.

(3) A creditor may not be held liable in any action brought under this section for a violation of this Article if the creditor shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid the error.

(4) If there are multiple obligors in a consumer credit transaction or consumer lease, there may not be more than one (1) recovery of damages under subdivision (a)(1) for one (1) violation of this article with respect to that consumer credit transaction or consumer lease.

(5) The multiple failure to disclose to any person any information required under this article to be disclosed in connection with a single account under an open end consumer credit plan, a single consumer credit sale, a consumer loan, a consumer lease, or another extension of consumer credit entitles that person to a single recovery under this section. However, continued failure to disclose after a recovery has

been granted gives rise to rights to additional recoveries.

(6) Any action which may be brought under this section against the original creditor in any credit transaction involving a security interest in land may be maintained against any subsequent assignee of the original creditor where the assignee, its subsidiaries, or affiliates were in a continuing business relationship with the original creditor either at the time the credit was extended or at the time of the assignment, unless the assignment was involuntary, or the assignee shows by a preponderance of evidence that it did not have reasonable grounds to believe that the original creditor was engaged in violations of this Article, and that it maintained procedures reasonably adapted to apprise it of the existence of the violations.

(7) No action pursuant to this section may be brought more than one (1) year after the date of the occurrence of the violations.

(8) In this section, creditor includes a person who in the ordinary course of business regularly extends or arranges for the extension of credit, or offers to arrange for the extension of credit.

(Formerly: Acts 1971, P.L.366, SEC.6.) As amended by P.L.181-1991, SEC.5.

IC 24-4.5-5-204

Debtor's right to rescind certain transactions

Sec. 204. Debtor's Right to Rescind Certain Transactions — (1) A violation by a creditor of Section 125 of the Federal Consumer Credit Protection Act (IC 24-4.5-1-302) concerning the debtor's right to rescind a transaction that is a consumer credit sale or a consumer loan constitutes a violation of IC 24-4.5. A creditor may not accrue interest during the period when a consumer loan may be rescinded under Section 125 of the Federal Consumer Protection Act (15 U.S.C. 1635).

(2) A creditor must make available for disbursement the proceeds of a transaction subject to subsection (1) on the later of:

(A) the date the creditor is reasonably satisfied that the consumer has not rescinded the transaction; or

(B) the first business day after the expiration of the rescission period under subsection (1).

(Formerly: Acts 1971, P.L.366, SEC.6.) As amended by Acts 1982, P.L.149, SEC.7; P.L.122-1994, SEC.32; P.L.23-2000, SEC.9.

IC 24-4.5-5-205

Refunds and penalties as set-off to obligation

Sec. 205. Refunds and Penalties as Set-Off to Obligation — Refunds or penalties to which the debtor is entitled pursuant to this Part may be set off against the debtor's obligation, and may be raised as a defense to a suit on the obligation without regard to the time limitations prescribed by this Part.

(Formerly: Acts 1971, P.L.366, SEC.6.)

(Part 3. Criminal Penalties)

IC 24-4.5-5-301
Knowing violations

Sec. 301. (1) A lender who knowingly makes charges in excess of those permitted by the provisions of this article commits a Class A misdemeanor.

(2) A person who knowingly engages in the business of making consumer loans without a license in violation of the provisions of this article applying to authority to make consumer loans (IC 24-4.5-3-502 and IC 24-4.5-3-502.1) commits a Class A misdemeanor.

(3) A person who knowingly:

(a) engages in the business of making consumer credit sales, consumer leases, or consumer loans, or of taking assignments of rights against debtors; and

(b) undertakes direct collection of payments or enforcement of these rights, without complying with the provisions of this article concerning notification (IC 24-4.5-6-202) or payment of fees (IC 24-4.5-6-203);

commits a Class A infraction.

(Formerly: Acts 1971, P.L.366, SEC.6.) As amended by Acts 1978, P.L.2, SEC.2414; P.L.152-1986, SEC.70; P.L.14-1992, SEC.44; P.L.122-1994, SEC.33; P.L.45-1995, SEC.14; P.L.35-2010, SEC.63.

IC 24-4.5-5-302
Disclosure violations

Sec. 302. A person commits a Class A misdemeanor if he knowingly gives false or inaccurate information or fails to provide information which he is required to disclose under the provisions of IC 24-4.5-2-301 or IC 24-4.5-3-301.

(Formerly: Acts 1971, P.L.366, SEC.6.) As amended by Acts 1978, P.L.2, SEC.2415; P.L.247-1983, SEC.21.

IC 24-4.5-6
Chapter 6. Administration

(Part 1. Powers and Functions of Administrator)

IC 24-4.5-6-101
Short title
Sec. 101. Short Title — This Chapter shall be known and may be cited as Uniform Consumer Credit Code — Administration.
(Formerly: Acts 1971, P.L.366, SEC.7.)

IC 24-4.5-6-102
Applicability; "consumer credit sale"; "consumer loan"
Sec. 102. (a) IC 24-4.5-6-101 through IC 24-4.5-6-117 apply to persons who:
(1) make or solicit consumer credit sales, consumer leases, consumer loans, consumer related sales (IC 24-4.5-2-602), and consumer related loans (IC 24-4.5-3-602); or
(2) directly collect payments from or enforce rights against debtors arising from sales, leases, or loans specified in subsection (1), wherever they are made.
(b) For purposes of IC 24-4.5-6-101 through IC 24-4.5-6-117:
(1) "Consumer credit sale" includes a sale that is a first lien mortgage transaction if the sale is otherwise a consumer credit sale.
(2) "Consumer loan" includes a loan that is a first lien mortgage transaction if the loan is otherwise a consumer loan.
(Formerly: Acts 1971, P.L.366, SEC.7.) As amended by Acts 1981, P.L.218, SEC.8; P.L.152-1986, SEC.71; P.L.35-2010, SEC.64; P.L.27-2012, SEC.25.

IC 24-4.5-6-103
Department
Sec. 103. Department — "Department" means the members of the department of financial institutions. The division of consumer credit shall have charge of the administration of this article.
(Formerly: Acts 1971, P.L.366, SEC.7.) As amended by P.L.14-1992, SEC.45.

IC 24-4.5-6-103.5
Repealed
(As added by P.L.80-1998, SEC.9. Repealed by P.L.35-2010, SEC.209.)

IC 24-4.5-6-104
Powers of department; reliance on rules
Sec. 104. (1) In addition to other powers granted by this article, the department within the limitations provided by law may:

(a) receive and act on complaints, take action designed to obtain voluntary compliance with this article, or commence proceedings on the department's own initiative;
(b) counsel persons and groups on their rights and duties under this article;
(c) establish programs for the education of consumers with respect to credit practices and problems;
(d) make studies appropriate to effectuate the purposes and policies of this article and make the results available to the public;
(e) adopt, amend, and repeal rules, orders, policies, and forms to carry out the provisions of this article;
(f) maintain more than one (1) office within Indiana; and
(g) appoint any necessary attorneys, hearing examiners, clerks, and other employees and agents and fix their compensation, and authorize attorneys appointed under this section to appear for and represent the department in court.

(2) No liability is imposed under this article for an act done or omitted in conformity with a rule, written notice, written opinion, written interpretation, or written directive of the department notwithstanding that after the act or omission the rule, written notice, written opinion, written interpretation, or written directive may be amended or repealed, or be determined by judicial or other authority to be invalid for any reason.

(Formerly: Acts 1971, P.L.366, SEC.7.) As amended by P.L.247-1983, SEC.22; P.L.14-1992, SEC.46; P.L.45-1995, SEC.15; P.L.172-1997, SEC.9; P.L.213-2007, SEC.14; P.L.217-2007, SEC.13.

IC 24-4.5-6-105
Administrative powers with respect to depository institutions

Sec. 105. (1) With respect to depository institutions, the powers of examination and investigation (IC 24-4.5-6-106) and administrative enforcement (IC 24-4.5-6-108) shall be exercised by the department. The department may, at its discretion, accept any examination of any financial institution made by a federal authority in lieu of the examination made under the provisions of this article. All other powers of the department under this article may be exercised by the director with respect to a depository institution.

(2) If the department receives a complaint or other information concerning noncompliance with this article by a depository institution, the director shall inform the official or agency having supervisory authority over the organization concerned. The department may request information about depository institutions from the officials or agencies supervising them.

(3) The department and any official or agency of this state having supervisory authority over a depository institution are authorized and directed to consult and assist one another in maintaining compliance

with this article. They may jointly pursue investigations, prosecute suits, and take other official action, as they deem appropriate, if either of them otherwise is empowered to take the action.
(Formerly: Acts 1971, P.L.366, SEC.7.) As amended by P.L.14-1992, SEC.47; P.L.35-2010, SEC.65.

IC 24-4.5-6-106
Department's examination and investigatory authority; record retention; director's authority to control access to records; court order compelling compliance; confidentiality; costs; vendors

Sec. 106. (1) In administering this article and in order to determine whether the provisions of this article are being complied with by persons engaging in acts subject to this article, the department may examine the records of persons and may make investigations of persons as may be necessary to determine compliance. Records subject to examination under this section include the following:

(a) Training, operating, and policy manuals.

(b) Minutes of:

(i) management meetings; and

(ii) other meetings.

(c) Other records that the department determines are necessary to perform its investigation or examination.

The department may also administer oaths or affirmations, subpoena witnesses, and compel the attendance of witnesses, including directors, executive officers, managers, principals, mortgage loan originators, employees, independent contractors, agents, and customers of the licensee, individual, or person subject to this article. The department may also adduce evidence, and require the production of any matter which is relevant to the investigation. The department shall determine the sufficiency of the records maintained and whether the person has made the required information reasonably available. The records pertaining to any transaction subject to this article shall be retained for two (2) years after making the final entry relating to the consumer credit transaction, but in the case of a revolving loan account or revolving charge account, the two (2) years is measured from the date of each entry.

(2) The department's examination and investigatory authority under this article includes the following:

(a) The authority to require a creditor to refund overcharges resulting from the creditor's noncompliance with the terms of consumer credit sales, consumer leases, or consumer loans.

(b) The authority to require a creditor to comply with the prepayment penalty provisions set forth in IC 24-4.5-3-209.

(c) The authority to investigate complaints filed with the department by debtors.

(3) If the department:

(a) investigates; or

(b) examines the books and records of;

a person that is subject to IC 24-4.5-6-201, IC 24-4.5-6-202, and IC 24-4.5-6-203, the person shall pay all reasonably incurred costs of the investigation or examination in accordance with the fee schedule adopted by the department under IC 28-11-3-5. However, the person is liable for the costs of an investigation or examination under this subsection only to the extent that the costs exceed the amount of the filing fees paid most recently under IC 24-4.5-6-203. Any costs required to be paid under this section shall be paid not later than sixty (60) days after the person receives a notice from the department of the costs being assessed. The department may impose a fee, in an amount fixed by the department under IC 28-11-3-5, for each day that the assessed costs are not paid, beginning on the first day after the sixty (60) day period described in this subsection.

(4) The department shall be given free access to the records wherever located. In making any examination or investigation authorized by this article, the director may control access to any documents and records of the licensee or person under examination or investigation. The director may take possession of the documents and records or place a person in exclusive charge of the documents and records in the place where the documents are usually kept. During the period of control, the licensee or person may not remove or attempt to remove any of the documents and records except under a court order or with the consent of the director. Unless the director has reasonable grounds to believe the documents or records of the licensee or person have been, or are, at risk of being altered or destroyed for purposes of concealing a violation of this article, the licensee or person being examined or investigated is entitled to access to the documents or records as necessary to conduct the licensee's or person's ordinary business affairs. If the person's records are located outside Indiana, the records shall be made available to the department at a convenient location within Indiana, or the person shall pay the reasonable and necessary expenses for the department or its representative to examine them where they are maintained. The department may designate comparable officials of the state in which the records are located to inspect them on behalf of the department.

(5) Upon a person's failure without lawful excuse to obey a subpoena or to give testimony and upon reasonable notice to all affected persons, the department may apply to any civil court with jurisdiction for an order compelling compliance.

(6) The department shall not make public the name or identity of a person whose acts or conduct the department investigates pursuant to this section or the facts disclosed in the investigation, but this subsection does not apply to disclosures in actions or enforcement proceedings pursuant to this article.

(7) To discover violations of this article or to secure information necessary for the enforcement of this article, the department may investigate any:

(a) licensee or registrant; or

(b) person that the department suspects to be operating:

(i) without a license or registration, when a license or registration is required under this article; or

(ii) otherwise in violation of this article.

The department has all investigatory and enforcement authority under this article that the department has under IC 28-11 with respect to financial institutions. If the department conducts an investigation under this section, the licensee, registrant, or other person investigated shall pay all reasonably incurred costs of the investigation in accordance with the fee schedule adopted under IC 28-11-3-5. Any costs required to be paid under this section shall be paid not later than sixty (60) days after the person receives a notice from the department of the costs being assessed. The department may impose a fee, in an amount fixed by the department under IC 28-11-3-5, for each day that the assessed costs are not paid, beginning on the first day after the sixty (60) day period described in this subsection.

(8) If a creditor contracts with an outside vendor to provide a service that would otherwise be undertaken internally by the creditor and be subject to the department's routine examination procedures, the person that provides the service to the creditor shall, at the request of the director, submit to an examination by the department. If the director determines that an examination under this subsection is necessary or desirable, the examination may be made at the expense of the person to be examined. If the person to be examined under this subsection refuses to permit the examination to be made, the director may order any creditor that is licensed under this article and that receives services from the person refusing the examination to:

(a) discontinue receiving one (1) or more services from the person; or

(b) otherwise cease conducting business with the person.

(Formerly: Acts 1971, P.L.366, SEC.7.) As amended by P.L.14-1992, SEC.48; P.L.122-1994, SEC.34; P.L.45-1995, SEC.16; P.L.10-2006, SEC.9 and P.L.57-2006, SEC.9; P.L.213-2007, SEC.15; P.L.217-2007, SEC.14; P.L.35-2010, SEC.66; P.L.27-2012, SEC.26; P.L.216-2013, SEC.12; P.L.186-2015, SEC.22.

IC 24-4.5-6-106.5

Powers of director

Sec. 106.5. To carry out the purposes of this section, the director may:

(a) retain attorneys, accountants, or other professionals and specialists as examiners, auditors, or investigators to conduct or assist in the conduct of examinations or investigations;

(b) enter into agreements or relationships with other government officials or regulatory associations to improve

efficiencies and reduce regulatory burden by sharing:

(i) resources;

(ii) standardized or uniform methods or procedures; and

(iii) documents, records, information, or evidence obtained under this section;

(c) use, hire, contract, or employ public or privately available analytical systems, methods, or software to examine or investigate a licensee, an individual, or a person subject to this article;

(d) accept and rely on examination or investigation reports made by other government officials, in or outside Indiana; or

(e) accept audit reports made by an independent certified public accountant for the licensee, individual, or person subject to this article in the course of that part of the examination covering the same general subject matter as the audit and may incorporate the audit report in the report of the examination, report of investigation, or other writing of the director.

As added by P.L.35-2010, SEC.67.

IC 24-4.5-6-107

Applicability of laws governing administrative orders and rules; venue; emergency rulemaking authority

Sec. 107. (1) Except as otherwise provided, IC 4-21.5-3 governs all agency action taken by the department under this chapter or IC 24-4.5-3-501 through IC 24-4.5-3-513. All proceedings for administrative review under IC 4-21.5-3 or judicial review under IC 4-21.5-5 shall be held in Marion County. The provisions of IC 4-22-2 prescribing procedures for the adoption of rules by agencies apply to the adoption of rules by the department of financial institutions under this article. However, if the department declares an emergency in the document containing the rule, the department may adopt rules permitted by this chapter under IC 4-22-2-37.1.

(2) A rule under subsection (1) adopted under IC 4-22-2-37.1 expires on the date the department next adopts a rule under the statute authorizing or requiring the rule.

(Formerly: Acts 1971, P.L.366, SEC.7.) As amended by P.L.31-1985, SEC.48; P.L.7-1987, SEC.108; P.L.1-1990, SEC.243; P.L.14-1992, SEC.49; P.L.35-2010, SEC.68; P.L.140-2013, SEC.19; P.L.137-2014, SEC.16.

IC 24-4.5-6-107.5

Prohibited acts

Sec. 107.5. It is a violation of this article for a person or individual subject to this article to:

(a) directly or indirectly employ any scheme, device, or artifice to defraud or mislead borrowers or lenders or to defraud any person;

(b) engage in any unfair or deceptive practice toward any

person;
(c) obtain property by fraud or misrepresentation;
(d) solicit or enter into a contract with a borrower that provides in substance that the person or individual subject to this article may earn a fee or commission through "best efforts" to obtain a loan even though no loan is actually obtained for the borrower;
(e) solicit, advertise, or enter into a contract for specific interest rates, points, or other financing terms unless the terms are actually available at the time of soliciting, advertising, or contracting;
(f) conduct any business covered by this article without holding a valid license as required under this article, or assist or aid and abet any person in the conduct of business under this article without a valid license as required under this article;
(g) fail to make disclosures as required by this article and any other applicable state or federal law, including regulations under that law;
(h) fail to comply with this article or rules adopted under this article, or fail to comply with any other state or federal law, rule, or regulation, applicable to any business authorized or conducted under this article;
(i) make, in any manner, any false or deceptive statement or representation, including, with regard to the rates, points, or other financing terms or conditions for a mortgage transaction, or engage in bait and switch advertising;
(j) negligently make any false statement or knowingly and willfully make any omission of material fact in connection with any information or reports filed with a governmental agency or the NMLSR or in connection with any investigation conducted by the director or another governmental agency;
(k) make any payment, threat, or promise, directly or indirectly, to any person for the purposes of influencing the independent judgment of the person in connection with a mortgage transaction, or make any payment, threat, or promise, directly or indirectly, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property;
(l) collect, charge, attempt to collect or charge, or use or propose any agreement purporting to collect or charge any fee prohibited by this article;
(m) cause or require a borrower to obtain property insurance coverage in an amount that exceeds the replacement cost of the improvements as established by the property insurer;
(n) fail to account truthfully for money belonging to a party to a mortgage transaction; or
(o) knowingly withhold, abstract, remove, mutilate, destroy, or secrete any books, records, computer records, or other

information subject to examination under this article.
As added by P.L.35-2010, SEC.69.

IC 24-4.5-6-108
Cease and desist orders; judicial review or enforcement proceedings; record; appeal; unconscionable or fraudulent conduct subject to injunction

Sec. 108. (1) After notice and an opportunity to be heard, the department may order a creditor, or a person acting on behalf of the creditor, to cease and desist from engaging in violations of this article. A respondent aggrieved by an order of the department may obtain judicial review of the order and the department may obtain an order of the court for enforcement of its order in any civil court. The proceeding for review or enforcement is initiated by filing a petition in the court. Copies of the petition shall be served upon all parties of record.

(2) Within thirty (30) days after service of the petition for review upon the department, or within any further time the court may allow, the department shall transmit to the court the original or a certified copy of the entire record upon which the order is based, including any transcript of testimony, which need not be printed. By stipulation of all parties to the review proceeding, the record may be shortened. After hearing the court may (a) reverse or modify the order if the findings of fact of the department are clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record, (b) grant any temporary relief or restraining order it deems just, and (c) enter an order enforcing, modifying, and enforcing as modified, or setting aside in whole or in part the order of the department, or remanding the case to the department for further proceedings.

(3) An objection not urged at the hearing shall not be considered by the court unless the failure to urge the objection is excused for good cause shown. A party may move the court to remand the case to the department in the interest of justice for the purpose of adducing additional specified and material evidence and seeking finding thereon upon good cause shown for the failure to adduce this evidence before the department.

(4) The jurisdiction of the court shall be exclusive and its final judgment or decree shall be subject to review by the court on appeal in the same manner and form and with the same effect as in appeals from a final judgment or decree. The department's copy of the testimony shall be available at reasonable times to all parties for examination without cost.

(5) A proceeding for review under this section must be initiated within thirty (30) days after a copy of the order of the department is received. If no proceeding is so initiated, the department may obtain a decree of the civil court for enforcement of its order upon a showing that an order was issued in compliance with this section, that no proceeding for review was initiated within thirty (30) days

after copy of the order was received, and that the respondent is subject to the jurisdiction of the court.

(6) With respect to unconscionable agreements or fraudulent or unconscionable conduct by the respondent, the department may not issue an order pursuant to this section but may bring a civil action for an injunction (IC 24-4.5-6-111).

(Formerly: Acts 1971, P.L.366, SEC.7.) As amended by P.L.14-1992, SEC.50; P.L.35-2010, SEC.70.

IC 24-4.5-6-109
Assurance of discontinuance

Sec. 109. Assurance of Discontinuance — If it is claimed that a person has engaged in conduct subject to an order by the department (IC 24-4.5-6-108) or by a court (IC 24-4.5-6-110 through IC 24-4.5-6-112), the department may accept an assurance in writing that the person will not engage in the conduct in the future. If a person giving an assurance of discontinuance fails to comply with its terms, the assurance is evidence that prior to the assurance he engaged in the conduct described in the assurance.

(Formerly: Acts 1971, P.L.366, SEC.7.) As amended by P.L.14-1992, SEC.51.

IC 24-4.5-6-110
Injunctions against violations

Sec. 110. The department may bring a civil action to restrain a person from violating this article or another state or federal law or regulation, and for other appropriate relief.

(Formerly: Acts 1971, P.L.366, SEC.7.) As amended by P.L.14-1992, SEC.52; P.L.35-2010, SEC.71.

IC 24-4.5-6-111
Injunctions against unconscionable agreements and fraudulent or unconscionable conduct

Sec. 111. Injunctions Against Unconscionable Agreements and Fraudulent or Unconscionable Conduct — (1) The department may bring a civil action to restrain a creditor or a person acting in behalf of a creditor from engaging in a course of:

(a) making or enforcing unconscionable terms or provisions of consumer credit sales, consumer leases, or consumer loans;

(b) fraudulent or unconscionable conduct in inducing debtors to enter into consumer credit sales, consumer leases, or consumer loans; or

(c) fraudulent or unconscionable conduct in the collection of debts arising from consumer credit sales, consumer leases, or consumer loans.

(2) In an action brought pursuant to this section the court may grant relief only if it finds:

(a) that the respondent has made unconscionable agreements or

has engaged or is likely to engage in a course of fraudulent or unconscionable conduct;

(b) that the agreements or conduct of the respondent has caused or is likely to cause injury to consumers; and

(c) that the respondent has been able to cause or will be able to cause the injury primarily because the transactions involved are credit transactions.

(3) In applying this section, consideration shall be given to each of the following factors, among others:

(a) belief by the creditor at the time consumer credit sales, consumer leases, or consumer loans are made that there was no reasonable probability of payment in full of the obligation by the debtor;

(b) in the case of consumer credit sales or consumer leases, knowledge by the seller or lessor at the time of the sale or lease of the inability of the buyer or lessee to receive substantial benefits from the property or services sold or leased;

(c) in the case of consumer credit sales or consumer leases, gross disparity between the price of the property or services sold or leased and the value of the property or services measured by the price at which similar property or services are readily obtainable in credit transactions by like buyers or lessees;

(d) the fact that the creditor contracted for or received separate charges for insurance with respect to consumer credit sales or consumer loans with the effect of making the sales or loans, considered as a whole, unconscionable; and

(e) the fact that the respondent has knowingly taken advantage of the inability of the debtor reasonably to protect his interests by reason of physical or mental infirmities, ignorance, illiteracy or inability to understand the language of the agreement, or similar factors.

(4) In an action brought pursuant to this section, a charge or practice expressly permitted by this Article is not in itself unconscionable.

(Formerly: Acts 1971, P.L.366, SEC.7.) As amended by P.L.14-1992, SEC.53; P.L.122-1994, SEC.35.

IC 24-4.5-6-112

Temporary relief

Sec. 112. Temporary Relief — With respect to an action brought to enjoin violations of the Article (IC 24-4.5-6-110) or unconscionable agreements or fraudulent or unconscionable conduct (IC 24-4.5-6-111), the department may apply to the court for appropriate temporary relief against a respondent, pending final determination of proceedings. If the court finds after a hearing held upon notice to the respondent that there is reasonable cause to believe that the respondent is engaging in or is likely to engage in

conduct sought to be restrained, it may grant any temporary relief or restraining order it deems appropriate.
(Formerly: Acts 1971, P.L.366, SEC.7.) As amended by P.L.14-1992, SEC.54.

IC 24-4.5-6-113
Civil actions by department; civil penalties for violations

Sec. 113. (1) After demand, the department may bring a civil action against a creditor for making or collecting charges in excess of those permitted by this article. An action may relate to transactions with more than one debtor. If it is found that an excess charge has been made, the court shall order the respondent to refund to the debtor or debtors the amount of the excess charge. If a creditor has made an excess charge in deliberate violation of or in reckless disregard for this article, or if a creditor has refused to refund an excess charge within a reasonable time after demand by the debtor or the department, the court may also order the respondent to pay to the debtor or debtors a civil penalty in an amount determined by the court not in excess of the greater of either the amount of the credit service or loan finance charge or ten (10) times the amount of the charge. Refunds and penalties to which the debtor is entitled pursuant to this subsection may be set off against the debtor's obligation. If a debtor brings an action against a creditor to recover an excess charge or civil penalty, an action by the department to recover for the same excess charge or civil penalty shall be stayed while the debtor's action is pending and shall be dismissed if the debtor's action is dismissed with prejudice or results in a final judgment granting or denying the debtor's claim. With respect to excess charges arising from sales made pursuant to revolving charge accounts or from loans made pursuant to revolving loan accounts, no action pursuant to this subsection may be brought more than two (2) years after the time the excess charge was made. With respect to excess charges arising from other consumer credit sales or consumer loans, no action pursuant to this subsection may be brought more than one (1) year after the due date of the last scheduled payment of the agreement pursuant to which the charge was made. If the creditor establishes by a preponderance of evidence that a violation is unintentional or the result of a bona fide error, no liability to pay a penalty shall be imposed under this subsection.

(2) The department may bring a civil action against a creditor or a person acting in his behalf to recover a civil penalty for willfully violating this article, and if the court finds that the defendant has engaged in a course of repeated and willful violations of this article, it may assess a civil penalty of no more than five thousand dollars ($5,000). No civil penalty pursuant to this subsection may be imposed for violations of this article occurring more than two (2) years before the action is brought or for making unconscionable agreements or engaging in a course of fraudulent or unconscionable

conduct.

(3) If the department determines, after notice and opportunity for the person to be heard, that a person has violated this article, the department may, in addition to or instead of all other remedies available under this section, impose upon the person a civil penalty not greater than ten thousand dollars ($10,000) per violation.

(Formerly: Acts 1971, P.L.366, SEC.7.) As amended by P.L.14-1992, SEC.55; P.L.213-2007, SEC.16; P.L.217-2007, SEC.15; P.L.35-2010, SEC.72.

IC 24-4.5-6-114
Repealed

(Formerly: Acts 1971, P.L.366, SEC.7. As amended by P.L.14-1992, SEC.56. Repealed by P.L.35-2010, SEC.209.)

IC 24-4.5-6-115
Debtor's remedies not affected

Sec. 115. Debtor's Remedies Not Affected — The grant of powers to the department in this Article does not affect remedies available to debtors under this Article or under other principles of law or equity.

(Formerly: Acts 1971, P.L.366, SEC.7.) As amended by P.L.14-1992, SEC.57.

IC 24-4.5-6-116
Venue

Sec. 116. Venue — The department may bring actions or proceedings in a court in a county in which an act on which the action or proceeding is based occurred or in a county in which respondent resides or transacts business or in a county otherwise authorized by rule or venue laws.

(Formerly: Acts 1971, P.L.366, SEC.7.) As amended by P.L.14-1992, SEC.58.

IC 24-4.5-6-117
"Civil court" defined

Sec. 117. As used in this article, "civil court" means any court of Indiana having civil jurisdiction.

(Formerly: Acts 1971, P.L.366, SEC.7.) As amended by P.L.1-1990, SEC.244.

IC 24-4.5-6-119
Violations by individuals; persons convicted of felonies; civil penalties; creditor's duty to notify department of discharge or termination

Sec. 119. (a) Subject to subsection (b), if the director determines that a director, an officer, or an employee of a creditor:

(1) has committed a violation of a statute, a rule, a final cease

and desist order, a condition imposed in writing by the director in connection with the grant of an application or other request by the creditor, or a written agreement between the creditor and the director or the department;

(2) has committed fraudulent or unconscionable conduct; or

(3) has been convicted of a felony under the laws of Indiana or any other jurisdiction;

the director may issue and serve upon the person a notice of charges and of the director's intent to issue an order removing the person from the person's office or employment, an order prohibiting participation by the person in the conduct of the affairs of any creditor, or an order both removing the person and prohibiting the person's participation.

(b) A violation, practice, or breach described in subsection (a) is subject to the authority of the director under subsection (a) if the director finds any of the following:

(1) The interests of the creditor's customers could be seriously prejudiced by reason of the violation, practice, or breach.

(2) The violation, practice, or breach involves personal dishonesty on the part of the officer, director, or employee involved.

(3) The violation, practice, or breach demonstrates a willful or continuing disregard by the officer, director, or employee for state or federal law and regulations, and for the consumer protections contained in this article.

(c) A person who has been convicted of a felony under the laws of Indiana or any other jurisdiction may not serve as an officer, a director, or an employee of a creditor, or serve in any similar capacity, unless the person obtains the written consent of the director.

(d) A creditor that willfully permits a person to serve the creditor in violation of subsection (c) is subject to a civil penalty of five hundred dollars ($500) for each day the violation occurs.

(e) A creditor shall give the department written notice of the resignation, discharge, or termination of an employee, independent contractor, or agent against whom allegations were made that accused the employee, independent contractor, or agent of:

(1) violating this article or other laws, regulations, rules, or industry standards of conduct applicable to consumer credit transactions; or

(2) fraud, dishonesty, theft, or the wrongful taking of property.

The creditor shall provide the department the notice required under this subsection not later than thirty (30) days after the effective date of the resignation, discharge, or termination.

As added by P.L.35-2010, SEC.73. Amended by P.L.27-2012, SEC.27.

IC 24-4.5-6-120

Notice of charges; contents; hearing; final order; suspension or prohibition pending final order; official record

Sec. 120. (a) A notice issued under section 119 of this chapter must:

(1) be in writing;

(2) contain a statement of:

(A) the facts constituting the alleged violation, practice, or breach;

(B) the facts alleged in support of the violation, practice, or breach; and

(C) the director's intention to issue an order under section 122(a) of this chapter;

(3) be delivered to the board of directors of the creditor;

(4) be delivered to the officer, director, or employee to which the notice applies;

(5) specify the procedures that must be followed to initiate a hearing to contest the alleged violation, practice, or breach; and

(6) if the director suspends or prohibits the officer, director, or employee from participation in the affairs of the creditor as described under subsection (e), a statement of the suspension or prohibition.

(b) If a hearing is requested not later than ten (10) days after service of the notice described under subsection (a), the department shall hold a hearing concerning the alleged violation, practice, or breach. The hearing shall be held not later than forty-five (45) days after receipt of the request. The department, based on the evidence presented at the hearing, shall enter a final order in accordance with section 122 of this chapter.

(c) If no hearing is requested within the period of time specified in subsection (b), the director may proceed to issue a final order under section 122 of this chapter on the basis of the facts set forth in the notice described under subsection (a).

(d) An officer, director, or employee of a creditor who is removed from a position under a removal order under section 122 of this chapter that has become final may not, without the approval of the director, participate in the conduct of the affairs of a licensee described under IC 24-4.5-3.

(e) The director may, for the protection of the creditor or the interests of the creditor's customers, suspend from office or prohibit from participation in the affairs of the creditor an officer, a director, or an employee of a creditor who is the subject of a written notice served by the director under section 119(a) of this chapter. A suspension or prohibition under this subsection becomes effective upon service of the notice under section 119(a) of this chapter. Unless stayed by a court in a proceeding authorized by subsection (f), the suspension or prohibition remains in effect pending completion of the proceedings related to the notice served under section 119(a) of this chapter and until the effective date of an order

entered by the department under subsection (b) or the director under subsection (c). If the director suspends or prohibits participation of an officer, a director, or an employee under this subsection, copies of the notice shall also be served upon the creditor or affiliate of which the person is an officer, a director, or an employee.

(f) Not more than fifteen (15) days after an officer, a director, or an employee has been suspended from office or prohibited from participation in the conduct of the affairs of the creditor or affiliate under subsection (e), the officer, director, or employee may apply to a court having jurisdiction for a stay of the suspension or prohibition pending completion of the proceedings related to the notice served under section 119(a) of this chapter. The court may stay a suspension of prohibition of the officer, director, or employee.

(g) The department shall maintain an official record of a proceeding under this chapter.

As added by P.L.35-2010, SEC.74.

IC 24-4.5-6-121

Consent agreement; notice of charges not required

Sec. 121. If the director enters into a consent to a final order with a director, an officer, or an employee, the director is not required to issue and serve a notice of charges upon the director, officer, or employee under section 119 of this chapter. A consent agreement may be negotiated and entered into before or after the issuance of a notice of charges. The director shall provide a copy of the consent order to the board of directors of the creditor.

As added by P.L.35-2010, SEC.75.

IC 24-4.5-6-122

Final order; remedies; consent presumed; confidentiality

Sec. 122. (a) Subject to section 120 of this chapter, if, after a hearing described in section 120(b) of this chapter, the department determines that a director, an officer, or an employee of a creditor has committed an act described in section 119 of this chapter, the department may issue a final order. If a hearing is not requested within the time specified in section 120(b) of this chapter, the director may issue a final order on the basis of the facts set forth in the written notice served under section 119(a) of this chapter.

(b) Unless the director has entered into a consent agreement described in section 121 of this chapter, a final order must include separately stated findings of fact and conclusions of law for all aspects of the order.

(c) In a final order under this section, the department or the director, as appropriate, may order one (1) or more of the following with respect to an officer, a director, or an employee of a creditor:

(1) The removal of the officer, director, or employee from the person's office, position, or employment.

(2) A prohibition against any participation by the officer,

director, or employee in the conduct of the affairs of any creditor.

(3) If the subject of the order is an officer or a director of a creditor, and subject to section 124 of this chapter, the imposition of a civil penalty not to exceed fifteen thousand dollars ($15,000) for each practice, violation, or act that:

(A) is described in section 119 of this chapter; and

(B) found to exist by the department or the director.

(d) A final order shall be issued in writing not later than ninety (90) days after conclusion of a hearing held under section 120(b) of this chapter, unless this period is waived or extended with the written consent of all parties or for good cause shown.

(e) If the officer, director, or employee does not appear individually or by an authorized representative at a hearing held under section 120(b) of this chapter, the officer, director, or employee is considered to have consented to the issuance of a final order.

(f) The director may keep a final order confidential if the director determines that the immediate release of the order would endanger the stability of the creditor. However, after two (2) years following the date that an order is issued, a final order is no longer confidential.

(g) The remedies provided in this chapter are in addition to other remedies contained in this article.

As added by P.L.35-2010, SEC.76.

IC 24-4.5-6-123

Final order; effective date; authority of department or court to stay, modify, or vacate

Sec. 123. (a) A final order issued under section 122 of this chapter is effective the eleventh day after the date the order is served. However, a final order issued upon consent under section 121 of this chapter is effective at the time specified in the order.

(b) A final order remains effective and enforceable as provided in the order.

(c) The department or a reviewing court may stay, modify, or vacate a final order.

As added by P.L.35-2010, SEC.77.

IC 24-4.5-6-124

Factors for determining amount of civil penalty; indemnification by creditor prohibited; deposit of civil penalties in financial institutions fund

Sec. 124. (a) The director or the department, as appropriate, shall consider the following factors in determining the amount of a civil penalty that should be assessed against a director or an officer under section 122(c)(3) of this chapter:

(1) The appropriateness of the civil penalty with respect to the financial resources and good faith of the individual charged.

(2) The gravity of the practice, violation, or breach.
(3) The history of previous practices, violations, or breaches.
(4) The economic benefit derived by the individual from the practice, violation, or breach.
(5) Other factors that justice requires.

(b) A creditor may not indemnify a director or an officer for a civil penalty imposed against the director or officer under this section.

(c) Civil penalties shall be deposited in the financial institutions fund established by IC 28-11-2-9.

As added by P.L.35-2010, SEC.78.

IC 24-4.5-6-125
Authority of director to enforce orders, agreements, or conditions in court

Sec. 125. The director may enforce any of the following by applying for appropriate relief to a court having jurisdiction:

(1) An order issued under section 121 or 122 of this chapter.
(2) A written agreement entered into by the director or the department and a director, an officer, or an employee of a creditor.
(3) Any condition imposed in writing by the director or the department on a director, an officer, or an employee of a creditor.

As added by P.L.35-2010, SEC.79.

(Part 2. Notification and Fees)

IC 24-4.5-6-201
Applicability of notification requirements and fees

Sec. 201. (1) This section and sections 202 and 203 of this chapter apply to a person, including a depository institution, but not including a collection agency licensed under IC 25-11-1, engaged in Indiana in any of the following:

(a) Making consumer credit sales, consumer leases, or consumer loans.
(b) Taking assignments of rights against debtors that arise from sales, leases, or loans by a person having an office or a place of business in Indiana.
(c) Undertaking direct collection of payments from the debtors or enforcement of rights against the debtors.
(d) Placing consumer credit insurance, receiving commissions for consumer credit insurance, or acting as a limited line credit insurance producer in the sale of consumer credit insurance.
(e) Selling insurance or other benefits, the charges for which are approved by the department as additional charges under IC 24-4.5-2-202 or IC 24-4.5-3-202.

(2) This section and sections 202 and 203 of this chapter are not

applicable to a seller whose credit sales consist entirely of sales made pursuant to a seller credit card issued by a person other than the seller if the issuer of the card has complied with the provisions of this section and sections 202 and 203 of this chapter.

(3) This section and sections 202 and 203 of this chapter apply to a seller whose credit sales are made using credit cards that:

(a) are issued by a lender;

(b) are in the name of the seller; and

(c) can be used by the buyer or lessee only for purchases or leases at locations of the named seller.

(Formerly: Acts 1971, P.L.366, SEC.7; Acts 1972, P.L.182, SEC.3.) As amended by P.L.152-1986, SEC.72; P.L.14-1992, SEC.59; P.L.122-1994, SEC.36; P.L.176-1996, SEC.10; P.L.178-2003, SEC.11; P.L.10-2006, SEC.10 and P.L.57-2006, SEC.10; P.L.213-2007, SEC.17; P.L.217-2007, SEC.16; P.L.35-2010, SEC.80.

IC 24-4.5-6-202
Notification

Sec. 202. (1) Persons that are subject to this section and sections 201 and 203 of this chapter shall file notification with the department within thirty (30) days after commencing business in Indiana and thereafter on an annual basis, on the date set forth in subsection (2). The notification shall state the:

(a) name of the person;

(b) name in which business is transacted if different from subdivision (a);

(c) address of principal office, which may be outside Indiana; and

(d) address of all offices or retail stores, if any, in Indiana at which consumer credit sales, consumer leases, or consumer loans are made, or in the case of a person taking assignments of obligations, the offices or places of business within Indiana at which business is transacted.

(2) A person required to be licensed under this article shall file the notification required by subsection (1) not later than December 31 of each year. All other persons subject to this section shall file the notification required by subsection (1) not later than January 31 of each year.

(3) Persons subject to sections 201 and 203 of this chapter and this section shall notify the department not later than thirty (30) days after the person:

(a) has a change in name, address, or principals;

(b) opens a new branch, closes an existing branch, or relocates an existing branch;

(c) files for bankruptcy or reorganization;

(d) is notified that the person is subject to revocation or suspension proceedings by a state or governmental authority

with regard to the person's activities; or

(e) has been convicted of a felony involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction.

(Formerly: Acts 1971, P.L.366, SEC.7.) As amended by P.L.152-1986, SEC.73; P.L.14-1992, SEC.60; P.L.122-1994, SEC.37; P.L.63-2001, SEC.4 and P.L.134-2001, SEC.4; P.L.213-2007, SEC.18; P.L.217-2007, SEC.17; P.L.35-2010, SEC.81; P.L.27-2012, SEC.28.

IC 24-4.5-6-203
Fees

Sec. 203. (1) Persons required to file notification who are sellers, lessors, or lenders shall pay a fee in an amount and at intervals to be prescribed by the director under IC 28-11-3-5. The fee shall be a set amount for each one hundred thousand dollars ($100,000), or part thereof, in excess of one hundred thousand dollars ($100,000), of the original unpaid balances arising from consumer credit sales, consumer leases, and consumer loans made in Indiana and held either by the seller, lessor, or lender for more than thirty (30) days after the inception of the sale, lease, or loan giving rise to the obligations, or by an assignee who has not filed notification. A refinancing of a sale, lease, or loan resulting in an increase in the amount of an obligation is a new sale, lease, or loan to the extent of the increase. In prescribing the fee, the department shall consider the costs and expense incurred or estimated to be incurred by the department in the administration of this article, including, but not limited to, the supervision, regulation, and examination of persons subject to the provisions of the article.

(2) Persons required to file notification who are assignees shall pay a fee as prescribed and fixed by the department under subsection (1) on the unpaid balances at the time of the assignment of obligations arising from consumer credit sales, consumer leases, and consumer loans made in Indiana taken by assignment during the preceding calendar year, but an assignee need not pay a fee with respect to an obligation on which the assignor or other person has already paid a fee.

(3) Persons required to file notification who are assignors shall pay a fee as prescribed by the department under subsection (1) on the unpaid balances at the time of the assignment of obligations arising from consumer credit sales, consumer leases, and consumer loans made in Indiana during the preceding calendar year unless the assignee has already paid the fees.

(4) Persons required to renew a license under IC 24-4.5-3-503.6 may deduct the fees paid under IC 24-4.5-3-503(8)(b) and IC 24-4.5-3-503(8)(c), as applicable, from fees paid under this section.

(5) A person that is required to file notification under

IC 24-4.5-6-202 shall pay a fee at the same rate as prescribed and fixed by the department under subsection (1) on the original unpaid balances of all closed end credit obligations originating from the person's place of business during the time preceding the notification as specified under subsection (1), unless the fees for the obligations have been paid by another person.

(Formerly: Acts 1971, P.L.366, SEC.7.) As amended by Acts 1977, P.L.269, SEC.1; P.L.247-1983, SEC.23; P.L.14-1992, SEC.61; P.L.122-1994, SEC.38; P.L.213-2007, SEC.19; P.L.217-2007, SEC.18; P.L.90-2008, SEC.13; P.L.27-2012, SEC.29.

IC 24-4.5-6-204

Nonapplicability of licensing and notification requirements to attorneys' services

Sec. 204. IC 24-4.5-3-502, IC 24-4.5-6-201, IC 24-4.5-6-202, and IC 24-4.5-6-203 are not applicable to services performed by attorneys.

As added by P.L.153-1986, SEC.3. Amended by P.L.213-2007, SEC.20; P.L.217-2007, SEC.19.

IC 24-4.5-7
Chapter 7. Small Loans

IC 24-4.5-7-101
Citation

Sec. 101. This chapter shall be known and may be cited as Uniform Consumer Credit Code — Small Loans.
As added by P.L.38-2002, SEC.1.

IC 24-4.5-7-102
Applicability; authority to make, take assignment of, or collect small loans; license required; application; separate license required for activities involving consumer loans; "regularly engages"

Sec. 102. (1) Except as otherwise provided, all provisions of this article applying to consumer loans, including IC 24-4.5-3-502.2, apply to small loans, as defined in this chapter.

(2) Subject to subsection (7), a person may not regularly engage in Indiana in any of the following actions unless the department first issues to the person a license under this chapter:

(a) The making of small loans.

(b) Taking assignments of small loans.

(c) Undertaking the direct collection of payments from or the enforcement of rights against debtors arising from small loans.

(3) Subject to subsection (4), a person that seeks licensure under this chapter:

(a) shall apply to the department for a license in the form and manner prescribed by the department; and

(b) is subject to the same licensure requirements and procedures as an applicant for a license to make consumer loans (other than mortgage transactions) under IC 24-4.5-3-502.

(4) A person that seeks to make, take assignments of, or undertake the direct collection of payments from or the enforcement of rights against debtors arising from both:

(a) small loans under this chapter; and

(b) consumer loans (other than mortgage transactions) that are not small loans;

must obtain a separate license from the department for each type of loan, as described in IC 24-4.5-3-502(5).

(5) This chapter applies to:

(a) a lender or to any person who facilitates, enables, or acts as a conduit for any person who is or may be exempt from licensing under IC 24-4.5-3-502;

(b) a bank, savings association, credit union, or other state or federally regulated financial institution except those that are specifically exempt regarding limitations on interest rates and fees; or

(c) a person, if the department determines that a transaction is:

(i) in substance a disguised loan; or
(ii) the application of subterfuge for the purpose of avoiding this chapter.

(6) A loan that:
(a) does not qualify as a small loan under section 104 of this chapter;
(b) is for a term shorter than that specified in section 401(1) of this chapter; or
(c) is made in violation of section 201, 401, 402, 404, or 410 of this chapter;

is subject to this article. The department may conform the finance charge for a loan described in this subsection to the limitations set forth in IC 24-4.5-3-508.

(7) Notwithstanding IC 24-4.5-1-301.5, for purposes of subsection (2), a person "regularly engages" in any of the activities described in subsection (2) with respect to a small loan if the person:
(a) performed any of the activities described in subsection (2) with respect to a small loan at least one (1) time in the preceding calendar year; or
(b) performs or will perform any of the activities described in subsection (2) with respect to a small loan at least one (1) time in the current calendar year if the person did not perform any of the activities described in subsection (2) with respect to a small loan at least one (1) time in the preceding calendar year.

As added by P.L.38-2002, SEC.1. Amended by P.L.10-2006, SEC.11 and P.L.57-2006, SEC.11; P.L.213-2007, SEC.21; P.L.217-2007, SEC.20; P.L.35-2010, SEC.82; P.L.137-2014, SEC.17; P.L.186-2015, SEC.23.

IC 24-4.5-7-103
Definitions

Sec. 103. The following definitions apply to this chapter:

"Small loan"	Section 7-104
"Principal"	Section 7-105
"Check"	Section 7-106
"Renewal"	Section 7-107
"Consecutive small loan"	Section 7-108
"Paid in full"	Section 7-109
"Monthly gross income"	Section 7-110
"Lender"	Section 7-111

As added by P.L.38-2002, SEC.1. Amended by P.L.2-2005, SEC.61; P.L.10-2006, SEC.12 and P.L.57-2006, SEC.12.

IC 24-4.5-7-104
Small loan

Sec. 104. (1) "Small loan" means a loan:
(a) with a principal loan amount that is at least fifty dollars ($50) and not more than five hundred fifty dollars ($550); and

(b) in which the lender holds the borrower's check for a specific period, or receives the borrower's written authorization to debit the borrower's account (other than as a result of default) under an agreement, either express or implied, for a specific period, before the lender:

(i) offers the check for deposit or presentment; or

(ii) exercises the authorization to debit the borrower's account.

(2) The amount of five hundred fifty dollars ($550) in subsection (1)(a) is subject to change under the provisions on adjustment of dollar amounts (IC 24-4.5-1-106). However, notwithstanding IC 24-4.5-1-106(1), the Reference Base Index to be used under this subsection is the Index for October 2006.

As added by P.L.38-2002, SEC.1. Amended by P.L.73-2004, SEC.17; P.L.213-2007, SEC.22; P.L.217-2007, SEC.21; P.L.216-2013, SEC.13.

IC 24-4.5-7-105
Principal

Sec. 105. "Principal" means the total of:

(a) the net amount paid to, receivable by, or paid or payable from the account of the borrower; and

(b) to the extent that the payment is deferred, the additional charges permitted by this chapter that are not included in subdivision (a).

As added by P.L.38-2002, SEC.1. Amended by P.L.73-2004, SEC.18.

IC 24-4.5-7-106
Check

Sec. 106. For purposes of this chapter, "check" has the meaning set forth in IC 26-1-3.1-104.

As added by P.L.38-2002, SEC.1.

IC 24-4.5-7-107
Renewal

Sec. 107. "Renewal" refers to a small loan that takes the place of an existing small loan by:

(a) renewing;

(b) repaying;

(c) refinancing; or

(d) consolidating;

a small loan with the proceeds of another small loan made to the same borrower by a lender.

As added by P.L.38-2002, SEC.1. Amended by P.L.73-2004, SEC.19.

IC 24-4.5-7-108
Consecutive small loan

Sec. 108. "Consecutive small loan" means a new small loan

agreement that the lender enters with the same borrower not later than seven (7) calendar days after a previous small loan made to that borrower is paid in full.
As added by P.L.38-2002, SEC.1. Amended by P.L.73-2004, SEC.20.

IC 24-4.5-7-109
Paid in full

Sec. 109. "Paid in full" means the termination of a small loan through:

(1) the presentment of the borrower's check for payment by the drawee bank or the exercise by the lender of an authorization to debit an account of the borrower; or

(2) the return of a check to a borrower who redeems it for consideration.

As added by P.L.38-2002, SEC.1. Amended by P.L.73-2004, SEC.21; P.L.10-2006, SEC.13 and P.L.57-2006, SEC.13.

IC 24-4.5-7-110
Monthly gross income

Sec. 110. "Monthly gross income" means the income received by the borrower in the thirty (30) day period preceding the borrower's application for a small loan under this chapter and exclusive of any income other than regular gross pay received, or as otherwise determined by the department.
As added by P.L.38-2002, SEC.1. Amended by P.L.73-2004, SEC.22.

IC 24-4.5-7-111
Lender

Sec. 111. "Lender" means a person that acquires and retains a license issued by the department of financial institutions under this chapter to engage in small loans.
As added by P.L.10-2006, SEC.14 and P.L.57-2006, SEC.14. Amended by P.L.186-2015, SEC.24.

IC 24-4.5-7-112
Lender not considered a financial institution

Sec. 112. A lender is not considered a financial institution, except for purposes of IC 28-1.
As added by P.L.10-2006, SEC.15 and P.L.57-2006, SEC.15.

IC 24-4.5-7-201
Finance charges

Sec. 201. (1) Finance charges on the first two hundred fifty dollars ($250) of a small loan are limited to fifteen percent (15%) of the principal.

(2) Finance charges on the amount of a small loan greater than two hundred fifty dollars ($250) and less than or equal to four hundred dollars ($400) are limited to thirteen percent (13%) of the

amount over two hundred fifty dollars ($250) and less than or equal to four hundred dollars ($400).

(3) Finance charges on the amount of the small loan greater than four hundred dollars ($400) and less than or equal to five hundred fifty dollars ($550) are limited to ten percent (10%) of the amount over four hundred dollars ($400) and less than or equal to five hundred fifty dollars ($550).

(4) The amount of five hundred fifty dollars ($550) in subsection (3) is subject to change under the provisions on adjustment of dollar amounts (IC 24-4.5-1-106). However, notwithstanding IC 24-4.5-1-106(1), the Reference Base Index to be used under this subsection is the Index for October 2006.

As added by P.L.38-2002, SEC.1. Amended by P.L.73-2004, SEC.23; P.L.141-2005, SEC.3; P.L.213-2007, SEC.23; P.L.217-2007, SEC.22.

IC 24-4.5-7-202
Fee for dishonored check or debit authorization

Sec. 202. (1) Notwithstanding any other law, the only fee that may be contracted for and received by the lender or an assignee on a small loan is a charge, not to exceed twenty-five dollars ($25), for each:

(a) return by a bank or other depository institution of a dishonored:

(i) check;

(ii) negotiable order of withdrawal; or

(iii) share draft;

issued by the borrower; or

(b) time an authorization to debit the borrower's account is dishonored.

This additional charge may be assessed one (1) time regardless of how many times a check or an authorization to debit the borrower's account may be submitted by the lender and dishonored.

(2) A lender may:

(a) present a borrower's check for payment; or

(b) exercise a borrower's authorization to debit the borrower's account;

not more than three (3) times.

As added by P.L.38-2002, SEC.1. Amended by P.L.73-2004, SEC.24; P.L.213-2007, SEC.24; P.L.217-2007, SEC.23; P.L.90-2008, SEC.14; P.L.60-2016, SEC.4.

IC 24-4.5-7-301
Disclosures; informational brochure

Sec. 301. (1) For purposes of this section, the lender shall disclose to the borrower to whom credit is extended with respect to a small loan the information required by the Federal Consumer Credit Protection Act.

(2) In addition to the requirements of subsection (1), the lender

must conspicuously display in bold type a notice to the public both in the lending area of each business location and in the loan documents the following statement:

"WARNING: A small loan is not intended to meet long term financial needs. A small loan should be used only to meet short term cash needs. The cost of your small loan may be higher than loans offered by other lending institutions. Small loans are regulated by the State of Indiana Department of Financial Institutions.

A borrower may rescind a small loan without cost by paying the cash amount of the principal of the small loan to the lender not later than the end of the business day immediately following the day on which the small loan was made.".

(3) The statement required in subsection (2) must be in:

(a) 14 point bold face type in the loan documents; and

(b) not less than one (1) inch bold print in the lending area of the business location.

(4) When a borrower enters into a small loan, the lender shall provide the borrower with a pamphlet approved by the department that describes:

(a) the availability of debt management and credit counseling services; and

(b) the borrower's rights and responsibilities in the transaction.

As added by P.L.38-2002, SEC.1. Amended by P.L.73-2004, SEC.25; P.L.35-2010, SEC.83.

IC 24-4.5-7-401

Term of loan; consecutive small loans; extended payment plans

Sec. 401. (1) A small loan may not be made for a term of less than fourteen (14) days.

(2) If five (5) consecutive small loans have been made to a borrower after the borrower's initial small loan, another small loan may not be made to that borrower within seven (7) days after the fifth consecutive small loan is paid in full. After the borrower's fifth consecutive small loan, the balance must be paid in full.

(3) Subject to subsection (4), whenever a borrower has entered into an initial small loan followed by three (3) consecutive small loans, the lender shall offer the borrower the option to repay:

(a) the third consecutive small loan; and

(b) subject to subsection (2), any small loan entered into after the third consecutive small loan;

under an extended payment plan. At the time of execution of a small loan described in subdivision (a) or (b), the lender shall disclose to the borrower the extended payment plan option by providing the borrower a written description of the extended payment plan option in a separate disclosure document approved by the director.

(4) A lender shall offer an extended payment plan under subsection (3) under the following terms and conditions:

(a) A borrower shall be permitted to request an extended payment plan at any time during the term of a third or subsequent consecutive small loan if the borrower has not defaulted on the outstanding small loan.

(b) An extended payment plan must allow the outstanding small loan to be paid in at least four (4) equal installments over a period of not less than sixty (60) days.

(c) An agreement for an extended payment plan may not require a borrower to pay any amount before the original maturity date of the outstanding small loan.

(d) The lender may not assess any fee or charge on a borrower for entering into an extended payment plan.

(e) An agreement for an extended payment plan must be in writing and acknowledged by both the borrower and the lender.

(f) A borrower may not enter into another small loan transaction while engaged in an extended payment plan.

(g) A lender may not compel or require a borrower to pay off an outstanding small loan that is eligible for an extended payment plan and to subsequently enter into a new small loan with the lender if the borrower and lender have not entered into an extended payment plan with respect to the eligible outstanding small loan.

(5) An agreement for an extended payment plan under subsection (3):

(a) shall be considered an extension of the outstanding small loan; and

(b) may not be considered a new loan.

As added by P.L.38-2002, SEC.1. Amended by P.L.258-2003, SEC.2; P.L.73-2004, SEC.26; P.L.10-2006, SEC.16 and P.L.57-2006, SEC.16; P.L.213-2007, SEC.25; P.L.217-2007, SEC.24; P.L.186-2015, SEC.25.

IC 24-4.5-7-402

Limits based on borrower's income; security; partial payments; payments; loan documents; recision; renewal prohibited

Sec. 402. (1) A lender is prohibited from making a small loan to a borrower if the total of:

(a) the principal amount and finance charges of the small loan to be issued; plus

(b) any other small loan balances that the borrower has outstanding with any lender;

exceeds twenty percent (20%) of the borrower's monthly gross income.

(2) A small loan may be secured by only one (1) check or authorization to debit the borrower's account per small loan. The check or electronic debit may not exceed the amount advanced to or on behalf of the borrower plus loan finance charges contracted for and permitted.

(3) A borrower may make partial payments in any amount on the small loan without charge at any time before the due date of the small loan.

(4) After any payment is made on a small loan, whether the payment is made in part or in full before, on, or after the due date of the small loan, the lender shall give a signed and dated receipt to the borrower making a payment showing the amount paid and the balance due on the small loan.

(5) The lender shall provide to each borrower a copy of the required loan documents before the disbursement of the loan proceeds.

(6) A borrower may rescind a small loan without cost by paying the cash amount of the principal of the small loan to the lender not later than the end of the business day immediately following the day on which the small loan was made.

(7) A lender shall not enter into a renewal with a borrower. If a loan is paid in full, a subsequent loan is not a renewal.

As added by P.L.38-2002, SEC.1. Amended by P.L.73-2004, SEC.27; P.L.213-2007, SEC.26; P.L.217-2007, SEC.25; P.L.35-2010, SEC.84; P.L.27-2012, SEC.30.

IC 24-4.5-7-403

Security for loan

Sec. 403. A small loan may not be secured by personal property other than a check or electronic debit.

As added by P.L.38-2002, SEC.1.

IC 24-4.5-7-404

Limits and number and amounts of outstanding loans; lender's verification; third party data base; civil penalties; excess finance charges; verification of Social Security number

Sec. 404. (1) As used in this section, "commercially reasonable method of verification" means a private consumer credit reporting service that the department determines to be capable of providing a lender with adequate verification information necessary to ensure compliance with subsection (4).

(2) With respect to a small loan, no lender may permit a person to become obligated under more than one (1) loan agreement with the lender at any time.

(3) A lender shall not make a small loan that, when combined with the outstanding balance on another outstanding small loan owed to another lender, exceeds a total of five hundred fifty dollars ($550), excluding finance charges. A lender shall not make a small loan to a borrower who has two (2) or more small loans outstanding, regardless of the total value of the small loans. The amount of five hundred fifty dollars ($550) in this subsection is subject to change under the provisions on adjustment of dollar amounts (IC 24-4.5-1-106). However, notwithstanding IC 24-4.5-1-106(1), the

Reference Base Index to be used under this subsection is the Index for October 2006.

(4) A lender complies with subsection (3) if the lender independently verifies the total number of outstanding small loans and the total outstanding balance of those small loans for a customer through a commercially reasonable method of verification. A lender's method of verifying whether a borrower has any outstanding small loans and the total outstanding balance of any loans will be considered commercially reasonable if the method includes a manual investigation or an electronic query of:

(a) the lender's own records, including both records maintained at the location where the borrower is applying for the transaction and records maintained at other locations within the state that are owned and operated by the lender; and

(b) an available third party data base provided by a private consumer reporting service, subject to the identification verification requirements set forth in subsection (12).

(5) The department shall monitor the effectiveness of private consumer credit reporting services in providing the verification information required under subsection (4). If the department determines that a commercially reasonable method of verification is available, the department shall:

(a) provide reasonable notice to all lenders identifying the commercially reasonable method of verification that is available; and

(b) require each lender to use, consistent with the policies of the department, the identified commercially reasonable method of verification as a means of complying with subsection (4).

(6) If a borrower presents evidence to a lender that a loan has been discharged in bankruptcy, the lender shall cause the record of the borrower's loan to be updated in the data base described in subsection (4)(b) to reflect the bankruptcy discharge.

(7) A lender shall cause the record of a borrower's loan to be updated in the data base described in subsection (4)(b) to reflect:

(a) presentment of the borrower's check for payment; or

(b) exercise of the borrower's authorization to debit the borrower's account.

If a check is returned or an authorization is dishonored because of insufficient funds in the borrower's account, the lender shall reenter the record of the loan in the data base.

(8) A lender shall update information in a data base described in subsection (4)(b) to reflect partial payments made on an outstanding loan, the record of which is maintained in the data base.

(9) If a lender ceases doing business in Indiana, the director may require the operator of the data base described in subsection (4)(b) to remove records of the lender's loans from the operator's data base.

(10) The director may impose a civil penalty not to exceed one hundred dollars ($100) for each violation of:

(a) this section; or

(b) any rule or policy adopted by the director to implement this section.

(11) The excess amount of loan finance charge provided for in agreements in violation of this section is an excess charge for purposes of the provisions concerning effect of violations on rights of parties (IC 24-4.5-5-202) and the provisions concerning civil actions by the department (IC 24-4.5-6-113).

(12) If a borrower provides the borrower's Social Security number to a lender in connection with any transaction or proposed transaction under this chapter, the lender shall:

(a) maintain procedures to verify that the Social Security number provided is legitimate and belongs to the borrower; and

(b) retain copies of any documents used to verify the borrower's Social Security number. Documentation under this subdivision may be in electronic form and the numbers may be truncated.

If a borrower does not have a Social Security number, the lender may require and accept another valid form of government issued identification, subject to the requirements of subdivisions (a) and (b) with respect to the government issued identification accepted.

As added by P.L.38-2002, SEC.1. Amended by P.L.73-2004, SEC.28; P.L.10-2006, SEC.17 and P.L.57-2006, SEC.17; P.L.213-2007, SEC.27; P.L.217-2007, SEC.26; P.L.90-2008, SEC.15; P.L.35-2010, SEC.85.

IC 24-4.5-7-405

Conducting other business

Sec. 405. (1) This section does not apply to a business that is licensed by the department for a purpose other than consumer loans.

(2) A lender shall not conduct the business of making small loans under this chapter within an office, suite, room, or place of business where another business is solicited or engaged unless the lender obtains a written opinion from the director of the department that the other business would not be contrary to the best interests of consumers.

As added by P.L.38-2002, SEC.1.

IC 24-4.5-7-406

Borrower's default; permissible and prohibited remedies; notice to borrower

Sec. 406. (1) An agreement with respect to a small loan may not provide for charges as a result of default by the borrower other than those specifically authorized by this chapter. A provision in a small loan agreement in violation of this section is unenforceable.

(2) A lender or an assignee of a small loan may seek only the following remedies upon default by a borrower:

(a) Recovery of:

(i) the contracted principal amount of the loan; and

(ii) the loan finance charge.

(b) If contracted for under section 202 of this chapter, collection of a fee for:

(i) a returned check, negotiable order of withdrawal, or share draft; or

(ii) a dishonored authorization to debit the borrower's account;

because of insufficient funds in the borrower's account.

(c) Collection of postjudgment interest, if awarded by a court.

(d) Collection of court costs, if awarded by a court.

(3) A lender or an assignee of a small loan may not seek any of the following damages or remedies upon default by a borrower:

(a) Payment of the lender's attorney's fees.

(b) Treble damages.

(c) Prejudgment interest.

(d) Damages allowed for dishonored checks under any statute other than this chapter.

(e) Any damages or remedies not set forth in subsection (2).

(4) A contractual agreement in a small loan transaction must include a notice of the following in 14 point bold type:

(a) The remedies available to a lender or an assignee under subsection (2).

(b) The remedies and damages that a lender or an assignee is prohibited from seeking in a small loan transaction under subsection (3).

As added by P.L.38-2002, SEC.1. Amended by P.L.73-2004, SEC.29; P.L.10-2006, SEC.18 and P.L.57-2006, SEC.18; P.L.90-2008, SEC.16; P.L.60-2016, SEC.5.

IC 24-4.5-7-407
Repealed

(As added by P.L.38-2002, SEC.1. Repealed by P.L.73-2004, SEC.48.)

IC 24-4.5-7-408
Repealed

(As added by P.L.38-2002, SEC.1. Repealed by P.L.73-2004, SEC.48.)

IC 24-4.5-7-409
Violations; remedies and damages; equitable relief; exhaustion of administrative remedies not required

Sec. 409. (1) This section applies to licensees and unlicensed persons.

(2) A person who violates this chapter:

(a) is subject to the remedies provided in IC 24-4.5-5-202;

(b) commits a deceptive act under IC 24-5-0.5 and is subject to the penalties listed in IC 24-5-0.5;

(c) has no right to collect, receive, or retain any principal, interest, or other charges from a small loan; however, this subdivision does not apply if the violation is the result of an accident or bona fide error of computation; and

(d) is liable to the borrower for actual damages, statutory damages of two thousand dollars ($2,000) per violation, costs, and attorney's fees; however, this subdivision does not apply if the violation is the result of an accident or bona fide error of computation.

The remedies described in this subsection are in addition to all other remedies set forth in this article.

(3) The department may sue:

(a) to enjoin any conduct that constitutes or will constitute a violation of this chapter; and

(b) for other equitable relief.

(4) The remedies provided in this section are cumulative but are not intended to be the exclusive remedies available to a borrower. A borrower is not required to exhaust any administrative remedies under this section or any other applicable law.

As added by P.L.38-2002, SEC.1. Amended by P.L.73-2004, SEC.30; P.L.10-2006, SEC.19 and P.L.57-2006, SEC.19; P.L.90-2008, SEC.17.

IC 24-4.5-7-410

Prohibited acts by lender

Sec. 410. A lender making small loans, or an assignee of a small loan, shall not commit nor cause to be committed any of the following acts:

(a) Threatening to use or using the criminal process in any state to collect on a small loan.

(b) Threatening to take action against a borrower that is prohibited by this chapter.

(c) Making a misleading or deceptive statement regarding a small loan or a consequence of taking a small loan.

(d) Contracting for or collecting attorney's fees on small loans made under this chapter.

(e) Altering the date or any other information on a check or an authorization to debit the borrower's account held as security.

(f) Using a device or agreement that the department determines would have the effect of charging or collecting more fees, charges, or interest than allowed by this chapter, including, but not limited to:

(i) entering a different type of transaction with the borrower;

(ii) entering into a sales/leaseback arrangement;

(iii) catalog sales;

(iv) entering into transactions in which a customer receives a purported cash rebate that is advanced by someone offering Internet content services, or some other product or

service, when the cash rebate does not represent a discount or an adjustment of the purchase price for the product or service; or

(v) entering any other transaction with the borrower that is designed to evade the applicability of this chapter.

(g) Engaging in unfair, deceptive, or fraudulent practices in the making or collecting of a small loan.

(h) Charging to cash a check representing the proceeds of a small loan.

(i) Except as otherwise provided in this chapter:

(i) accepting the proceeds of a new small loan as payment of an existing small loan provided by the same lender; or

(ii) renewing, refinancing, or consolidating a small loan with the proceeds of another small loan made by the same lender.

(j) Including any of the following provisions in a loan document:

(i) A hold harmless clause.

(ii) A confession of judgment clause.

(iii) A mandatory arbitration clause, unless the terms and conditions of the arbitration have been approved by the director of the department.

(iv) An assignment of or order for payment of wages or other compensation for services.

(v) A provision in which the borrower agrees not to assert a claim or defense arising out of contract.

(vi) A waiver of any provision of this chapter.

(k) Selling insurance of any kind in connection with the making or collecting of a small loan.

(l) Entering into a renewal with a borrower.

As added by P.L.38-2002, SEC.1. Amended by P.L.73-2004, SEC.31; P.L.10-2006, SEC.20 and P.L.57-2006, SEC.20; P.L.90-2008, SEC.18.

IC 24-4.5-7-411
Exemption of finance charges

Sec. 411. Finance charges made in compliance with this chapter are exempt from IC 24-4.5-3-508 and IC 35-45-7.

As added by P.L.38-2002, SEC.1.

IC 24-4.5-7-412
Endorsement of check

Sec. 412. Upon the receipt of a check from a borrower for a small loan, unless the check is marked as void at the time of acceptance by the lender, the lender shall immediately stamp the back of the check with an endorsement that states:

"This check is being negotiated as part of a small loan under IC 24-4.5, and any holder of this check takes it subject to the claims and defenses of the maker.".

As added by P.L.38-2002, SEC.1. Amended by P.L.73-2004, SEC.32; P.L.35-2010, SEC.86.

IC 24-4.5-7-413

Surety bond; requirements; amount; termination; liability; notices

Sec. 413. (1) A person engaged in making small loans under this chapter shall post a bond to the department in the amount of fifty thousand dollars ($50,000) for each location where small loans will be made, up to a maximum bond in an amount determined by the director.

(2) A surety bond issued under this section must:

(a) provide coverage for a lender engaged in making small loans under this chapter in an amount as prescribed in subsection (1);

(b) be in a form prescribed by the director;

(c) be in effect during the term of the lender's license under this chapter;

(d) remain in effect during the two (2) years after the lender ceases offering financial services to individuals in Indiana;

(e) be payable to the department for the benefit of:

(i) the state; and

(ii) individuals who reside in Indiana when they agree to receive financial services from the lender;

(f) be issued by a bonding, surety, or insurance company authorized to do business in Indiana and rated at least "A-" by at least one (1) nationally recognized investment rating service; and

(g) have payment conditioned upon the lender's or any of the lender's employees' or agents' noncompliance with or violation of this article or other applicable federal or state laws or regulations.

(3) The director may adopt rules or guidance documents with respect to the requirements for a surety bond as necessary to accomplish the purposes of this chapter.

(4) If the principal amount of a surety bond required under this section is reduced by payment of a claim or judgment, the lender for whom the bond is issued shall immediately notify the director of the reduction and, not later than thirty (30) days after notice by the director, file a new or an additional surety bond in an amount set by the director. The amount of the new or additional bond set by the director must be at least the amount of the bond before payment of the claim or judgment.

(5) If for any reason a surety terminates a bond issued under this section, the lender shall immediately notify the department and file a new surety bond in an amount as prescribed in subsection (1).

(6) Cancellation of a surety bond issued under this section does not affect any liability incurred or accrued during the period when the surety bond was in effect.

(7) The director may obtain satisfaction from a surety bond issued

under this section if the director incurs expenses, issues a final order, or recovers a final judgment under this chapter.

(8) Notices required under this section must be in writing and delivered by certified mail, return receipt requested and postage prepaid, or by overnight delivery using a nationally recognized carrier.

As added by P.L.38-2002, SEC.1. Amended by P.L.258-2003, SEC.3; P.L.35-2010, SEC.87; P.L.216-2013, SEC.14.

IC 24-4.5-7-414

Rulemaking authority

Sec. 414. The department may adopt rules under IC 4-22-2 to implement this chapter.

As added by P.L.38-2002, SEC.1.