January 24, 2014

HOUSE BILL No. 1245

DIGEST OF HB 1245 (Updated January 22, 2014 2:37 pm - DI 101)

Citations Affected: IC 24-4.4; IC 24-4.5; IC 24-5; IC 24-7; IC 28-1; IC 28-7; IC 28-8; IC 28-10; IC 28-11; IC 28-13; IC 30-4.

Synopsis: Various financial institutions matters. Makes various changes to the laws concerning: (1) financial institutions; (2) debt management companies; (3) pawnbrokers; (4) money transmitters; (5) check cashers; (6) persons licensed under the Uniform Consumer Credit Code; (7) first lien mortgage lenders; and (8) rental purchase agreements. Repeals a provision that provides that all debts: (1) owed to certain financial institutions; and (2) on which interest is past due for a period of six months; are bad debts unless, in the opinion of the department of financial institutions, the debts are well secured.

Effective: Upon passage; July 1, 2014.

Heaton, Burton, Hale, Moed

January 14, 2014, read first time and referred to Committee on Financial Institutions.
January 23, 2014, amended, reported — Do Pass.

January 24, 2014

Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

HOUSE BILL No. 1245

A BILL FOR AN ACT to amend the Indiana Code concerning financial institutions.

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

SECTION 1. IC 24-4.4-1-102, AS AMENDED BY P.L.216-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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 permit and encourage the development of fair and economically sound first lien mortgage lending practices; and

(b) to conform the regulation of first lien mortgage lending practices to applicable state and federal laws, rules, regulations, policies, and guidance.

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

(4) A reference to a federal law in this article is a reference to the law as in effect December 31, ~~2012.~~ **2013.**

SECTION 2. IC 24-4.4-1-202, AS AMENDED BY P.L.13-2013, SECTION 65, IS AMENDED TO READ AS FOLLOWS

[EFFECTIVEJULY 1, 2014]: Sec. 202. (a) As used in this section, "balloon payment", with respect to a mortgage transaction, means any payment:

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

(2) that 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) A first lien mortgage transaction in which the debt is incurred primarily for a purpose other than a personal, family, or household purpose.

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

(4) Except for IC 24-4.4-2-401(2), IC 24-4.4-2-402.3, IC 24-4.4-2-405(4), and IC 24-4.4-2-405(5), a first lien mortgage transaction 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.

(5) Except for IC 24-4.4-2-401(2), IC 24-4.4-2-402.3, IC 24-4.4-2-405(4), and IC 24-4.4-2-405(5), a first 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 federal Housing and Community Development Act of 1974, Public Law 93-383, as amended (42 U.S.C. 5301 et seq.).

(6) An extension of credit originated by:

(a) a depository institution;

(b) subsidiaries **that are not licensed under this article and** that are:

(i) owned and controlled by a depository institution; and

(ii) regulated by a federal banking agency; or

(c) an institution regulated by the Farm Credit Administration.

(7) Except for IC 24-4.4-2-401(2), IC 24-4.4-2-402.3, IC 24-4.4-2-405(4), and IC 24-4.4-2-405(5), a credit union service organization that is majority owned, directly or indirectly, by one (1) or more credit unions.

(8) A first lien mortgage transaction originated by a registered mortgage loan originator, when acting for an entity described in subsection (6). However, a privately insured state chartered credit union shall comply with the system of mortgage loan originator registration developed by the Federal Financial Institutions Examinations Council under Section 1507 of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE).

(9) An individual who offers or negotiates terms of a mortgage transaction with or on behalf of an immediate family member of the individual.

(10) An individual who offers or negotiates terms of a mortgage transaction secured by a dwelling that served as the individual's residence.

(11) Unless the attorney is compensated by:

(a) a lender;

(b) a mortgage broker;

(c) another mortgage loan originator; or

(d) any agent of the lender, mortgage broker, or other mortgage loan originator described in clauses (a) through (c);

a licensed attorney who negotiates the terms of a mortgage transaction on behalf of a client as an ancillary matter to the attorney's representation of the client.

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

(13) A person in whose name a tablefunded transaction is closed, as described in section 301(34)(a) of this chapter. However, the exemption provided by this subsection does not apply if:

(a) the transaction:

(i) is secured by a dwelling that is a mobile home, a manufactured home, or a trailer; and

(ii) is not also secured by an interest in land; and

(b) the person in whose name the transaction is closed, as described in section 301(34)(a) of this chapter, sells the dwelling to the debtor through a retail installment contract or other similar transaction.

(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(37) 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(37) 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.

SECTION 3. IC 24-4.4-1-301, AS AMENDED BY P.L.216-2013, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 301. In addition to definitions appearing in subsequent chapters of 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 the parties' language or by implication from other circumstances, including course of dealing or usage of trade or course of performance.

(3) "Agricultural products" includes agricultural products, horticultural products, viticultural products, dairy products, livestock, wildlife, poultry, bees, forest products, fish and shellfish, any products raised or produced on farms, and any products processed or manufactured from products raised or produced on farms.

(4) "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.

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

(a) credit is granted by a person who 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 ~~sale~~ amount **of credit extended, the written credit limit, or the initial advance** does not exceed fifty-three thousand **five hundred** dollars ~~($53,000)~~ **($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.

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

(7) "Creditor" means a person:

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

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

The term does not include a person described in subsection (34)(a) in a tablefunded transaction. A creditor may be an individual, a limited liability company, a sole proprietorship, a partnership, a trust, a joint venture, a corporation, an unincorporated organization, or other form of entity, however organized.

(8) "Department" refers to the members of the department of financial institutions.

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

(10) "Director" refers to the director of the department of financial institutions or the director's designee.

(11) "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.

(12) "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.

(13) "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.

(14) "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.

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

(16) "Individual" means a natural person.

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

(18) "Loan" includes:

(a) the creation of debt by:

(i) the creditor's payment of or agreement to pay money to the debtor or to a third party for the account of the debtor; or

(ii) the extension of credit by a person who engages as a seller in credit transactions primarily secured by an interest in land;

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

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

(19) "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.

(20) "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.

(21) "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 24-4.5 or is made by an employee of a person licensed or exempt from licensing under this article or under IC 24-4.5, 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 a creditor, a loan broker, or another mortgage loan originator described in items (i) through (iii);

a person or entity that performs only 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)).

(22) "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.

(23) "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.

(24) "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.

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

(26) "Organization" means a corporation, a government or government 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.

(27) "Payable in installments", with respect to a debt or an obligation, means that payment is required or permitted by written agreement to be made in more than four (4) installments not including a down payment.

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

(29) "Principal" of a mortgage transaction means the total of:

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

(b) to the extent that payment is deferred, amounts actually paid or to be paid by the creditor for registration, certificate of title, or license fees if not included in clause (a).

(30) "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 engaged in the activity 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.

(31) "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.

(32) "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.

(33) "Revolving first lien mortgage transaction" means a first lien mortgage transaction in which:

(a) the creditor permits the debtor to obtain advances from time to time;

(b) the unpaid balances of principal, finance charges, and other appropriate charges are debited to an account; and

(c) the debtor has the privilege of paying the balances in installments.

(34) "Tablefunded" means a transaction in which:

(a) a person closes a first lien mortgage transaction in the person's own name as a mortgagee with funds provided by one (1) or more other persons; and

(b) the transaction is assigned, not later than one (1) business day after the funding of the transaction, to the mortgage creditor providing the funding.

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

(36) "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.

(37) "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.

(38) "Regularly engaged", with respect to a person who extends or originates first lien mortgage transactions, refers to a person who:

(a) extended or originated more than five (5) first lien mortgage transactions in the preceding calendar year; or

(b) extends or originates, or will extend or originate, more than five (5) first lien mortgage transactions in the current calendar year if the person did not extend or originate more than five (5) first lien mortgage transactions in the preceding calendar year.

SECTION 4. IC 24-4.4-2-402.3, AS AMENDED BY P.L.216-2013, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 402.3. (1) Each:

(a) creditor; and

(b) person exempt from licensing under this article that employs a licensed mortgage loan originator;

must be covered by a surety bond in accordance with this section.

(2) A surety bond must:

(a) provide coverage for:

(i) a creditor; or

(ii) a person exempt from licensing under this article that employs a **licensed** mortgage loan originator;

in an amount as prescribed in subsection (4);
(b) be in a form 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 employs a licensed mortgage loan originator;
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 ceases to employ a licensed mortgage loan originator 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, 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 a surety bond 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.

SECTION 5. IC 24-4.5-1-102, AS AMENDED BY P.L.216-2013, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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, ~~2012.~~ **2013.**

(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 paragraph 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 paragraph.

(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.

SECTION 6. IC 24-4.5-1-301.5, AS AMENDED BY P.L.216-2013, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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 ~~sale~~ amount **of credit extended, the written credit limit, or the initial advance** does not exceed fifty-three thousand **five hundred** dollars ~~($53,000)~~ **($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 ~~loan~~ amount **of credit extended, the written credit limit, or the initial advance** does not exceed fifty-three thousand **five hundred** dollars ~~($53,000)~~ **($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.

SECTION 7. IC 24-4.5-2-106, AS AMENDED BY P.L.216-2013, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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 fifty-three thousand **five hundred** dollars ~~($53,000)~~ **($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); 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.

SECTION 8. IC 24-4.5-2-407, AS AMENDED BY P.L.35-2010, SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: 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 ~~one~~ **four** thousand dollars ~~($1,000)~~ **($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 ~~one~~ **four** thousand dollars ~~($1,000)~~ **($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 under this subsection is the Index for October 1992.**

SECTION 9. IC 24-4.5-2-602, AS AMENDED BY P.L.216-2013, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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 ~~sale~~ amount **of credit extended, the written credit limit, or the initial advance** does not exceed fifty-three thousand **five hundred** dollars ~~($53,000)~~ **($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.

(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-one percent (21%) 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.

SECTION 10. IC 24-4.5-3-502.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **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.

SECTION 11. IC 24-4.5-3-510 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 510. Restrictions on Interest in Land as Security — (1) With respect to a supervised loan in which the principal is ~~one~~ **four** thousand dollars ~~($1000)~~ **($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 ~~one~~ **four** thousand dollars ~~($1000)~~ **($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 1992.**

SECTION 12. IC 24-4.5-3-511 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: 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 ~~one~~ **four** thousand dollars ~~($1,000)~~ **($4,000)** or less ~~shall be~~ **are** payable in a single instalment or shall be scheduled to be payable in substantially

equal instalments ~~which shall be~~ **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 ~~one~~ **four** thousand dollars ~~($1,000)~~ **($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 under this subsection is the Index for October 1992.**

SECTION 13. IC 24-4.5-3-602, AS AMENDED BY P.L.216-2013, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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 ~~loan~~ amount **of credit extended, the written credit limit, or the initial advance** does not exceed fifty-three thousand **five hundred** dollars ~~($53,000)~~ **($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.

(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.

SECTION 14. IC 24-4.5-4-301 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: 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 ~~dollar~~ ($300) **dollars** 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.**

SECTION 15. IC 24-4.5-5-103 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: 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 ~~he~~ **the seller** has a security interest, and the cash price of the goods repossessed or surrendered was ~~one~~ **four** thousand dollars ~~($1000)~~ **($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 ~~he~~ **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 ~~one~~ **four** thousand dollars ~~($1000)~~ **($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, ~~when~~ **and** under this section ~~he~~ **the seller** would not be entitled to a deficiency judgment if ~~he~~ **the seller** repossessed the collateral, and **the seller** obtains **a** judgment:

(a) ~~he~~ **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 ~~one~~ **four** thousand dollars ~~($1000)~~ **($4,000)** in ~~subsection~~ **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 1992.**

SECTION 16. IC 24-4.5-6-107, AS AMENDED BY P.L.140-2013, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: 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 ~~shall~~ 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, ~~it~~ **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 ~~is~~ next ~~required to issue~~ **adopts** a rule under the statute authorizing or requiring the rule.

SECTION 17. IC 24-4.5-7-102, AS AMENDED BY P.L.35-2010, SECTION 82, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2014]: 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) 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.

(3) 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.

SECTION 18. IC 24-5-23.6-9, AS ADDED BY P.L.115-2010, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 9. (a) The five star mortgage program is established. Not later than June 1, 2010, the department shall adopt guidelines to implement the program. The program established by this section, as implemented through the department's guidelines, must meet the following criteria:

(1) The program must be available on a voluntary basis to creditors that offer mortgages to Indiana customers after June 30, 2010.

(2) To participate in the program, a creditor must submit a certification, on a form prescribed by the department, attesting that the creditor qualifies as a five star mortgage lender.

(3) To qualify as a five star mortgage lender under the program, a creditor must certify, on the form described in subdivision (2), that the creditor meets the following conditions:

(A) The creditor offers or will offer to Indiana customers after

June 30, 2010, at least one (1) mortgage product that qualifies as a five star mortgage under the program.

(B) The creditor does not have a record of any significant or recurring violation of:

(i) IC 24-5-23.5-7; or

(ii) any other state or federal law, regulation, or rule applicable to mortgage transactions;

as of the date of the creditor's certification. If the creditor is not certain whether it meets the criterion set forth in this clause, the creditor shall consult with the department before filing a certification to participate in the program.

(C) The creditor does not have a director or an executive officer who has been convicted of ~~or pleaded guilty or nolo contendere to~~ a felony involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction, as of the date of the creditor's certification. If the creditor is not certain whether it meets the criterion set forth in this clause, the creditor shall consult with the department before filing a certification to participate in the program.

(4) To qualify as a five star mortgage under the program, a mortgage must include the following terms and conditions:

(A) If the mortgage involves a purchase money transaction, the mortgage must require a down payment by the debtor, or a person acting on behalf of the debtor, of at least ten percent (10%) of the purchase price of the dwelling that is the subject of the mortgage. If the mortgage involves the refinancing of an existing mortgage, the customer must have equity of at least ten percent (10%) in the dwelling that is the subject of the mortgage.

(B) The mortgage must have a fixed rate of interest.

(C) The mortgage must provide for an escrow account that:

(i) is established by the creditor, or a person acting on behalf of the creditor, for the benefit of the debtor;

(ii) is maintained by the creditor, or a person acting on behalf of the creditor, during the life of the mortgage; and

(iii) is used during the life of the mortgage to pay taxes and insurance owed with respect to the dwelling that is the subject of the mortgage.

However, this clause does not apply if, in the creditor's ordinary course of business, the creditor does not regularly establish and maintain, or contract for the establishment and maintenance of, escrow accounts for the payment of taxes and

insurance, on behalf of the creditor's customers.

(D) The term of the mortgage may not exceed thirty (30) years.

(E) The mortgage may not include a prepayment penalty or fee.

(5) A creditor that qualifies as a five star mortgage lender and files a certification with the department under subdivision (3) shall provide a written statement, on a form and in the manner prescribed by the department, to any Indiana customer who:

(A) applies for a five star mortgage offered by the creditor; and

(B) does not qualify for the five star mortgage based on the creditor's underwriting standards for the five star mortgage.

The statement must set forth the reasons why the Indiana customer did not qualify for the five star mortgage.

(6) A creditor that qualifies as a five star mortgage lender and files a certification with the department may include that fact in any marketing material or solicitation directed at Indiana customers, subject to any conditions or limitations imposed by the department in the guidelines adopted under this section.

(7) If a creditor:

(A) holds itself out as a five star mortgage lender and:

(i) the creditor has not filed an accurate certification, including any renewal certification required by the department under subsection (b)(3), with the department under this chapter; or

(ii) the creditor has filed a certification or a renewal certification with the department under this chapter and subsequently ceases offering at least one (1) mortgage product that qualifies as a five star mortgage; or

(B) fails to comply with any program requirement;

the department, upon discovering the act described in clause (A) or (B), shall immediately provide written notice to the creditor that the creditor does not qualify for participation in the program, or no longer qualifies for participation in the program, as appropriate. The notice provided under this subdivision must inform the creditor of the reason or reasons the creditor does not qualify for participation in the program, or no longer qualifies for participation in the program, as appropriate. Not later than seven (7) days after the date of the notice provided to the creditor under this subdivision, the department shall remove the creditor from the list of creditors published on the department's Internet web site under subsection (c), as appropriate, and shall post, on the same Internet web page on which the list described in subsection

(c) is published, a link to the notice provided to the creditor under this subdivision.

(b) In addition to the program criteria required by subsection (a), the guidelines adopted by the department under this section may include the following:

(1) Provisions allowing a creditor that qualifies as a five star mortgage lender and files a certification with the department to include in the paperwork associated with a five star mortgage:

(A) a statement;

(B) a seal; or

(C) any other designation considered appropriate by the department;

indicating that the particular mortgage product is a five star mortgage.

(2) A requirement that a creditor that qualifies as a five star mortgage lender and files a certification with the department shall report the following information to the department on an annual basis, or any other basis determined appropriate by the department:

(A) The total number and types of residential mortgage products that were offered by the creditor to Indiana customers during the applicable reporting period, including any five star mortgages reported under clause (C).

(B) The total number of residential mortgages described in clause (A) that were closed by the creditor during the applicable reporting period, including any five star mortgages that were closed during the reporting period, as reported under clause (D).

(C) The number of mortgage products that:

(i) qualified as five star mortgages under the program; and

(ii) were offered by the creditor to Indiana customers;

during the applicable reporting period.

(D) The number of five star mortgages offered to Indiana customers that were closed by the creditor during the applicable reporting period.

(3) A requirement that a creditor that qualifies as a five star mortgage lender and files a certification with the department shall periodically submit to the department a renewal certification, on a form prescribed by the department, in conjunction with a report filed under subdivision (2), or at such other time as the department determines appropriate. In any renewal certification required under this subdivision, a creditor must attest that the

creditor:

(A) continued to meet the criteria necessary to qualify as a five star mortgage lender; and

(B) complied with all program requirements;

during the applicable reporting period.

(4) A fee fixed by the department under IC 28-11-3-5 for each certification and recertification submitted by a creditor under this chapter. However, any fee fixed by the department under this subdivision may not exceed the department's actual costs to:

(A) process certifications and renewal certifications;

(B) publish the list described in subsection (c) on the department's Internet web site; and

(C) otherwise administer the program.

(5) Any other program requirements, criteria, or incentives that the department determines necessary to implement and evaluate a program to encourage creditors to offer stable mortgage products to qualified Indiana customers.

(c) The department shall publish on the department's Internet web site a list of all creditors that have a current and accurate:

(1) certification under this chapter; or

(2) renewal certification under this chapter;

on file with the department. The Indiana housing and community development authority and the securities division of the office of the secretary of state shall provide a link to the list described in this subsection on their respective Internet web sites.

(d) The program guidelines established by the department under subsections (a) and (b) must be made available:

(1) for public inspection and copying at the offices of the department under IC 5-14-3; and

(2) on the department's Internet web site.

(e) The department shall investigate any credible complaint received by any means alleging that a creditor has committed a violation described in subsection (a)(7). If the creditor that is the subject of a complaint under this subsection is not subject to regulation by the department, the department shall forward the complaint to the appropriate state or federal regulatory agency.

(f) Notwithstanding subsection (a), the department may adopt a different name for the program, other than the five star mortgage program, in adopting the guidelines to implement the program.

SECTION 19. IC 24-7-5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 11. (a) In addition to the other charges permitted by this chapter, a lessor and a lessee may

contract for a liability waiver fee in the following amounts:

(1) In the case of a rental purchase agreement with weekly or biweekly renewal dates, the liability waiver fee may not exceed the greater of:

(A) ten percent (10%) of a periodic lease payment due; or

(B) two dollars ($2).

(2) In the case of a rental purchase agreement with monthly renewal dates, the liability **waiver fee** may not exceed the greater of:

(A) ten percent (10%) of a periodic lease payment due; or

(B) five dollars ($5).

(b) The selling or offering for sale of a liability damage waiver under this section is subject to the following prohibitions and requirements:

(1) A lessor may not sell or offer to sell a liability damage waiver unless all restrictions, conditions, and exclusions are:

(A) printed in the rental purchase agreement, or in a separate agreement, in 8 point type or larger; or

(B) written in ink or typewritten in or on the face of the rental purchase agreement in a blank space provided therefor.

(2) The liability damage waiver may exclude only loss or damage to the property that is the subject of the rental purchase agreement caused by moisture, scratches, mysterious disappearance, vandalism, abandonment of the property, or any other damage intentionally caused by the lessee or that results from the lessee's willful or wanton misconduct.

(3) The liability damage waiver agreement must include a statement of the total charge for the liability damage waiver. The liability damage waiver agreement must display in 8 point boldface type the following:

"NOTICE: THIS CONTRACT OFFERS, FOR AN ADDITIONAL CHARGE, A LIABILITY DAMAGE WAIVER TO COVER YOUR RESPONSIBILITY FOR DAMAGE TO THE PROPERTY. BEFORE DECIDING WHETHER TO PURCHASE THE LIABILITY DAMAGE WAIVER, YOU MAY WISH TO DETERMINE WHETHER YOUR OWN HOMEOWNERS OR CASUALTY INSURANCE AFFORDS YOU COVERAGE FOR DAMAGE TO THE RENTAL PROPERTY, AND THE AMOUNT OF THE DEDUCTIBLE UNDER YOUR OWN INSURANCE COVERAGE. THE PURCHASE OF THIS LIABILITY DAMAGE WAIVER IS NOT MANDATORY AND MAY BE

DECLINED.".

(4) The restrictions, conditions, and exclusions of the liability damage waiver must be disclosed on the agreement or on a separate agreement, sheet, or handout given to the lessee before entering into the rental purchase agreement. The separate contract, sheet, or handout must be signed or otherwise acknowledged by the lessee as being received before entering into the rental purchase agreement.

(5) The lessor shall keep and maintain records as prescribed by the director of the department. The director of the department may inspect the records and determine whether the rates charged under this section are fair and reasonable.

SECTION 20. IC 24-7-7-2, AS AMENDED BY P.L.35-2010, SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. (a) A person subject to this article shall make the books and records of the person reasonably available for inspection by the department or the department's representative. At a minimum, every lessor shall keep a record of all payments remitted by the lessee on a rental purchase agreement, including the following:

(1) The name of the lessee.

(2) The date of each transaction.

(3) The total amount of each payment.

(4) A breakdown of each payment reflecting:

(A) each type of charge; and

(B) the amount of each type of charge.

The method of maintaining this data is at the discretion of the lessor, if hard copies of the required data are readily available. The record keeping system of the lessor shall be made available in Indiana for examination. The director shall determine the sufficiency of the records and whether the lessor has made the required information reasonably available.

(b) In administering this article and in order to determine compliance with this article, the department or the department's representative may examine the books and records of persons subject to the article and may make investigations of persons necessary to determine compliance. For this purpose, the department may administer oaths or affirmations, and, upon the department's own motion or upon request of any party, may subpoena witnesses, compel their attendance, compel testimony, and require the production of any matter that is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of

persons having knowledge of relevant facts, or any other matter reasonably calculated to lead to the discovery of admissible evidence.

(c) If the person's records are located outside Indiana, the person shall, at the person's option, either make them available to the department at a convenient location in Indiana, or pay the reasonable and necessary expenses for the department or the department's representative to examine them at the place where they are maintained. The department may designate representatives, including comparable officials of the state in which the records are located, to inspect them on the department's behalf.

(d) Upon failure without lawful excuse to obey a subpoena or to give testimony and upon reasonable notice to all persons affected thereby, the department may apply to a court for an order compelling compliance.

(e) The department may not make public the name or identity of a person whose acts or conduct the department investigates under this section or the facts disclosed in the investigation, but this subsection does not apply to disclosures in actions or enforcement proceedings under this article.

(f) A lessor shall use generally accepted accounting principles and practices in keeping books and records so that the department or the department's representative may determine if the lessor is in compliance with this article or a rule adopted under this article.

(g) A lessor shall keep the lessor's books and records that pertain to a rental purchase agreement for at least two (2) years after the rental purchase agreement has terminated.

(h) To discover violations of this article or to secure information necessary for the enforcement of this article, the department may investigate:

(1) any person subject to this article; and

(2) any person that the department suspects to be operating in violation of 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 person investigated shall pay all reasonably incurred costs of the investigation in accordance with the fee schedule adopted under IC 28-11-3-5.

~~(h)~~ **(i)** If a lessor contracts with an outside vendor to provide a service that would otherwise be undertaken internally by the lessor and be subject to the department's routine examination procedures, the person that provides the service to the lessor 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 lessor that receives services from the person refusing the examination to:

(1) discontinue receiving one (1) or more services from the person; or

(2) otherwise cease conducting business with the person.

SECTION 21. IC 28-1-1-3, AS AMENDED BY P.L.27-2012, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 3. Unless a different meaning is required by the context, the following definitions apply throughout this article:

(1) "Financial institution" means any bank, trust company, corporate fiduciary, savings association, credit union, savings bank, bank of discount and deposit, or industrial loan and investment company organized or reorganized under the laws of this state, and includes licensees under IC 24-4.4, ~~and~~ IC 24-4.5, **and 750 IAC 9.**

(2) "Bank" or "bank or trust company" means a financial institution organized or reorganized as a bank, bank of discount and deposit, or trust company under the laws of this state with the express power to receive and accept deposits of money subject to withdrawal by check, and possessing such other rights and powers granted by the provisions of this article in express terms or by implication. The term "bank" or "bank or trust company" does not include a savings association, credit union, or industrial loan and investment company.

(3) "Domestic corporation" means a corporation formed under the laws of this state, and "foreign corporation" means every other corporation.

(4) "Articles of incorporation" includes both the original articles of incorporation and any and all amendments thereto, except where the original articles of incorporation only are expressly referred to, and includes articles of merger and consolidation, and, in the case of corporations organized before July 1, 1933, articles of reorganization, and all amendments thereto.

(5) "Incorporator" means one (1) of the signers of the original articles of incorporation.

(6) "Subscriber" means one who subscribes for shares of stock in a financial institution.

(7) "Shareholder" means one who is a holder of record of shares of stock in a financial institution.
(8) "Capital stock" means the aggregate amount of the par value of all shares of capital stock.
(9) "Capital" means the aggregate amount paid in on the shares of capital stock of a financial institution issued and outstanding.
(10) "Capital and surplus" or "unimpaired capital and unimpaired surplus" has the meaning set forth in 12 CFR 32.2.
(11) "Assets" includes all of the property and rights of every kind of a financial institution, and the term "fixed assets" means such assets as are not intended to be sold or disposed of in the ordinary course of business.
(12) "Principal office" means that office maintained by the financial institution in this state, the address of which is required by the provisions of this article to be kept on file in the office of the secretary of state.
(13) "Subscription" means any written agreement or undertaking, accepted by a financial institution, for the purchase of shares of capital stock in the financial institution.
(14) "Department" means the department of financial institutions.
(15) "Member" means a member of the department of financial institutions.
(16) "Branch" means any office, agency, mobile unit, messenger service, or other place of business at which deposits are received, checks paid, or money lent. The term does not include:
(A) the principal office of a bank;
(B) the principal office of an affiliate;
(C) a branch of an affiliate;
(D) an automated teller machine;
(E) a night depository;
(F) a temporary facility authorized in IC 28-2-13-22.5;
(G) a loan production office;
(H) a deposit production office; or
(I) other service delivery mechanisms not considered by the director to be a branch.
(17) "Subsidiary" means any foreign or domestic corporation or limited liability company in which the parent bank, savings bank, savings association, or industrial loan and investment company had at least eighty percent (80%) ownership before July 1, 1999, or is formed or acquired in accordance with IC 28-13-16 after June 30, 1999.
(18) "Savings bank" means a financial institution that:

(A) was organized, reorganized, or operating under IC 28-6 (before its repeal) before January 1, 1993;
(B) is formed as the result of a conversion under:
(i) IC 28-1-21.7;
(ii) IC 28-1-21.8;
(iii) IC 28-1-21.9; or
(iv) IC 28-1-30; or
(C) is incorporated under IC 28-12.

(19) "Corporate fiduciary" means a financial institution whose primary business purpose is to engage in the trust business (as defined in IC 28-14-1-8) and the execution and administration of fiduciary accounts as a nondepository trust company incorporated under Indiana law.

SECTION 22. IC 28-1-7.5-4, AS AMENDED BY P.L.217-2007, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4. (a) The bank, trust company, corporate fiduciary, or stock savings bank and the holding company shall file with the department three (3) copies of the plan of exchange certified by an officer of each as having been approved in accordance with section 3 of this chapter. They shall also file a statement which includes:

(1) information as to the earnings and financial condition of the bank, trust company, corporate fiduciary, or stock savings bank as of the end of its last preceding year as filed with the department, and similar information, to the extent readily available, as of a date not earlier than one hundred twenty (120) days before the filing of the plan of exchange;

(2) a balance sheet of the holding company as of the date of the most recent statement of condition of the bank, trust company, corporate fiduciary, or stock savings bank required by subdivision (1);

(3) a pro forma balance sheet of the holding company based on the assumption that the plan of exchange was effective as proposed at the date of the balance sheet of the holding company required by subdivision (2);

(4) a description of the business intended to be done by the holding company and of any plans or proposals that the holding company may have to sell its assets or merge or consolidate with any other person, or to make any other material change in its investment policy, business, corporate structures, or management;

(5) a list of all persons who are or who have been selected to become directors or officers of the holding company, a

description of their principal occupations, a list of all offices and positions held by them during the past five (5) years, and information about whether any of them:

(A) is under indictment for; **or**

(B) has been convicted of; ~~or~~

~~(C) has pleaded guilty or nolo contendere to;~~

a felony involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction.

(6) a description of any plans or proposals that the holding company may have to liquidate the bank, trust company, corporate fiduciary, or stock savings bank to sell its assets or merge or consolidate it with any person, or to make any other material change in its investment policy, business, corporate structure, or management;

(7) a copy of a preliminary proxy or information statement prepared for distribution to the shareholders of the bank, trust company, corporate fiduciary, or stock savings bank setting forth all material facts relating to the holding company and the proposed plan of exchange; and

(8) such other information as the director may prescribe.

(b) The statement must:

(1) assert the completeness and accuracy of the information referred to in subsection (a)(1) through (a)(8); and

(2) be made under oath or affirmation by an officer of the bank, trust company, corporate fiduciary, or stock savings bank and an officer of the holding company.

If any material change occurs in the facts set forth in the statement filed with the department, an amendment setting forth the change, together with copies of all documents and other material relevant to the change, shall be filed with the department within five (5) business days after the parties learn of the change.

SECTION 23. IC 28-1-29-5.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 5.5. (a) As used in this section, "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, mortgage loan originators, and other financial services entities and their employees and agents.**

(b) Subject to subsection (g), the director may designate the

NMLSR to serve as the sole entity responsible for:

(1) processing applications and renewals for licenses under this chapter;

(2) issuing unique identifiers for licensees and entities exempt from licensing under this chapter; and

(3) performing other services that the director determines are necessary for the orderly administration of the department's licensing system under this chapter.

(c) Subject to the confidentiality provisions contained in IC 5-14-3 and this section, the director shall regularly report significant or recurring violations of this chapter to the NMLSR.

(d) Subject to the confidentiality provisions contained in IC 5-14-3 and this section, the director may report complaints received regarding licensees under this chapter to the NMLSR.

(e) The director may report publicly adjudicated licensure actions against a licensee to the NMLSR.

(f) The director shall establish a process by which licensees may challenge information reported to the NMLSR by the department.

(g) The director's authority to designate the NMLSR under subsection (b) is subject to the following:

(1) Information stored in the NMLSR is subject to the confidentiality provisions of IC 5-14-3. A person may not:

(A) obtain information from the NMLSR, unless the person is authorized to do so by statute;

(B) 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

(C) 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.

(2) Documents, materials, and other forms of information in the control or possession of the NMLSR that are confidential under state or federal law and that are:

(A) furnished by the director, the director's designee, or a licensee; or

(B) 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 chapter.

(3) Disclosure of documents, materials, and information:

(A) to the director; or

(B) 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.

(4) Information provided to the NMLSR is subject to IC 4-1-11.

(5) This subsection does not limit or impair a person's right to:

(A) obtain information;

(B) use information as evidence in a civil action or proceeding; or

(C) 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.

(6) 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.

(7) 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.

(8) Information or material that is subject to a privilege or confidentiality under subdivision (6) is not subject to:

(A) 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

(B) 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.

(9) Any provision of IC 5-14-3 that concerns the disclosure of:

(A) confidential supervisory information; or

(B) any information or material described in subdivision (6);

and that is inconsistent with subdivision (6) is superseded by this section.

(10) 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 described in section 5(b)(2), 5(b)(3), or 5(b)(4) of this chapter and that is included in the NMLSR for access by the public.

(11) 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 the NMLSR processing fee is reasonable, the director shall:

(A) require review of; and

(B) make available;

the audited financial statements of the NMLSR.

(12) Notwithstanding any other provision of law, any:

(A) application, renewal, or other form or document that:

(i) relates to licenses issued under 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.

SECTION 24. IC 28-1-29-10.5, AS ADDED BY P.L.35-2010, SECTION 134, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 10.5. (a) A licensee shall maintain in the licensee's business any books, accounts, and records that enable the department to determine whether the licensee is complying with this chapter. The books, accounts, and records shall be preserved for at least two (2) years after making the final entry of any agreement

recorded in the books, accounts, and records. A licensee is subject to IC 28-1-2-30.5 with respect to any records maintained by the licensee.

(b) In administering this chapter and in order to determine whether this chapter is being complied with by a person engaging in acts subject to this chapter, the department may examine the records of a person and may make investigations of a person as necessary to determine compliance. Records subject to examination under this section include the following:

(1) Training, operating, and policy manuals.

(2) Minutes of:

(A) management meetings; and

(B) other meetings.

(3) Other records that the department determines are necessary to perform the department's investigation or examination.

(c) The department may also administer oaths or affirmations, subpoena witnesses, compel a witness's attendance, adduce evidence, and require the production of any matter that is relevant to the investigation. The department shall determine whether:

(1) the records maintained are sufficient; and

(2) the person has made the required information reasonably available.

(d) If the department:

(1) investigates; or

(2) examines the books and records of;

a person that is subject to this chapter, 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. Any costs required to be paid under this subsection 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.

(e) The department shall be given free access to the records wherever located. If the person's records are located outside Indiana, at the discretion of the director, 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 the department's representative to examine the records where the records are maintained.

(f) If a person fails to:

(1) obey a subpoena without a lawful excuse; or

(2) give testimony;

the department may apply to a civil court for an order compelling compliance.

(g) The department shall not make public the name or identity of a person whose acts or conduct the department investigates under this section or the facts disclosed in the investigation. However, this subsection does not apply to disclosures of enforcement proceedings under this chapter.

(h) To discover violations of this chapter or to secure information necessary for the enforcement of this chapter, the department may investigate any:

(1) licensee; or

(2) person that the department suspects to be operating:

(A) without a license, when a license is required under this chapter; or

(B) otherwise in violation of chapter.

The department has all investigatory and enforcement authority under this chapter that the department has under IC 28-11 with respect to financial institutions. If the department conducts an investigation under this section, the licensee 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.

~~(h)~~ **(i)** The department may:

(1) enter into a cooperative arrangement with another federal or state agency having authority over debt management companies; and

(2) exchange with the agency information about a person subject to this chapter, including information obtained during an examination of the person.

~~(i)~~ **(j)** If a person doing business as a debt management company contracts with an outside vendor to provide a service that would otherwise be undertaken internally by the person doing business as a debt management company and be subject to the department's routine examination procedures, the person that provides the service to the person doing business as a debt management company 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 person doing business as a debt management company that receives services from the person refusing the examination to:

(1) discontinue receiving one (1) or more services from the person refusing the examination; or

(2) otherwise cease conducting business with the person refusing the examination.

SECTION 25. IC 28-7-1-0.5, AS AMENDED BY P.L.35-2010, SECTION 147, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 0.5. The following definitions apply throughout this chapter:

(1) "Automated teller machine" (ATM) means a piece of unmanned electronic or mechanical equipment that performs routine financial transactions for authorized individuals.

(2) "Branch office" means an office, agency, or other place of business at which deposits are received, share drafts are paid, or money is lent to members of a credit union. The term does not include:

(A) the principal office of a credit union;

(B) the principal office of a credit union affiliate;

(C) a branch office of a credit union affiliate;

(D) an automated teller machine; or

(E) a night depository.

(3) "Credit union" is a cooperative, nonprofit association, incorporated under this chapter, for the purposes of educating its members in the concepts of thrift and to encourage savings among its members. A credit union should provide a source of credit at a fair and reasonable rate of interest and provide an opportunity for its members to use and control their own money in order to improve their economic and social condition.

(4) "Department" refers to the department of financial institutions.

(5) "Surplus" means the credit balance of undivided earnings after losses. The term does not include statutory reserves.

(6) "Unimpaired shares" means paid in shares less any losses for which no reserve exists and for which there is no charge against undivided earnings.

(7) "Related credit union service organization" means, in reference to a credit union, a credit union service organization (as defined and formed under Part 712 of the regulations of the National Credit Union Administration, 12 CFR 712) in which the credit union has invested under section 9(a)(4) of this chapter.

(8) "Premises" means any office, branch office, suboffice, service center, parking lot, real estate, or other facility where the credit

union transacts or will transact business.

(9) "Furniture, fixtures, and equipment" means office furnishings, office machines, computer hardware, computer software, automated terminals, and heating and cooling equipment.

(10) "Fixed assets" means:

(A) premises; and

(B) furniture, fixtures, and equipment.

(11) "Audit period" means a twelve (12) month period designated by the board of directors of a credit union.

(12) "Community" means:

(A) a second class city;

(B) a third class city;

(C) a town;

(D) a county other than a county containing a consolidated city;

(E) a census tract;

(F) a township; or

(G) any other municipal corporation (as defined in IC 36-1-2-10).

(13) "Control of a related interest" refers to a situation in which an individual directly or indirectly, or through or in concert with one (1) or more other individuals, possesses any of the following:

(A) The ownership of, control of, or power to vote at least twenty-five percent (25%) of any class of voting securities of the related interest.

(B) The control in any manner of the election of a majority of the directors of the related interest.

(C) The power to exercise a controlling influence over the management or policies of the related interest. For purposes of this clause, an individual is presumed to have control, including the power to exercise a controlling influence over the management or policies of a related interest, if the individual:

(i) is an executive officer or a director of the related interest and directly or indirectly owns, controls, or has the power to vote more than ten percent (10%) of any class of voting securities of the related interest; or

(ii) directly or indirectly owns, controls, or has the power to vote more than ten percent (10%) of any class of voting securities of the related interest and no other person owns, controls, or has the power to vote a greater percentage of that class of voting securities.

(14) "Executive officer" includes any of the following officers of a credit union:

(A) The chairman of the board of directors.

(B) The president.

(C) A vice president.

(D) The cashier.

(E) The secretary.

(F) The treasurer.

(15) "Immediate family", for purposes of ~~section~~ **sections** 17.1 **and 17.2** of this chapter, means the spouse of an individual, the individual's minor children, and any of the individual's children, including adults, residing in the individual's home.

(16) "Officer" means any individual who is not solely a director or committee member and participates or has the authority to participate in major policymaking functions of a credit union, regardless of whether:

(A) the individual has an official title;

(B) the individual's title designates the individual as an assistant; or

(C) the individual is serving without salary or other compensation.

(17) "Related interest", with respect to an individual, means:

(A) a partnership, a corporation, or another business organization that is controlled by the individual; or

(B) a political campaign committee:

(i) controlled by the individual; or

(ii) the funds or services of which benefit the individual.

(18) Except as provided in section 9(a)(4) of this chapter, "capital and surplus" means the sum of:

(A) undivided profits;

(B) reserve for contingencies;

(C) regular reserve; and

(D) allowance for loan and lease losses.

SECTION 26. IC 28-7-1-9, AS AMENDED BY P.L.27-2012, SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 9. (a) A credit union has the following powers:

(1) To issue shares of its capital stock to its members. No commission or compensation shall be paid for securing members or for the sale of shares.

(2) To make loans to officers, directors, or committee members under sections 17.1 and 17.2 of this chapter.

(3) To invest in any of the following:

(A) Bonds, notes, or certificates that are the direct or indirect obligations of the United States, or of the state, or the direct obligations of a county, township, city, town, or other taxing district or municipality or instrumentality of Indiana and that are not in default.

(B) Bonds or debentures issued by the Federal Home Loan Bank Act (12 U.S.C. 1421 through 1449) or the Home Owners' Loan Act (12 U.S.C. 1461 through 1468).

(C) Obligations of national mortgage associations issued under the authority of the National Housing Act.

(D) Mortgages on real estate situated in Indiana which are fully insured under Title 2 of the National Housing Act (12 U.S.C. 1707 through 1715z).

(E) Obligations issued by farm credit banks and banks for cooperatives under the Farm Credit Act of 1971 (12 U.S.C. 2001 through 2279aa-14).

(F) Savings and loan associations, other credit unions that are insured under section 31.5 of this chapter, and certificates of indebtedness or investment of an industrial loan and investment company if the association or company is federally insured. Not more than twenty percent (20%) of the assets of a credit union may be invested in the shares or certificates of an association or company, nor more than forty percent (40%) in all such associations and companies.

(G) Corporate credit unions.

(H) Federal funds or similar types of daily funds transactions with other financial institutions.

(I) Shares or certificates of an open-end management investment company registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. 80a-1 through 15 U.S.C. 80a-3 and 15 U.S.C. 80a-4 through 15 U.S.C. 80a-64), if all of the following conditions are met:

(i) The fund's assets consist of and are limited to securities in which a credit union may invest directly.

(ii) The credit union has an equitable and undivided interest in the underlying assets of the fund.

(iii) The credit union is not liable for acts or obligations of the fund.

(iv) The credit union's investment in any one (1) fund does not exceed fifteen percent (15%) of the amount of the credit union's net worth.

(J) For a credit union that is well capitalized (as defined in Part 702 of the Rules and Regulations of the National Credit Union Administration, 12 CFR 702), investment securities, as may be defined by a statute or a policy or rule of the department and subject to the following:

(i) The department may prescribe, by policy or rule, limitations or restrictions on a credit union's investment in investment securities.

(ii) The total **aggregate** amount of ~~any~~ investment securities purchased or held by a credit union may never exceed at any given time ten percent (10%) of the capital and surplus of the credit union. However, the limitations imposed by this item do not apply to investments in the direct or indirect obligations of the United States or in the direct obligations of a United States territory or insular possession, or in the direct obligations of the state or any municipal corporation or taxing district in Indiana.

(iii) A credit union may not purchase for its own account any bond, note, or other evidence of indebtedness that is commonly designated as a security that is speculative in character or that has speculative characteristics. For the purposes of this item, a security is speculative or has speculative characteristics if at the time of purchase the security is in default, is rated below the first four (4) rating classes by a generally recognized security rating service, or is otherwise considered speculative by the director.

(iv) A credit union may purchase for its own account a security that is not rated by a generally recognized security rating service if the credit union at the time of purchase obtains financial information that is adequate to document the investment quality of the security and if the security is not otherwise considered speculative by the director.

(v) A credit union that purchases a security for its own account shall maintain sufficient records of the security to allow the security to be properly identified by the department for examination purposes.

(vi) Except as otherwise authorized by this title, a credit union may not purchase any share of stock of a corporation. If a credit union possesses stock or another equity investment as a result of a loan default, the credit union shall dispose of the investment within a reasonable period that does not exceed one (1) year or a longer period if approved

by the department.

(vii) Subject to items (i) through (iv), a credit union may purchase yankee dollar deposits, eurodollar deposits, banker's acceptances, deposit notes, bank notes with original weighted average maturities of less than five (5) years, and investments in obligations of, or issued by, any state or political subdivision (including any agency, corporation, or instrumentality of a state or political subdivision).

(K) Collateralized obligations that are eligible for purchase and sale by federal credit unions. However, a credit union may purchase for its own account and sell the obligations only to the extent that a federal credit union can purchase and sell those obligations.

(4) With the prior approval of the department, and subject to the limitations of this subsection, a credit union may organize, invest in, or loan money to a credit union service organization (as defined in Part 712 of the regulations of the National Credit Union Administration, 12 CFR 712). A credit union may not loan or invest in a credit union service organization if the aggregate amount of all such loans or investments in a particular credit union service organization is greater than ten percent (10%) of the capital, surplus, and unimpaired shares of the credit union without the prior written approval of the department. A credit union may organize, invest in, or loan money to a credit union service organization described in this subdivision only if the following requirements are met:

(A) The credit union service organization is adequately capitalized or has a reasonable plan for adequate capitalization if the credit union service organization is to be formed or is newly formed.

(B) The credit union service organization is structured and operated as a separate legal entity from the credit union.

(C) The credit union obtains a written legal opinion that the credit union service organization is structured and operated in a manner that limits the credit union's potential liability for the debts and liabilities of the credit union service organization to not more than the loss of money invested in or loaned to the credit union service organization by the credit union.

(D) The credit union service organization agrees in writing to prepare financial statements and provide the financial statements to the credit union at least quarterly, and to the department upon request.

(E) The credit union service organization agrees in writing to obtain an audit of the credit union service organization from a certified public accountant at least annually and provide a copy of each audit report to the credit union, and to the department upon request. A wholly owned credit union service organization is not required to obtain a separate annual audit if the credit union service organization is included in the annual consolidated audit of the credit union that is the credit union service organization's parent.

(F) The credit union service organization operates in compliance with all applicable federal and state laws.

(5) To deposit its funds into:

(A) depository institutions that are federally insured; or

(B) state chartered credit unions that are privately insured by an insurer approved by the department.

(6) To purchase, hold, own, or convey real estate as may be conveyed to the credit union in satisfaction of debts previously contracted or in exchange for real estate conveyed to the credit union.

(7) To own, hold, or convey real estate as may be purchased by the credit union upon judgment in its favor or decrees of foreclosure upon mortgages.

(8) To issue shares of stock and upon the terms, conditions, limitations, and restrictions and with the relative rights as may be stated in the bylaws of the credit union, but no stock may have preference or priority over the other to share in the assets of the credit union upon liquidation or dissolution or for the payment of dividends except as to the amount of the dividends and the time for the payment of the dividends as provided in the bylaws.

(9) To charge the member's share account for the actual cost of a necessary locator service when the member has failed to keep the credit union informed about the member's current address. The charge shall be made only for amounts paid to a person or concern normally engaged in providing such service, and shall be made against the account or accounts of any one (1) member not more than once in any twelve (12) month period.

(10) To transfer to an accounts payable account, a dormant account, or a special account share accounts which have been inactive, except for dividend credits, for a period of at least two (2) years. The credit union shall not consider the payment of dividends on the transferred account.

(11) To invest in fixed assets with the funds of the credit union.

An investment in fixed assets in excess of five percent (5%) of its assets is subject to the approval of the department. A credit union may rent excess space at the credit union's main office or branch as a source of income.

(12) To establish branch offices, upon approval of the department, provided that all books of account shall be maintained at the principal office.

(13) To pay an interest refund on loans proportionate to the interest paid during the dividend period by borrowers who are members at the end of the dividend period.

(14) To purchase life savings and loan protection insurance for the benefit of the credit union and its members, if:

(A) the coverage is placed with an insurance company licensed to do business in Indiana; and

(B) no officer, director, or employee of the credit union personally benefits, directly or indirectly, from the sale or purchase of the coverage.

(15) To sell and cash negotiable checks, travelers checks, and money orders for members.

(16) To purchase members' notes from any liquidating credit union, with written approval from the department, at prices agreed upon by the boards of directors of both the liquidating and the purchasing credit unions. However, the aggregate of the unpaid balances of all notes of liquidating credit unions purchased by any one (1) credit union shall not exceed ten percent (10%) of the purchasing credit union's capital and surplus unless special written authorization has been granted by the department.

(17) To exercise such incidental powers necessary or requisite to enable it to carry on effectively the business for which it is incorporated.

(18) To act as a custodian or trustee of any trust created or organized in the United States and forming part of a tax advantaged savings plan which qualifies or qualified for specific tax treatment under Section 223, 401(d), 408, 408A, or 530 of the Internal Revenue Code, if the funds of the trust are invested only in share accounts or insured certificates of the credit union.

(19) To issue shares or insured certificates to a trustee or custodian of a pension plan, profit sharing plan, or stock bonus plan which qualifies for specific tax treatment under Sections 401(d) or 408(a) of the Internal Revenue Code.

(20) To exercise any rights and privileges that are:

(A) granted to federal credit unions; but

(B) not authorized for credit unions under the Indiana Code (except for this section) or any rule adopted under the Indiana Code;

if the credit union complies with section 9.2 of this chapter.

(21) To sell, pledge, or discount any of its assets. However, a credit union may not pledge any of its assets as security for the safekeeping and prompt payment of any money deposited, except that a credit union may, for the safekeeping and prompt payment of money deposited, give security as authorized by federal law.

(22) To purchase assets of another credit union and to assume the liabilities of the selling credit union.

(23) To act as a fiscal agent of the United States and to receive deposits from nonmember units of the federal, state, or county governments, from political subdivisions, and from other credit unions upon which the credit union may pay varying interest rates at varying maturities subject to terms, rates, and conditions that are established by the board of directors. However, the total amount of public funds received from units of state and county governments and political subdivisions that a credit union may have on deposit may not exceed twenty percent (20%) of the total assets of that credit union, excluding those public funds.

(24) To join the National Credit Union Administration Central Liquidity Facility.

(25) To participate in community investment initiatives under the administration of organizations:

(A) exempt from taxation under Section 501(c)(3) of the Internal Revenue Code; and

(B) located or conducting activities in communities in which the credit union does business.

Participation may be in the form of either charitable contributions or participation loans. In either case, disbursement of funds through the administering organization is not required to be limited to members of the credit union. Total contributions or participation loans may not exceed one-tenth of one percent (0.1%) of total assets of the credit union. A recipient of a contribution or loan is not considered qualified for credit union membership. A contribution or participation loan made under this subdivision must be approved by the board of directors.

(26) To establish and operate an automated teller machine (ATM):

(A) at any location within Indiana; or

(B) as permitted by the laws of the state in which the

automated teller machine is to be located.

(27) To demand and receive, for the faithful performance and discharge of services performed under the powers vested in the credit union by this article:

(A) reasonable compensation, or compensation as fixed by agreement of the parties;

(B) all advances necessarily paid out and expended in the discharge and performance of its duties; and

(C) unless otherwise agreed upon, interest at the legal rate on the advances referred to in clause (B).

(28) Subject to any restrictions the department may impose, to become the owner or lessor of personal property acquired upon the request and for the use of a member and to incur additional obligations as may be incident to becoming an owner or lessor of such property.

(b) A credit union shall maintain files containing credit and other information adequate to demonstrate evidence of prudent business judgment in exercising the investment powers granted under this chapter or by rule, order, or declaratory ruling of the department.

(c) Subject to any limitations or restrictions that the department or a federal regulator may impose by regulation, rule, policy, or guidance, a credit union may purchase and hold life insurance as follows:

(1) Life insurance purchased or held in connection with employee compensation or benefit plans approved by the credit union's board of directors.

(2) Life insurance purchased or held to recover the cost of providing preretirement or postretirement employee benefits approved by the credit union's board of directors.

(3) Life insurance on the lives of borrowers.

(4) Life insurance held as security for a loan.

(5) Life insurance that a federal credit union may purchase or hold under 12 CFR 701.19(c).

SECTION 27. IC 28-7-1-18, AS AMENDED BY P.L.35-2010, SECTION 159, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 18. (a) The supervisory committee shall cause the share and loan accounts of the members to be verified with the records of the treasurer at least each biennium.

(b) The supervisory committee shall supervise the acts of the board of directors, credit committee, and officers.

(c) By a majority vote, the supervisory committee may call a meeting of the shareholders to consider any violation of this chapter, or of the bylaws, or any practice of the credit union which, in the

opinion of the committee is unsafe and unauthorized.

(d) The supervisory committee shall fill vacancies in its own number until the next annual meeting of the members.

(e) At the close of the audit period, the supervisory committee shall make or cause to be made a thorough audit of the credit union for each audit period and shall make a full report to the directors. The audit **report** shall be ~~made at any time during the~~ **issued not later than** one hundred twenty (120) days following the close of the audit period. Tapes, work papers, schedules, and evidence of verification of accounts shall be retained until the next examination by the department. A summary of the report shall be read at the annual meeting and shall be filed and preserved with the records of the credit union.

(f) A credit union with assets of at least five million dollars ($5,000,000) shall have an annual audit performed by an outside professional accounting firm. The department may require a professional outside audit to be performed upon any credit union ~~when~~ **if** the department questions the safety and soundness of the credit union.

(g) Minutes of every meeting of the supervisory committee shall be kept and maintained.

SECTION 28. IC 28-7-5-2, AS AMENDED BY P.L.90-2008, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. In this chapter, unless the context otherwise requires:

"Director" refers to the director of the department.

"Pawn" means lending money on the deposit or pledge of personal property, or purchasing personal property on the condition of selling the property back again at a stipulated price, with the condition indicated verbally, in a written agreement, or in any other form indicating that the seller may repurchase the personal property sold. For purposes of this chapter, "personal property" does not include general intangibles, accounts (including deposit accounts), chattel paper, commercial tort claims, documents, instruments, investment property, letter-of-credit rights, letters of credit, money, or oil, gas, or other minerals before extraction.

"Pawnbroker" means any person, partnership, association, limited liability company, or corporation ~~lending money on the deposit or pledge of personal property, or who deals in the purchase of personal property on the condition of selling the property back again at a stipulated price, other than choses in action, securities, or printed evidence of indebtedness.~~ **that engages in the pawn business.**

"Pledge" means personal property deposited with a pawnbroker as security for a loan.

"Pledger" means the person who delivers personal property into the possession of a pawnbroker as security for a loan. ~~unless such~~ **However, if the** person **delivering the personal property into the possession of the pawnbroker** discloses that the person is ~~or was~~ acting for another, ~~and in such event~~ "pledger" means the disclosed principal.

"Department" means the department of financial institutions.

"Person" means any individual, limited liability company, sole proprietorship, partnership, trust, joint venture, corporation, unincorporated organization, or other form of entity, however organized.

"Month" means a period extending from a given date in one (1) calendar month to the like date in the succeeding calendar month or, if there is no such like date, then to the last day of the succeeding calendar month. For purposes of this chapter, each month is considered to have thirty (30) days.

SECTION 29. IC 28-7-5-4, AS AMENDED BY P.L.216-2013, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4. (a) Application for a pawnbroker's license shall be submitted on a form prescribed by the director and must include all information required by the director. An application submitted under this section must identify the location or locations at which the applicant proposes to engage in business as a pawnbroker in Indiana. If any business, other than the business of acting as a pawnbroker under this chapter, will be conducted by the applicant or another person at any location identified under this subsection, the applicant shall indicate for each location at which another business will be conducted:

(1) the nature of the other business;

(2) the name under which the other business operates;

(3) the address of the principal office of the other business;

(4) the name and address of the business's resident agent in Indiana; and

(5) any other information the director may require.

(b) An application submitted under this section must indicate whether any individual described in section 8(a)(2) or 8(a)(3) of this chapter at the time of the application:

(1) is under indictment for a felony under the laws of Indiana or any other jurisdiction; or

(2) has been convicted of ~~or pleaded guilty or nolo contendere to~~ a felony under the laws of Indiana or any other jurisdiction.

(c) The director may request that the applicant provide evidence of compliance with this section at:

(1) the time of application;

(2) the time of renewal of a license; or

(3) any other time considered necessary by the director.

(d) For purposes of subsection (c), evidence of compliance with this section may include:

(1) criminal background checks, 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 (b);

(2) credit histories; and

(3) other background checks considered necessary by the director.

If the director requests a national criminal history background check under subdivision (1) for an individual described in that subdivision, the director shall require the individual to submit fingerprints to the department or to the state police department, as appropriate, at the time evidence of compliance is requested under subsection (c). The individual to whom the request is made shall pay any fees or costs associated with 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.

SECTION 30. IC 28-7-5-16, AS AMENDED BY P.L.222-2013, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 16. (a) The licensee shall keep and use in the licensee's business such books, accounts, and records as will enable the department to determine whether the licensee is complying with this chapter and with the rules adopted by the department under this chapter. Every licensee shall preserve such books, accounts, and records, including cards used in the card system for at least two (2) years after making the final entry on any loan recorded therein. The books and records of the licensee shall be kept so that the pawnbroking business transacted in Indiana may be readily separated and distinguished from the business of the licensee transacted elsewhere and from any other business in which the licensee may be engaged. To determine whether the licensee is complying with this chapter and with rules adopted by the department under this chapter, the department may examine the books, accounts, and records required to be kept by the licensee under this subsection. If the department examines the books,

accounts, and records of the licensee under this subsection, the licensee shall pay all reasonably incurred costs of the examination in accordance with the fee schedule adopted under IC 28-11-3-5. A fee established by the department under IC 28-11-3-5 may be charged for each day a fee under this subsection is delinquent.

(b) If a pawnbroker, in the conduct of the business, purchases an article from a seller, the purchase shall be evidenced by a bill of sale properly signed by the seller. All bills of sale must be in duplicate and must recite the following separate items:

(1) Date of bill of sale.

(2) Amount of consideration.

(3) Name of pawnbroker.

(4) Description of each article sold. However, if multiple articles of a similar nature that do not contain an identification or serial number (such as precious metals, gemstones, musical recordings, video recordings, books, or hand tools) are delivered together in one (1) transaction, the description of the articles is adequate if the description contains the quantity of the articles delivered and a physical description of the type of articles delivered, including any other unique identifying marks, numbers, names, letters, or special features.

(5) Signature of seller.

(6) Address of seller.

(7) Date of birth of the seller.

(8) The type of government issued identification used to verify the identity of the seller, together with the name of the governmental agency that issued the identification, and the identification number present on the government issued identification.

~~(c) If a pawnbroker, in the conduct of the business, purchases an article from a seller on the condition of selling the property back at a stipulated price, the transaction shall be evidenced by a bill of sale properly signed by the seller. All such bills of sale must be in duplicate and recite the information in subsection (b) and must also contain the following information:~~

~~(1) Date of resale.~~

~~(2) Amount of resale.~~

~~(d)~~ **(c)** The original copy of the bill of sale shall be retained by the pawnbroker. The second copy shall be delivered to the seller by the pawnbroker at the time of sale. The heading on all bill of sale forms must be in boldface type.

~~(e)~~ **(d)** If a pawnbroker, in the conduct of the business, purchases precious metal (as defined in IC 24-4-19-6) from a seller, the

pawnbroker shall, for at least ten (10) calendar days after the date the pawnbroker purchases the precious metal, retain the precious metal:

(1) at the pawnbroker's permanent place of business where the pawnbroker purchased the precious metal; and

(2) separate from other precious metal.

~~(f)~~ **(e)** Each licensee shall maintain a record of control indicating the number of accounts and dollar value of all outstanding pawnbroking receivables. ~~Each licensee shall maintain a separate record of transactions subject to subsection (c).~~

~~(g)~~ **(f)** If a licensee contracts with an outside vendor to provide a service that would otherwise be undertaken internally by the licensee and be subject to the department's routine examination procedures, the person that provides the service to the licensee 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 licensee that receives services from the person refusing the examination to:

(1) discontinue receiving one (1) or more services from the person; or

(2) otherwise cease conducting business with the person.

SECTION 31. IC 28-8-4-38, AS AMENDED BY P.L.216-2013, SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 38. (a) A licensee may renew a license by complying with the following:

(1) Filing with the director or the director's designee the annual renewal in the form that is prescribed by the director and sent by the director to each licensee not later than December 31 of each year. The renewal must include the following, which, except for the financial statements described in clause (A), must be filed not later than December 31:

(A) Either:

(i) a copy of the licensee's most recent audited consolidated annual financial statements, including a balance sheet, a statement of income or loss, a statement of changes in shareholder's equity, and a statement of changes in financial position; or

(ii) if the licensee is a wholly owned subsidiary, the parent corporation's or parent organization's most recent consolidated audited annual financial statements or the

parent corporation's or parent organization's **most recent** Form 10K ~~reports~~ **report** filed with the Securities and Exchange Commission, ~~for the previous three (3) years,~~ along with the licensee's unaudited annual financial statements.

The **audited** financial statements required to be submitted under this clause must be prepared by an independent certified public accountant authorized to do business in the United States in accordance with AICPA Statements on Standards for Accounting and Review Services (SSARS) and must be filed with the director or the director's designee not later than ~~April 30 of the year that immediately follows~~ **one hundred twenty (120) days after the close of** the calendar or fiscal year covered by the statements.

(B) The number of payment instruments sold by the licensee in Indiana, the dollar amount of those instruments, and the dollar amount of outstanding payment instruments sold by the licensee calculated from the most recent quarter for which data is available before the date of the filing of the renewal application, but in no event more than one hundred twenty (120) days before the renewal date.

(C) Material changes to the information submitted by the licensee on its original application or as part of a renewal that have not been reported previously to the director on any other report or renewal required to be filed under this chapter.

(D) A list of the licensee's permissible investments.

(E) A list of the locations within Indiana at which business regulated by this chapter will be conducted by either the licensee or its authorized delegate, including information concerning any business, other than the business of money transmission under this chapter, that will be conducted at each identified location, as required under section 24(10) of this chapter.

(2) Paying the annual renewal fee described under section 37 of this chapter.

(b) A licensee that:

(1) does not:

(A) file:

(i) a renewal; or

(ii) any financial statements required by subsection (a)(1)(A);

by the renewal filing deadline set by the director; or

(B) pay the renewal fee by December 31 of each year; and

(2) has not been granted an extension of time by the department to meet the requirements described in subdivision (1);

shall be notified by the department, in writing, that a hearing will be scheduled at which the licensee will be required to show cause why its license should not be suspended pending compliance with these requirements. If after the hearing the license is not suspended, the department shall require a daily late fee beginning with the date the renewal, the financial statements, or the annual renewal fee is required by this chapter, in an amount fixed by the department under IC 28-11-3-5.

(c) The director may, for good cause shown, waive any requirement of this section.

SECTION 32. IC 28-8-4-41, AS AMENDED BY P.L.27-2012, SECTION 99, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 41. (a) The director may conduct an annual onsite examination of a licensee or an authorized delegate of a licensee.

(b) If the director determines that a reasonable belief exists that a person is operating without a valid license or in violation of this chapter, the director has the authority to investigate and examine the records of that person. The person examined must pay the reasonably incurred costs of the examination.

(c) Except as provided in section 42(a)(2) of this chapter, the director must give the licensee forty-five (45) days written notice before conducting an onsite examination.

(d) If the director determines, based on the licensee's financial statements and past history of operations in Indiana, that an onsite examination is unnecessary, the director may waive the onsite examination.

(e) If the director concludes that an onsite examination of a licensee is necessary, the licensee shall pay all reasonably incurred costs of such examination in accordance with the fee schedule adopted under IC 28-11-3-5. A fee established by the department under IC 28-11-3-5 may be charged for each day a fee under this section is delinquent.

(f) An onsite examination may be conducted in conjunction with examinations to be performed by representatives of agencies of another state or states. In lieu of an onsite examination, a director may accept the examination report of an agency of another state, or a report prepared by an independent accounting firm. A report accepted under this subsection shall be considered, for all purposes, to be an official report of the director.

(g) To discover violations of this chapter or to secure

information necessary for the enforcement of this chapter, the department may investigate any:

(1) licensee; or

(2) person that the department suspects to be operating:

(A) without a license, when a license is required under this chapter; or

(B) otherwise in violation of this chapter.

The department has all investigatory and enforcement authority under this chapter that the department has under IC 28-11 with respect to financial institutions. If the department conducts an investigation under this section, the licensee 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.

~~(g)~~ **(h)** If a licensee contracts with an outside vendor to provide a service that would otherwise be undertaken internally by the licensee and be subject to the department's routine examination procedures, the person that provides the service to the licensee 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 licensee that receives services from the person refusing the examination to:

(1) discontinue receiving one (1) or more services from the person; or

(2) otherwise cease conducting business with the person.

SECTION 33. IC 28-8-5-11, AS AMENDED BY P.L.172-2011, SECTION 135, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 11. (a) A person shall not engage in the business of cashing checks for consideration without first obtaining a license.

(b) Each application for a license shall be in writing in such form as the director may prescribe and shall include all of the following:

(1) The following information pertaining to the applicant:

(A) Name.

(B) Residence address.

(C) Business address.

(2) The following information pertaining to any individual described in section 12(b)(1) of this chapter:

(A) Name.

(B) Residence address.
(C) Business address.
(D) Whether the person:
(i) is, at the time of the application, under indictment for a felony under the laws of Indiana or any other jurisdiction; or
(ii) has been convicted of ~~or pleaded guilty or nolo contendere to~~ a felony under the laws of Indiana or any other jurisdiction.

(3) The address where the applicant's office or offices will be located. If any business, other than the business of cashing checks under this chapter, will be conducted by the applicant or another person at any of the locations identified under this subdivision, the applicant shall indicate for each location at which another business will be conducted:
(A) the nature of the other business;
(B) the name under which the other business operates;
(C) the address of the principal office of the other business;
(D) the name and address of the business's resident agent in Indiana; and
(E) any other information that the director may require.

(4) If the department of state revenue notifies the department that a person is on the most recent tax warrant list, the department shall not issue or renew the person's license until:
(A) the person provides to the department a statement from the department of state revenue that the person's tax warrant has been satisfied; or
(B) the department receives a notice from the commissioner of the department of state revenue under IC 6-8.1-8-2(k).

(5) Such other data, financial statements, and pertinent information as the director may require.

(c) The application shall be filed with a nonrefundable fee fixed by the department under IC 28-11-3-5.

SECTION 34. IC 28-8-5-14, AS AMENDED BY P.L.27-2012, SECTION 103, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. A license issued pursuant to this chapter expires on ~~July~~ **August** 1 of the year following the date of issuance unless earlier suspended, relinquished, or revoked.

SECTION 35. IC 28-8-5-15, AS AMENDED BY P.L.89-2011, SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) To remain in force, a license must be renewed not later than ~~July~~ **August** 1 of each year, beginning with the year following the date of issuance, as set forth in section 14 of this

chapter. A licensee may renew a license issued under this chapter by filing a renewal application as prescribed by the director of the department. The department shall prescribe a form for the renewal application. To be accepted for processing, a renewal application must be accompanied by:

(1) the license renewal fee described in subsection (b); and

(2) all information and documents requested by the director of the department.

(b) A licensee that seeks to renew a license issued under this chapter shall pay to the department before ~~July~~ **August** 1 of each year a fee fixed by the department under IC 28-11-3-5 as a renewal fee. The department may fix a daily late fee under IC 28-11-3-5 for a:

(1) renewal license application; or

(2) renewal fee;

that is received by the department after ~~July~~ **August** 1.

SECTION 36. IC 28-8-5-19, AS AMENDED BY P.L.27-2012, SECTION 104, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 19. (a) The department may examine the books, accounts, and records of a licensee and may make investigations to determine compliance.

(b) If the department examines the books, accounts, and records of a licensee, the licensee shall pay all reasonably incurred costs of the examination in accordance with the fee schedule adopted under IC 28-11-3-5. A fee established by the department under IC 28-11-3-5 may be charged for each day a fee under this section is delinquent.

(c) To discover violations of this chapter or to secure information necessary for the enforcement of this chapter, the department may investigate any:

(1) licensee; or

(2) person that the department suspects to be operating:

(A) without a license, when a license is required under this chapter; or

(B) otherwise in violation of chapter.

The department has all investigatory and enforcement authority under this chapter that the department has under IC 28-11 with respect to financial institutions. If the department conducts an investigation under this section, the licensee 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.

~~(c)~~ **(d)** If a licensee contracts with an outside vendor to provide a service that would otherwise be undertaken internally by the licensee

and be subject to the department's routine examination procedures, the person that provides the service to the licensee 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 licensee that receives services from the person refusing the examination to:

(1) discontinue receiving one (1) or more services from the person; or

(2) otherwise cease conducting business with the person.

SECTION 37. IC 28-10-1-1, AS AMENDED BY P.L.216-2013, SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. A reference to a federal law or federal regulation in this title is a reference to the law or regulation as in effect December 31, ~~2012.~~ **2013.**

SECTION 38. IC 28-11-4-3, AS AMENDED BY P.L.35-2010, SECTION 198, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 3. (a) If the director determines that a current or former director, officer, or employee of a financial institution has:

(1) committed a violation of a statute, a rule, a final cease and desist order, any condition imposed in writing by the director in connection with the grant of any application or other request by the financial institution, or any written agreement between the financial institution and the director or the department;

(2) engaged or participated in an unsafe or unsound practice in connection with the financial institution;

(3) committed or engaged in an act, an omission, or a practice that constitutes a breach of fiduciary duty as director, officer, or employee; or

(4) been convicted of, ~~has pleaded guilty or nolo contendere to,~~ or is under indictment for, a felony involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction;

the director, subject to subsection (b), may issue and serve upon the officer, director, or employee a notice of the director's intent to issue an order removing the person from the person's office or employment, an order prohibiting any participation by the person in the conduct of the affairs of any financial institution, or an order both removing the person and prohibiting the person's participation.

(b) A violation, practice, or breach specified in subdivision (a) is subject to the authority of the director under subsection (a) if the director finds any of the following:

(1) By reason of the violation, practice, or breach, the financial institution has suffered or will probably suffer substantial financial loss or other damage.

(2) The interests of the financial institution's depositors could be seriously prejudiced by reason of the violation, practice, or breach of fiduciary duty.

(3) The violation, practice, or breach involves personal dishonesty on the part of the officer, director, or employee involved.

(4) The violation, practice, or breach demonstrates a willful or continuing disregard by the officer, director, or employee for the safety and soundness of the financial institution.

(c) A person who:

(1) is under indictment for; **or**

(2) has been convicted of; ~~or~~

~~(3) has pleaded guilty or nolo contendere to;~~

a felony involving fraud, deceit, or misrepresentation under the laws of Indiana or any other jurisdiction may not serve as a director, an officer, or an employee of a financial institution, or serve in any similar capacity, unless the person obtains the written consent of the director.

(d) A financial institution that willfully permits a person to serve the financial institution in violation of subsection (b) or (c) is subject to a civil penalty of five hundred dollars ($500) for each day the violation continues. A civil penalty paid under this subsection must be deposited into the financial institutions fund established by IC 28-11-2-9.

SECTION 39. IC 28-13-4-6 IS REPEALED [EFFECTIVE JULY 1, 2014]. ~~Sec. 6. All debts due to a corporation on which interest is past due for a period of six (6) months are bad debts unless, in the opinion of the department, the debts are well secured.~~

SECTION 40. IC 28-13-10-9, AS AMENDED BY P.L.90-2008, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 9. (a) As used in this section, "emergency" means:

(1) any condition or occurrence that:

(A) may interfere physically with the conduct of normal business operations; or

(B) poses an imminent or existing threat to the safety or security of persons, property, or both persons and property;

at one (1) or more of the offices of a corporation;

(2) any condition or occurrence that:

(A) is declared a state of disaster emergency by the governor

under IC 10-14-3-12; and

(B) applies to an area that includes one (1) or more of the offices of a corporation; or

(3) the death of or funeral services for an employee, officer, or director of a corporation or for a former employee, officer, or director of a corporation.

(b) A corporation may be closed on any part of a legal holiday by giving reasonable notice to its customers of its intention to be closed in observance of the holiday.

(c) Whenever a corporation is to be closed on a day or part of a day other than a legal holiday, the board of directors shall pass a resolution concerning the closing, and give reasonable notice of the closing to the customers of the corporation.

(d) The board of directors of a corporation may establish and observe different banking hours and designate different fixed days, if any, for closing the principal office and each separate branch office of the corporation.

(e) Any day designated by the President of the United States or by the governor as a day of mourning, celebration, or other special observance is a legal holiday for corporations.

(f) Whenever the officers of a corporation believe that an emergency exists or is impending, which affects or may affect one (1) or more of a corporation's offices, the officers have the authority, in the reasonable and proper exercise of their discretion, to determine not to open any one (1) or more of such offices or, if having opened, to close any one (1) or more of such offices during the continuation of the emergency. The office or offices so closed shall remain closed until the time the officers determine that the emergency has ended. However, such office or offices may not remain closed for more than forty-eight (48) consecutive hours on business days, excluding other legal holidays, without ~~requesting the approval of~~ **providing prior notice to** the director of the department of financial institutions.

(g) A corporation closing an office or offices under subsection (f) shall give prompt notice of its action to the director of the department of financial institutions.

(h) Any date on which a corporation is closed under this section is a legal holiday with respect to the business affairs of the corporation. No liability or loss of rights of any kind, on the part of any corporation, director, officer, or employee, accrues or results by virtue of any closing authorized by this section.

SECTION 41. IC 28-13-13-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 8. (a) A corporation

may indemnify an individual made a party to a proceeding because the individual is or was a director against liability incurred in the proceeding if:

(1) the individual's conduct was in good faith; and

(2) the individual reasonably believed:

(A) in the case of conduct in the individual's official capacity with the corporation, that the individual's conduct was in the corporation's best interests; and

(B) in all other cases, that the individual's conduct was at least not opposed to the corporation's best interests; and

(3) in the case of any criminal proceeding, the individual either:

(A) had reasonable cause to believe the individual's conduct was lawful; or

(B) had no reasonable cause to believe the individual's conduct was unlawful.

(b) A director's conduct with respect to an employee benefit plan for a purpose the director reasonably believed to be in the interests of the participants in and beneficiaries of the plan is conduct that satisfies the requirement of subsection (a)(2).

(c) The termination of a proceeding by judgment, order, settlement, **or** conviction ~~or upon a plea of nolo contendere or its equivalent~~ is not, of itself, determinative that the director did not meet the standard of conduct described in this section.

SECTION 42. IC 30-4-5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 12. (Accounting by Trustees)

(a) Unless the terms of the trust provide otherwise or unless waived in writing by an adult, competent beneficiary, the trustee shall deliver a written statement of accounts to each income beneficiary or ~~his~~ **the income beneficiary's** personal representative annually. The statement shall contain at least:

(1) all receipts and disbursements since the last statement; and

(2) all items of trust property held by the trustee on the date of the statement at their inventory value.

(b) This subsection applies to a charitable trust with assets of at least five hundred thousand dollars ($500,000). The trustee of a charitable trust shall annually file a verified written certification with the attorney general stating that a written statement of accounts has been prepared showing at least the items listed in section 13(a) of this chapter. The certification must state that the statement of accounts is available to the attorney general and any member of the general public upon request. A charitable trust may not be exempted from this requirement by a

provision in a will, trust agreement, indenture, or other governing instrument. This subsection does not prevent a trustee from docketing a charitable trust to finalize a written statement of account or any other lawful purpose in the manner provided in this article. However, this subsection does not apply to an organization that is not required to file a federal information return under Section ~~6033(a)(2)(A)(i) or Section 6033(a)(2)(A)(ii)~~ **6033(a)(3)(A)(1)** of the Internal Revenue Code.

(c) Upon petition by the settlor, a beneficiary or ~~his~~ **the beneficiary's** personal representative, a person designated by the settlor to have advisory or supervisory powers over the trust, or any other person having an interest in the administration or the benefits of the trust, including the attorney general in the case of a trust for a benevolent public purpose, the court may direct the trustee to file a verified written statement of accounts showing the items listed in section 13(a) of this chapter. The petition may be filed at any time; ~~provided,~~ however, ~~that~~ the court ~~will~~ **may** not, in the absence of good cause shown, require the trustee to file a statement more than once a year.

(d) If the court's jurisdiction is of a continuing nature as provided in IC 30-4-6-2, the trustee shall file a verified written statement of accounts containing the items shown in section 13(a) of this chapter with the court biennially, and the court may, on its own motion, require the trustee to file such a statement at any other time ~~provided~~ **if** there is good cause for requiring a statement to be filed.

SECTION 43. **An emergency is declared for this act.**

COMMITTEE REPORT

Mr. Speaker: Your Committee on Financial Institutions, to which was referred House Bill 1245, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 23, line 16, reset in roman "three".
Page 23, line 17, reset in roman "hundred".
Page 23, line 17, delete "two thousand".
Page 23, line 17, reset in roman "($300)".
Page 23, line 17, delete "($2,000)".
Page 23, line 26, reset in roman "three hundred".
Page 23, line 26, delete "two thousand".
Page 23, line 26, reset in roman "($300)".
Page 23, line 26, delete "($2,000)".
Page 28, line 1, after "intervals" insert ",".
Page 28, line 2, after "debtor" insert ",".
Page 28, line 2, after "and" insert ":".
Page 28, line 2, delete "is:".
Page 28, line 4, reset in roman "three hundred".
Page 28, line 4, delete "two thousand".
Page 28, line 5, reset in roman "($300);".
Page 28, line 5, delete "($2,000);".
Page 28, line 7, reset in roman "three hundred".
Page 28, line 7, delete "two thousand".
Page 28, line 7, reset in roman "($300)".
Page 28, line 7, delete "($2,000)".
Page 28, line 9, reset in roman "three hundred".
Page 28, line 9, delete "two thousand".
Page 28, line 9, reset in roman "($300)".
Page 28, line 10, delete "($2,000)".
Page 29, line 19, reset in roman "three".
Page 29, line 20, reset in roman "hundred".
Page 29, line 20, delete "two thousand".
Page 29, line 20, reset in roman "($300)".
Page 29, line 20, delete "($2,000)".
Page 29, line 21, reset in roman "three hundred".
Page 29, line 21, reset in roman "$300)".
Page 29, line 21, delete "two thousand".
Page 29, line 22, delete "($2,000)".
Page 29, line 23, reset in roman "three hundred".
Page 29, line 23, delete "two thousand".

Page 29, line 23, reset in roman "($300)".
Page 29, line 24, delete "($2,000)".

and when so amended that said bill do pass.

(Reference is to HB 1245 as introduced.)

BURTON, Chair

Committee Vote: yeas 12, nays 0.