



March 20, 2015

ENGROSSED HOUSE BILL No. 1287

DIGEST OF HB 1287 (Updated March 19, 2015 10:59 am - DI 97)

Citations Affected: IC 4-21.5; IC 4-32.2; IC 23-15; IC 24-4.4; IC 24-4.5; IC 24-7; IC 24-8; IC 28-1; IC 28-5; IC 28-7; IC 28-8; IC 28-10; IC 35-45.

Synopsis: Financial institutions and trade regulation. Makes various changes to the laws concerning: (1) first lien mortgage lenders; (2) persons licensed under the Uniform Consumer Credit Code; (3) civil justice funding transactions; (4) rental purchase agreements; (5) debt management companies; (6) financial institutions; (7) pawnbrokers; (8) money transmitters; and (9) check cashers. Repeals a provision providing an alternative regular reserve formula for certain credit unions. Makes conforming amendments.

Effective: July 1, 2015.

Burton, Moed, Riecken

(SENATE SPONSORS — HOLDMAN, MRVAN)

January 13, 2015, read first time and referred to Committee on Financial Institutions.
January 29, 2015, amended, reported — Do Pass.
February 3, 2015, read second time, amended, ordered engrossed.
February 4, 2015, engrossed.
February 5, 2015, read third time, passed. Yeas 96, nays 0.

SENATE ACTION

February 24, 2015, read first time and referred to Committee on Insurance & Financial Institutions.
March 19, 2015, amended, reported favorably — Do Pass.

EH 1287—LS 7024/DI 101



March 20, 2015

First Regular Session of the 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1287

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:

1 SECTION 1. IC 4-21.5-3-6, AS AMENDED BY P.L.153-2011,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2015]: Sec. 6. (a) Notice shall be given under this section
4 concerning the following:
5 (1) A safety order under IC 22-8-1.1.
6 (2) Any order that:
7 (A) imposes a sanction on a person or terminates a legal right,
8 duty, privilege, immunity, or other legal interest of a person;
9 (B) is not described in section 4 or 5 of this chapter or
10 IC 4-21.5-4; and
11 (C) by statute becomes effective without a proceeding under
12 this chapter if there is no request for a review of the order
13 within a specified period after the order is issued or served.
14 (3) A notice of program reimbursement or equivalent
15 determination or other notice regarding a hospital's

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1 reimbursement issued by the office of Medicaid policy and
 2 planning or by a contractor of the office of Medicaid policy and
 3 planning regarding a hospital's year end cost settlement.

4 (4) A determination of audit findings or an equivalent
 5 determination by the office of Medicaid policy and planning or by
 6 a contractor of the office of Medicaid policy and planning arising
 7 from a Medicaid postpayment or concurrent audit of a hospital's
 8 Medicaid claims.

9 (5) A license **suspension or** revocation under:

10 (A) IC 24-4.4-2;

11 (B) IC 24-4.5-3;

12 (C) IC 28-1-29;

13 (D) IC 28-7-5;

14 (E) IC 28-8-4; or

15 (F) IC 28-8-5.

16 (6) An order issued by the:

17 (A) division of aging or the bureau of aging services; or

18 (B) division of disability and rehabilitative services or the
 19 bureau of developmental disabilities services;

20 against providers regulated by the division of aging or the bureau
 21 of developmental disabilities services and not licensed by the
 22 state department of health under IC 16-27 or IC 16-28.

23 (b) When an agency issues an order described by subsection (a), the
 24 agency shall give notice to the following persons:

25 (1) Each person to whom the order is specifically directed.

26 (2) Each person to whom a law requires notice to be given.

27 A person who is entitled to notice under this subsection is not a party
 28 to any proceeding resulting from the grant of a petition for review
 29 under section 7 of this chapter unless the person is designated as a
 30 party in the record of the proceeding.

31 (c) The notice must include the following:

32 (1) A brief description of the order.

33 (2) A brief explanation of the available procedures and the time
 34 limit for seeking administrative review of the order under section
 35 7 of this chapter.

36 (3) Any other information required by law.

37 (d) An order described in subsection (a) is effective fifteen (15) days
 38 after the order is served, unless a statute other than this article specifies
 39 a different date or the agency specifies a later date in its order. This
 40 subsection does not preclude an agency from issuing, under
 41 IC 4-21.5-4, an emergency or other temporary order concerning the
 42 subject of an order described in subsection (a).



1 (e) If a petition for review of an order described in subsection (a) is
 2 filed within the period set by section 7 of this chapter and a petition for
 3 stay of effectiveness of the order is filed by a party or another person
 4 who has a pending petition for intervention in the proceeding, an
 5 administrative law judge shall, as soon as practicable, conduct a
 6 preliminary hearing to determine whether the order should be stayed in
 7 whole or in part. The burden of proof in the preliminary hearing is on
 8 the person seeking the stay. The administrative law judge may stay the
 9 order in whole or in part. The order concerning the stay may be issued
 10 after an order described in subsection (a) becomes effective. The
 11 resulting order concerning the stay shall be served on the parties and
 12 any person who has a pending petition for intervention in the
 13 proceeding. It must include a statement of the facts and law on which
 14 it is based.

15 SECTION 2. IC 4-32.2-1-1, AS AMENDED BY P.L.135-2014,
 16 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2015]: Sec. 1. (a) This article applies only to a qualified
 18 organization.

19 (b) This article applies only to the following approved gambling
 20 events conducted as fundraising activities by qualified organizations:

21 (1) Bingo events, charity game nights, door prize events, raffle
 22 events, festivals, and other gaming events approved by the
 23 commission.

24 (2) The sale of pull tabs, punchboards, and tip boards:

25 (A) at bingo events, charity game nights, door prize events,
 26 raffle events, and festivals conducted by qualified
 27 organizations; or

28 (B) at any time on the premises owned or leased by a qualified
 29 organization and regularly used for the activities of the
 30 qualified organization.

31 This article does not apply to any other sale of pull tabs,
 32 punchboards, and tip boards.

33 (c) This article does not apply to a promotion offer subject to
 34 IC 24-8.

35 (d) This article does not apply to the following:

36 (1) A type II gambling game authorized by IC 4-36.

37 (2) A raffle or other gambling game authorized by IC 4-36-5-1(b).

38 (e) This article does not apply to a prize linked savings program
 39 that:

40 (1) is offered or conducted by an eligible financial institution
 41 under IC 28-1-23.2; or

42 (2) is:



1 (A) offered or conducted by a credit union organized or
 2 reorganized under United States law; and

3 (B) conducted in the same manner as a prize linked savings
 4 program under IC 28-1-23.2; **or**

5 **(3) is:**

6 **(A) offered or conducted by an insured depository**
 7 **institution (as defined in 12 U.S.C. 1813) that is:**

8 **(i) a national bank formed under 12 U.S.C. 21;**

9 **(ii) a state member bank (as defined in 12 U.S.C. 1813);**

10 **(iii) a state nonmember bank (as defined in 12 U.S.C.**
 11 **1813); or**

12 **(iv) a savings association (as defined in 12 U.S.C. 1813);**
 13 **and**

14 **(B) conducted in the same manner as a prize linked savings**
 15 **program under IC 28-1-23.2.**

16 SECTION 3. IC 23-15-8-3 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. (a) If the department
 18 of financial institutions determines that a business entity has violated
 19 IC 28-1-20-4, the department of financial institutions shall notify the
 20 secretary of state of the violation.

21 (b) The secretary of state shall commence a proceeding under this
 22 section to administratively dissolve a business entity if:

23 (1) the name of the business entity contains the word, **or a**
 24 **derivation of the word, "bank", "banc", or "banco", or**
 25 **"bankcor"; and**

26 (2) the department of financial institutions determines that the
 27 business entity violates IC 28-1-20-4.

28 (c) If the secretary of state commences an administrative dissolution
 29 under subsection (b), the secretary of state shall serve the business
 30 entity with written notice of the determination under subsection (b)(2).
 31 The secretary of state shall, at the same time notice is sent to the
 32 business entity, provide a copy of the notice to the department of
 33 financial institutions.

34 (d) If a business entity that receives a notice under subsection (c)
 35 does not:

36 (1) correct the grounds for dissolution; or

37 (2) demonstrate to the reasonable satisfaction of the department
 38 of financial institutions that the grounds for dissolution do not
 39 exist;

40 at any time after sixty (60) days after service of the notice is perfected,
 41 the department of financial institutions shall notify the secretary of
 42 state in writing of the continuing violation. After receiving the written



1 notice from the department of financial institutions, the secretary of
 2 state shall administratively dissolve the business entity by signing a
 3 certificate of dissolution that recites the grounds for dissolution and the
 4 effective date of the dissolution. The secretary of state shall file the
 5 original certificate of dissolution and serve a copy of the certificate of
 6 dissolution on the business entity.

7 (e) A business entity administratively dissolved under this section
 8 may carry on only those activities necessary to wind up and liquidate
 9 the business entity's affairs.

10 SECTION 4. IC 23-15-8-5 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5. Dissolution under
 12 this section is in addition to any penalties imposed upon the business
 13 entity **by under IC 28, including** IC 28-1-20-4(j).

14 SECTION 5. IC 23-15-11 IS ADDED TO THE INDIANA CODE
 15 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2015]:

17 **Chapter 11. Registered Office and Agent for Certain Indiana**
 18 **Domiciled Financial Institutions**

19 **Sec. 1. As used in this chapter, "eligible entity" has the meaning**
 20 **set forth in IC 28-1-22-1.5.**

21 **Sec. 2. (a) An eligible entity may file a notice concerning the**
 22 **eligible entity's:**

- 23 (1) registered office; and
 24 (2) registered agent;

25 **as described in IC 28-1-22-1.5.**

26 (b) A notice filed by an eligible entity under subsection (a) must
 27 include the following information with respect to the eligible entity:

- 28 (1) The address of a registered office in Indiana.
 29 (2) The name of a registered agent, who must be:

30 (A) an individual who resides in Indiana and whose
 31 business office is identical with the registered office
 32 identified under subdivision (1);

33 (B) a domestic limited liability company, domestic
 34 corporation, or nonprofit domestic corporation whose
 35 business office is identical with the registered office
 36 identified under subdivision (1); or

37 (C) a foreign limited liability company, foreign
 38 corporation, or nonprofit foreign corporation authorized
 39 to transact business in Indiana and whose business office
 40 is identical with the registered office identified under
 41 subdivision (1).

42 (c) In addition to the information set forth in subsection (b), a



1 notice filed by an eligible entity under subsection (a) must include:

- 2 (1) the written consent of the registered agent designated
 3 under subsection (b)(2) to the designation; or
 4 (2) a representation that the registered agent has consented to
 5 the designation.

6 **Sec. 3. (a)** An eligible entity that files a notice under section 2 of
 7 this chapter may change the eligible entity's registered office or
 8 registered agent by delivering to the secretary of state for filing a
 9 statement of change that includes the following:

- 10 (1) The name of the eligible entity.
 11 (2) The address of the eligible entity's registered office at the
 12 time of filing.
 13 (3) If the registered office identified under subdivision (2) is
 14 to be changed, the address of the new registered office.
 15 (4) The name of the eligible entity's registered agent at the
 16 time of filing.
 17 (5) If the registered agent identified under subdivision (4) is
 18 to be changed, the name of the new registered agent, along
 19 with:

- 20 (A) the written consent of the new registered agent to the
 21 designation; or
 22 (B) a representation that the new registered agent has
 23 consented to the designation.

24 The written consent described in clause (A) or the
 25 representation described in clause (B) may be incorporated
 26 into the statement of change filed under this section or filed
 27 along with the statement of change as an attachment.

- 28 (6) A statement indicating that after the identified changes to
 29 the registered office or the registered agent are made, the
 30 address of the eligible entity's registered office and the
 31 business address of the eligible entity's registered agent will
 32 be identical.

33 (b) If the registered agent for an eligible entity changes the
 34 address of the registered agent's business office, the registered
 35 agent may change the address of the registered office for the
 36 eligible entity by:

- 37 (1) notifying the eligible entity in writing of the change; and
 38 (2) signing (either manually or in facsimile) and delivering to
 39 the secretary of state for filing a statement that:
 40 (A) complies with subsection (a); and
 41 (B) states that the eligible entity has been notified of the
 42 change.



1 **Sec. 4. (a) The registered agent for an eligible entity may resign**
 2 **the agency appointment by signing and delivering to the secretary**
 3 **of state for filing, as described in IC 23-1-18, a statement of**
 4 **resignation. The statement of resignation may include a statement**
 5 **that the registered office for the eligible entity is also discontinued.**

6 **(b) After filing the statement, the secretary of state shall mail**
 7 **one (1) copy to the eligible entity at the eligible entity's principal**
 8 **office, if known, and one (1) copy to the eligible entity's registered**
 9 **office, if the registered office is not discontinued.**

10 **(c) On the thirty-first day after the date on which a statement is**
 11 **filed under this section:**

12 **(1) the agency appointment is terminated; and**

13 **(2) the registered office for the eligible entity is discontinued**
 14 **if so provided in the statement of resignation.**

15 **Sec. 5. (a) The registered agent of an eligible entity is the eligible**
 16 **entity's agent for service of process, notice, or demand required or**
 17 **permitted by law to be served on the eligible entity.**

18 **(b) If an eligible entity has no registered agent or the eligible**
 19 **entity's registered agent cannot with reasonable diligence be**
 20 **served, the eligible entity may be served by registered or certified**
 21 **mail, return receipt requested, addressed to the secretary of the**
 22 **eligible entity or to another executive officer, as that term is used**
 23 **in Trial Rule 4.6(A)(1), at the eligible entity's principal office.**
 24 **Service is perfected under this subsection at the earliest of:**

25 **(1) the date the eligible entity receives the mail;**

26 **(2) the date shown on the return receipt, if signed on behalf of**
 27 **the eligible entity; or**

28 **(3) five (5) days after deposit in the United States mail, if**
 29 **mailed postpaid and correctly addressed.**

30 **(c) This section does not prescribe the only means, or necessarily**
 31 **the required means, of serving an eligible entity.**

32 SECTION 6. IC 24-4.4-1-102, AS AMENDED BY P.L.137-2014,
 33 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 JULY 1, 2015]: Sec. 102. (1) This article shall be liberally construed
 35 and applied to promote its underlying purposes and policies.

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

37 (a) to permit and encourage the development of fair and
 38 economically sound first lien mortgage lending practices; and

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

42 (3) A reference to a requirement imposed by this article includes



1 reference to a related rule of the department adopted under this article.

2 (4) A reference to a federal law in this article is a reference to the
3 law as in effect December 31, ~~2013~~ **2014**.

4 SECTION 7. IC 24-4.4-1-202.5, AS ADDED BY P.L.35-2010,
5 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
6 JULY 1, 2015]: Sec. 202.5. (1) If a person licensed or required to be
7 licensed under this article also engages in the loan brokerage business,
8 the person's loan brokerage business is subject to the following sections
9 of the Indiana Code and any rules adopted to implement these sections:

- 10 (a) IC 23-2-5-9.
11 (b) IC 23-2-5-9.1.
12 (c) IC 23-2-5-15.
13 (d) IC 23-2-5-16.
14 (e) IC 23-2-5-17.
15 (f) IC 23-2-5-18.
16 (g) IC 23-2-5-18.5.
17 (h) IC 23-2-5-20.
18 (i) IC 23-2-5-23, except for IC 23-2-5-23(2)(B).
19 (j) IC 23-2-5-24.

20 (2) Loan broker business transactions engaged in by persons
21 licensed or required to be licensed under this article are subject to
22 examination by the department and to the examination fees described
23 in ~~IC 24-4.4-2-402(7)(c)~~ **IC 24-4.4-2-402(8)(c)**. The department may
24 cooperate with the securities division of the office of the secretary of
25 state in the department's examination of loan broker business
26 transactions and may use the securities division's examiners to conduct
27 examinations.

28 SECTION 8. IC 24-4.4-2-404, AS AMENDED BY P.L.27-2012,
29 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
30 JULY 1, 2015]: Sec. 404. (1) The department may issue to a person
31 licensed as a creditor to engage in first lien mortgage transactions an
32 order to show cause why the person's license should not be revoked or
33 suspended for a period determined by the department.

34 (2) An order issued under subsection (1) must:

- 35 (a) include:
36 (i) a statement of the place, date, and time for a meeting with
37 the department, which date may not be less than ten (10) days
38 from the date of the order;
39 (ii) a description of the action contemplated by the department;
40 and
41 (iii) a statement of the facts or conduct supporting the issuance
42 of the order; and



- 1 (b) be accompanied by a notice stating that the licensee is entitled
 2 to:
- 3 (i) a reasonable opportunity to be heard; and
 4 (ii) show the licensee's compliance with all lawful
 5 requirements for retention of the license;
 6 at the meeting described in subdivision (a)(i).
- 7 (3) After the meeting described in subsection (2)(a)(i), the
 8 department may revoke or suspend the license if the department finds
 9 that:
- 10 (a) the licensee has repeatedly and willfully violated:
 11 (i) this article or any **applicable** rule, order, or guidance
 12 document adopted or issued by the department; or
 13 (ii) any other state or federal law, regulation, or rule applicable
 14 to first lien mortgage transactions;
- 15 (b) the licensee does not meet the licensing qualifications
 16 contained in section 402 of this chapter;
- 17 (c) the licensee obtained the license for the benefit of, or on
 18 behalf of, another person;
- 19 (d) the licensee knowingly or intentionally made material
 20 misrepresentations to, or concealed material information from, the
 21 department; or
- 22 (e) facts or conditions exist that, had they existed at the time the
 23 licensee applied for the license, would have been grounds for the
 24 department to deny the issuance of the license.
- 25 (4) Whenever the department revokes or suspends a license, the
 26 department shall enter an order to that effect and notify the licensee of:
- 27 (a) the revocation or suspension;
- 28 (b) if a suspension has been ordered, the duration of the
 29 suspension;
- 30 (c) the procedure for appealing the revocation or suspension
 31 under ~~IC 4-21.5-3-5~~; **IC 4-21.5-3-6**; and
- 32 (d) any other terms and conditions that apply to the revocation or
 33 suspension.
- 34 Not later than five (5) days after the entry of the order, the department
 35 shall deliver to the licensee a copy of the order and the findings
 36 supporting the order.
- 37 (5) Any person holding a license as a creditor to engage in first lien
 38 mortgage transactions may relinquish the license by notifying the
 39 department in writing of the relinquishment. However, a
 40 relinquishment under this subsection does not affect the person's
 41 liability for acts previously committed and coming within the scope of
 42 this article.



1 (6) If the director determines it to be in the public interest, the
 2 director may pursue revocation of a license of a licensee that has
 3 relinquished the license under subsection (5).

4 (7) If a person's license is revoked, suspended, or relinquished, the
 5 revocation, suspension, or relinquishment does not impair or affect any
 6 obligation owed by any person under any preexisting lawful contract.

7 (8) If the director has just cause to believe an emergency exists from
 8 which it is necessary to protect the interests of the public, the director
 9 may proceed with the revocation of a license through an emergency or
 10 another temporary order under IC 4-21.5-4.

11 SECTION 9. IC 24-4.4-3-104, AS AMENDED BY P.L.216-2013,
 12 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2015]: Sec. 104. (1) In administering this article and in order
 14 to determine whether the provisions of this article are being complied
 15 with by persons engaging in acts subject to this article, the department
 16 may examine the records of persons and may make investigations of
 17 persons as may be necessary to determine compliance. Records subject
 18 to examination under this section include the following:

- 19 (a) Training, operating, and policy manuals.
- 20 (b) Minutes of:
 - 21 (i) management meetings; and
 - 22 (ii) other meetings.
- 23 (c) Financial records, credit files, and data bases.
- 24 (d) Other records that the department determines are necessary to
 25 perform its investigation or examination.

26 The department may also administer oaths or affirmations, subpoena
 27 witnesses, and compel the attendance of witnesses, including officers,
 28 principals, mortgage loan originators, employees, independent
 29 contractors, agents, and customers of licensees, and other individuals
 30 or persons subject to this article. The department may also adduce
 31 evidence and require the production of any matter that is relevant to an
 32 investigation. The department shall determine the sufficiency of the
 33 records maintained and whether the person has made the required
 34 information reasonably available. The records concerning any
 35 transaction subject to this article shall be retained for two (2) years
 36 after the making of the final entry relating to the first lien mortgage
 37 transaction, but in the case of a revolving first lien mortgage
 38 transaction the two (2) year period is measured from the date of each
 39 entry.

40 (2) The department's examination and investigatory authority under
 41 this article includes the following:

- 42 (a) The authority to require a creditor to refund overcharges



1 resulting from the creditor's noncompliance with the terms of a
2 first lien mortgage transaction.

3 (b) The authority to require a creditor to comply with the penalty
4 provisions set forth in IC 24-4.4-2-201.

5 (c) The authority to investigate complaints filed with the
6 department by debtors.

7 (3) The department shall be given free access to the records
8 wherever the records are located. In making any examination or
9 investigation authorized by this article, the director may control access
10 to any documents and records of the licensee or person under
11 examination or investigation. The director may take possession of the
12 documents and records or place a person in exclusive charge of the
13 documents and records in the place where the documents are usually
14 kept. During the period of control, a licensee or person may not remove
15 or attempt to remove any of the documents and records except under
16 a court order or with the consent of the director. Unless the director has
17 reasonable grounds to believe the documents or records of the licensee
18 or person have been, or are, at risk of being altered or destroyed for
19 purposes of concealing a violation of this article, the licensee or person
20 shall have access to the documents or records as necessary to conduct
21 the licensee's or person's ordinary business affairs. If the person's
22 records are located outside Indiana, the records shall be made available
23 to the department at a convenient location within Indiana, or the person
24 shall pay the reasonable and necessary expenses for the department or
25 the department's representative to examine the records where they are
26 maintained. The department may designate comparable officials of the
27 state in which the records are located to inspect the records on behalf
28 of the department.

29 (4) Upon a person's failure without lawful excuse to obey a
30 subpoena or to give testimony and upon reasonable notice by the
31 department to all affected persons, the department may apply to any
32 civil court with jurisdiction for an order compelling compliance.

33 (5) The department shall not make public:

34 (a) the name or identity of a person whose acts or conduct the
35 department investigates under this section; or

36 (b) the facts discovered in the investigation.

37 However, this subsection does not apply to civil actions or enforcement
38 proceedings under this article.

39 (6) To discover violations of this article or to secure information
40 necessary for the enforcement of this article, the department may
41 investigate any:

42 (a) licensee; or



1 (b) person that the department suspects to be operating:

2 (i) without a license, when a license is required under this
3 article; or

4 (ii) otherwise in violation of this article.

5 The department has all investigatory and enforcement authority under
6 this article that the department has under IC 28-11 with respect to
7 financial institutions. If the department conducts an investigation under
8 this section, the licensee or other person investigated shall pay all
9 reasonably incurred costs of the investigation in accordance with the
10 fee schedule adopted under IC 28-11-3-5. **Any costs required to be
11 paid under this section shall be paid not later than sixty (60) days
12 after the person being assessed the costs receives a notice from the
13 department of the costs assessed. The department may impose a
14 fee, in an amount fixed by the department under IC 28-11-3-5, for
15 each day the assessed costs are not paid, beginning on the first day
16 after the sixty (60) day period described in this subsection.**

17 (7) If a creditor contracts with an outside vendor to provide a service
18 that would otherwise be undertaken internally by the creditor and be
19 subject to the department's routine examination procedures, the person
20 that provides the service to the creditor shall, at the request of the
21 director, submit to an examination by the department. If the director
22 determines that an examination under this subsection is necessary or
23 desirable, the examination may be made at the expense of the person
24 to be examined. If the person to be examined under this subsection
25 refuses to permit the examination to be made, the director may order
26 any creditor that is licensed under this article and that receives services
27 from the person refusing the examination to:

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

30 (b) otherwise cease conducting business with the person.

31 SECTION 10. IC 24-4.5-1-102, AS AMENDED BY P.L.137-2014,
32 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
33 JULY 1, 2015]: Sec. 102. (1) This article shall be liberally construed
34 and applied to promote its underlying purposes and policies.

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

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

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

40 (c) to further consumer understanding of the terms of credit
41 transactions and to foster competition among suppliers of
42 consumer credit so that consumers may obtain credit at



- 1 reasonable cost;
- 2 (d) to protect consumer buyers, lessees, and borrowers against
- 3 unfair practices by some suppliers of consumer credit, having due
- 4 regard for the interests of legitimate and scrupulous creditors;
- 5 (e) to permit and encourage the development of fair and
- 6 economically sound consumer credit practices;
- 7 (f) to conform the regulation of consumer credit transactions to
- 8 the policies of the Federal Consumer Credit Protection Act and to
- 9 applicable state and federal laws, rules, regulations, policies, and
- 10 guidance; and
- 11 (g) to make uniform the law, including administrative rules
- 12 among the various jurisdictions.
- 13 (3) A reference to a requirement imposed by this article includes
- 14 reference to a related rule or guidance of the department adopted
- 15 pursuant to this article.
- 16 (4) A reference to a federal law in this article is a reference to the
- 17 law as in effect December 31, ~~2013~~ **2014**.
- 18 (5) This article applies to a transaction if the director determines
- 19 that the transaction:
- 20 (a) is in substance a disguised consumer credit transaction; or
- 21 (b) involves the application of subterfuge for the purpose of
- 22 avoiding this article.
- 23 A determination by the director under this paragraph must be in writing
- 24 and shall be delivered to all parties to the transaction. IC 4-21.5-3
- 25 applies to a determination made under this paragraph.
- 26 (6) The authority of this article remains in effect, whether a licensee,
- 27 an individual, or a person subject to this article acts or claims to act
- 28 under any licensing or registration law of this state, or claims to act
- 29 without such authority.
- 30 (7) A violation of a state or federal law, regulation, or rule
- 31 applicable to consumer credit transactions is a violation of this article.
- 32 (8) The department may enforce penalty provisions set forth in 15
- 33 U.S.C. 1640 for violations of disclosure requirements applicable to
- 34 mortgage transactions.
- 35 SECTION 11. IC 24-4.5-1-108, AS AMENDED BY P.L.35-2010,
- 36 SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 37 JULY 1, 2015]: Sec. 108. (1) This article prescribes maximum charges
- 38 for all creditors, except lessors and those excluded (IC 24-4.5-1-202),
- 39 extending consumer credit, including consumer credit sales
- 40 (~~IC 24-4.5-1-301.5(8)~~); (**IC 24-4.5-1-301.5**), consumer loans
- 41 (~~IC 24-4.5-1-301.5(9)~~); (**IC 24-4.5-1-301.5**), and consumer related
- 42 sales and loans (IC 24-4.5-2-602 and IC 24-4.5-3-602), and displaces



1 existing limitations on the powers of those creditors based on
2 maximum charges.

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

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

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

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

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

22 SECTION 12. IC 24-4.5-1-202, AS AMENDED BY P.L.27-2012,
23 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
24 JULY 1, 2015]: Sec. 202. (a) As used in this section, "balloon
25 payment", with respect to a mortgage transaction, means any payment
26 that:

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

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

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

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

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

42 (1) Extensions of credit to government or governmental agencies



- 1 or instrumentalities.
- 2 (2) The sale of insurance by an insurer, except as otherwise
- 3 provided in the chapter on insurance (IC 24-4.5-4).
- 4 (3) Transactions under public utility, municipal utility, or
- 5 common carrier tariffs if a subdivision or agency of this state or
- 6 of the United States regulates the charges for the services
- 7 involved, the charges for delayed payment, and any discount
- 8 allowed for early payment.
- 9 (4) The rates and charges and the disclosure of rates and charges
- 10 of a licensed pawnbroker established in accordance with a statute
- 11 or ordinance concerning these matters.
- 12 (5) A sale of goods, services, or an interest in land in which the
- 13 goods, services, or interest in land are purchased primarily for a
- 14 purpose other than a personal, family, or household purpose.
- 15 (6) A loan in which the debt is incurred primarily for a purpose
- 16 other than a personal, family, or household purpose.
- 17 (7) An extension of credit primarily for a business, a commercial,
- 18 or an agricultural purpose.
- 19 (8) An installment agreement for the purchase of home fuels in
- 20 which a finance charge is not imposed.
- 21 (9) Loans made, insured, or guaranteed under a program
- 22 authorized by Title IV of the Higher Education Act of 1965 (20
- 23 U.S.C. 1070 et seq.).
- 24 (10) Transactions in securities or commodities accounts in which
- 25 credit is extended by a broker-dealer registered with the Securities
- 26 and Exchange Commission or the Commodity Futures Trading
- 27 Commission.
- 28 (11) Except for ~~IC 24-4.5-3-502.1(2)~~, **IC 24-4.5-3-502.1(4)**,
- 29 **IC 24-4.5-3-503.3**, **IC 24-4.5-3-505(4)**, and **IC 24-4.5-3-505(5)**,
- 30 a loan made:
- 31 (A) in compliance with the requirements of; and
- 32 (B) by a community development corporation (as defined in
- 33 IC 4-4-28-2) acting as a subrecipient of funds from;
- 34 the Indiana housing and community development authority
- 35 established by IC 5-20-1-3.
- 36 (12) Except for ~~IC 24-4.5-3-502.1(2)~~, **IC 24-4.5-3-502.1(4)**,
- 37 **IC 24-4.5-3-503.3**, **IC 24-4.5-3-505(4)**, and **IC 24-4.5-3-505(5)**,
- 38 a subordinate lien mortgage transaction made by an entity that
- 39 exclusively uses funds provided by the United States Department
- 40 of Housing and Urban Development under Title 1 of the Housing
- 41 and Community Development Act of 1974, Public Law 93-383,
- 42 as amended (42 U.S.C. 5301 et seq.).



- 1 (13) The United States, any state or local government, or any
 2 agency or instrumentality of any governmental entity, including
 3 United States government sponsored enterprises.
- 4 (14) A bona fide nonprofit organization not operating in a
 5 commercial context, as determined by the director, if the
 6 following criteria are satisfied:
- 7 (A) Subject to clause (B), the organization originates only one
 8 (1) or both of the following types of mortgage transactions:
 9 (i) Zero (0) interest first lien mortgage transactions.
 10 (ii) Zero (0) interest subordinate lien mortgage transactions.
- 11 (B) The organization does not require, under the terms of the
 12 mortgage or otherwise, balloon payments with respect to the
 13 mortgage transactions described in clause (A).
- 14 (C) The organization is exempt from federal income taxation
 15 under Section 501(c)(3) of the Internal Revenue Code.
- 16 (D) The organization's primary purpose is to serve the public
 17 by helping low income individuals and families build, repair,
 18 and purchase housing.
- 19 (E) The organization uses only:
 20 (i) unpaid volunteers; or
 21 (ii) employees whose compensation is not based on the
 22 number or size of any mortgage transactions that the
 23 employees originate;
 24 to originate the mortgage transactions described in clause (A).
- 25 (F) The organization does not charge loan origination fees in
 26 connection with the mortgage transactions described in clause
 27 (A).
- 28 (15) A bona fide nonprofit organization (as defined in section
 29 ~~301.5(45)~~ **301.5** of this chapter) if the following criteria are
 30 satisfied:
- 31 (a) (A) For each calendar year that the organization seeks the
 32 exemption provided by this subdivision, the organization
 33 certifies, not later than December 31 of the preceding calendar
 34 year and on a form prescribed by the director and accompanied
 35 by such documentation as required by the director, that the
 36 organization is a bona fide nonprofit organization (as defined
 37 in section 301.5(45) of this chapter).
- 38 (b) (B) The director determines that the organization originates
 39 only mortgage transactions that are favorable to the debtor. For
 40 purposes of this clause, a mortgage transaction is favorable to
 41 the debtor if the director determines that the terms of the
 42 mortgage transaction are consistent with terms of mortgage



1 transactions made in a public or charitable context, rather than
2 in a commercial context.

3 SECTION 13. IC 24-4.5-2-204 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 204. Deferral Charges
5 — (1) With respect to a precomputed consumer credit sale,
6 refinancing, or consolidation, the parties before or after default may
7 agree in writing to a deferral of all or part of one **(1)** or more unpaid
8 instalments, and the seller may make and collect a charge not
9 exceeding **the lesser of thirty-six percent (36%) per year or** the rate
10 previously stated to the buyer pursuant to the provisions on disclosure
11 (Part 3) applied to the amount or amounts deferred for the period of
12 deferral calculated without regard to differences in lengths of months,
13 but proportionately for a part of a month, counting each day as
14 one-thirtieth (1/30) of a month. A deferral charge may be collected at
15 the time it is assessed or at any time thereafter.

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

20 (3) The parties may agree in writing at the time of a precomputed
21 consumer credit sale, refinancing, or consolidation that if an instalment
22 is not paid within ten (10) days after its due date, the seller may
23 unilaterally grant a deferral and make charges as provided in this
24 section. No deferral charge may be made for a period after the date that
25 the seller elects to accelerate the maturity of the agreement.

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

29 SECTION 14. IC 24-4.5-1-301.5, AS AMENDED BY
30 P.L.137-2014, SECTION 6, IS AMENDED TO READ AS FOLLOWS
31 [EFFECTIVE JULY 1, 2015]: Sec. 301.5. In addition to definitions
32 appearing in subsequent chapters in this article, the following
33 definitions apply throughout this article:

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

37 (a) controls;
38 (b) is controlled by; or
39 (c) is under common control with;
40 the person subject to this article.

41 (2) "Agreement" means the bargain of the parties in fact as found in
42 their language or by implication from other circumstances, including



1 course of dealing or usage of trade or course of performance.

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

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

14 **(5) "Civil justice funding company" means a person that enters
15 into a civil justice funding transaction with a consumer. The term
16 does not include the following:**

17 **(a) An immediate family member of the consumer.**

18 **(b) A bank, lender, financing entity, or other special purpose
19 entity:**

20 **(i) that provides financing to the person; or**

21 **(ii) to which the person grants a security interest or
22 transfers rights or interest in a civil justice funding
23 transaction.**

24 **(c) An attorney or accountant who provides services to the
25 consumer.**

26 **(6) "Civil justice funding transaction" means a transaction in
27 which a:**

28 **(a) person purchases; and**

29 **(b) consumer assigns to the person described in paragraph
30 (a);**

31 **a contingent right to receive an amount of the potential proceeds
32 of a settlement, judgment, award, or verdict obtained in the
33 consumer's legal claim.**

34 ~~(5)~~ **(7) "Closing costs" with respect to a subordinate lien mortgage
35 transaction includes:**

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

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

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

41 **(d) fees for notarizing deeds and other documents;**

42 **(e) appraisal fees; and**



- 1 (f) fees for credit reports.
- 2 ~~(6)~~ **(8)** "Conspicuous" refers to a term or clause when it is so written
3 that a reasonable person against whom it is to operate ought to have
4 noticed it.
- 5 ~~(7)~~ **(9)** "Consumer credit" means credit offered or extended to a
6 consumer primarily for a personal, family, or household purpose.
- 7 ~~(8)~~ **(10)** "Consumer credit sale" is a sale of goods, services, or an
8 interest in land in which:
- 9 (a) credit is granted by a person who regularly engages as a seller
10 in credit transactions of the same kind;
- 11 (b) the buyer is a person other than an organization;
- 12 (c) the goods, services, or interest in land are purchased primarily
13 for a personal, family, or household purpose;
- 14 (d) either the debt is payable in installments or a credit service
15 charge is made; and
- 16 (e) with respect to a sale of goods or services, either:
- 17 (i) the amount of credit extended, the written credit limit, or
18 the initial advance does not exceed fifty-three thousand five
19 hundred dollars (\$53,500) or another amount as adjusted in
20 accordance with the annual adjustment of the exempt
21 threshold amount specified in Regulation Z (12 CFR 226.3 or
22 12 CFR 1026.3(b), as applicable); or
- 23 (ii) the debt is secured by personal property used or expected
24 to be used as the principal dwelling of the buyer.
- 25 Unless the sale is made subject to this article by agreement
26 (IC 24-4.5-2-601), "consumer credit sale" does not include a sale
27 in which the seller allows the buyer to purchase goods or services
28 pursuant to a lender credit card or similar arrangement or except
29 as provided with respect to disclosure (IC 24-4.5-2-301), debtors'
30 remedies (IC 24-4.5-5-201), providing payoff amounts
31 (IC 24-4.5-2-209), and powers and functions of the department
32 (IC 24-4.5-6) a sale of an interest in land which is a first lien
33 mortgage transaction.
- 34 ~~(9)~~ **(11)** "Consumer loan" means a loan made by a person regularly
35 engaged in the business of making loans in which:
- 36 (a) the debtor is a person other than an organization;
- 37 (b) the debt is primarily for a personal, family, or household
38 purpose;
- 39 (c) either the debt is payable in installments or a loan finance
40 charge is made; and
- 41 (d) either:
- 42 (i) the amount of credit extended, the written credit limit, or



1 the initial advance does not exceed fifty-three thousand five
 2 hundred dollars (\$53,500) or another amount as adjusted in
 3 accordance with the annual adjustment of the exempt
 4 threshold amount specified in Regulation Z (12 CFR 226.3 or
 5 12 CFR 1026.3(b), as applicable); or
 6 (ii) the debt is secured by an interest in land or by personal
 7 property used or expected to be used as the principal dwelling
 8 of the debtor.

9 **The term includes a civil justice funding transaction.** Except as
 10 described in IC 24-4.5-3-105, the term does not include a first lien
 11 mortgage transaction.

12 ~~(10)~~ **(12)** "Credit" means the right granted by a creditor to a debtor
 13 to defer payment of debt or to incur debt and defer its payment.

14 ~~(11)~~ **(13)** "Creditor" means a person:

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

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

22 ~~(12)~~ **(14)** "Depository institution" has the meaning set forth in the
 23 Federal Deposit Insurance Act (12 U.S.C. 1813(c)) and includes any
 24 credit union.

25 ~~(13)~~ **(15)** "Director" means the director of the department of
 26 financial institutions or the director's designee.

27 ~~(14)~~ **(16)** "Dwelling" means a residential structure that contains one
 28 (1) to four (4) units, regardless of whether the structure is attached to
 29 real property. The term includes an individual:

30 (a) condominium unit;

31 (b) cooperative unit;

32 (c) mobile home; or

33 (d) trailer;

34 that is used as a residence.

35 ~~(15)~~ **(17)** "Earnings" means compensation paid or payable for
 36 personal services, whether denominated as wages, salary, commission,
 37 bonus, or otherwise, and includes periodic payments under a pension
 38 or retirement program.

39 ~~(16)~~ **(18)** "Employee" means an individual who is paid wages or
 40 other compensation by an employer required under federal income tax
 41 law to file Form W-2 on behalf of the individual.

42 ~~(17)~~ **(19)** "Federal banking agencies" means the Board of Governors



1 of the Federal Reserve System, the Office of the Comptroller of the
 2 Currency, the Office of Thrift Supervision, the National Credit Union
 3 Administration, and the Federal Deposit Insurance Corporation.

4 ~~(18)~~ **(20)** "First lien mortgage transaction" means:

5 (a) a consumer loan; or

6 (b) a consumer credit sale;

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

13 ~~(19)~~ **(21)** "Immediate family member" means a spouse, child,
 14 sibling, parent, grandparent, or grandchild. The term includes
 15 stepparents, stepchildren, stepsiblings, and adoptive relationships.

16 ~~(20)~~ **(22)** "Individual" means a natural person.

17 ~~(21)~~ **(23)** "Lender credit card or similar arrangement" means an
 18 arrangement or loan agreement, other than a seller credit card, pursuant
 19 to which a lender gives a debtor the privilege of using a credit card,
 20 letter of credit, or other credit confirmation or identification in
 21 transactions out of which debt arises:

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

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

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

28 ~~(22)~~ **(24)** "Licensee" means a person licensed as a creditor under
 29 this article.

30 ~~(23)~~ **(25)** "Loan brokerage business" means any activity in which a
 31 person, in return for any consideration from any source, procures,
 32 attempts to procure, or assists in procuring, a mortgage transaction
 33 from a third party or any other person, whether or not the person
 34 seeking the mortgage transaction actually obtains the mortgage
 35 transaction.

36 ~~(24)~~ **(26)** "Loan processor or underwriter" means an individual who
 37 performs clerical or support duties as an employee at the direction of,
 38 and subject to the supervision and instruction of, a person licensed or
 39 exempt from licensing under this article. For purposes of this
 40 subsection, the term "clerical or support duties" may include, after the
 41 receipt of an application, the following:

42 (a) The receipt, collection, distribution, and analysis of



1 information common for the processing or underwriting of a
2 mortgage transaction.

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

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

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

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

15 ~~(25)~~ **(27)** "Mortgage loan originator" means an individual who, for
16 compensation or gain, or in the expectation of compensation or gain,
17 regularly engages in taking a mortgage transaction application or in
18 offering or negotiating the terms of a mortgage transaction that either
19 is made under this article or under IC 24-4.4 or is made by an employee
20 of a person licensed or exempt from licensing under this article or
21 under IC 24-4.4, while the employee is engaging in the loan brokerage
22 business. The term does not include the following:

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

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

28 (i) a creditor;

29 (ii) a loan broker;

30 (iii) another mortgage loan originator; or

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

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

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

38 ~~(26)~~ **(28)** "Mortgage servicer" means the last person to whom a
39 mortgagor or the mortgagor's successor in interest has been instructed
40 by a mortgagee to send payments on a loan secured by a mortgage.

41 ~~(27)~~ **(29)** "Mortgage transaction" means:

42 (a) a consumer loan; or



- 1 (b) a consumer credit sale;
 2 that is or will be used by the debtor primarily for personal, family, or
 3 household purposes and that is secured by a mortgage or a land
 4 contract (or another consensual security interest equivalent to a
 5 mortgage or a land contract) on a dwelling or on residential real estate
 6 upon which a dwelling is constructed or intended to be constructed.
- 7 ~~(28)~~ **(30)** "Nationwide Mortgage Licensing System and Registry",
 8 or "NMLSR", means a mortgage licensing system developed and
 9 maintained by the Conference of State Bank Supervisors and the
 10 American Association of Residential Mortgage Regulators for the
 11 licensing and registration of creditors and mortgage loan originators.
- 12 ~~(29)~~ **(31)** "Nontraditional mortgage product" means any mortgage
 13 product other than a thirty (30) year fixed rate mortgage.
- 14 ~~(30)~~ **(32)** "Official fees" means:
 15 (a) fees and charges prescribed by law which actually are or will
 16 be paid to public officials for determining the existence of or for
 17 perfecting, releasing, or satisfying a security interest related to a
 18 consumer credit sale, consumer lease, or consumer loan; or
 19 (b) premiums payable for insurance in lieu of perfecting a security
 20 interest otherwise required by the creditor in connection with the
 21 sale, lease, or loan, if the premium does not exceed the fees and
 22 charges described in paragraph (a) that would otherwise be
 23 payable.
- 24 ~~(31)~~ **(33)** "Organization" means a corporation, a government or
 25 governmental subdivision, an agency, a trust, an estate, a partnership,
 26 a limited liability company, a cooperative, an association, a joint
 27 venture, an unincorporated organization, or any other entity, however
 28 organized.
- 29 ~~(32)~~ **(34)** "Payable in installments" means that payment is required
 30 or permitted by written agreement to be made in more than four (4)
 31 installments not including a down payment.
- 32 ~~(33)~~ **(35)** "Person" includes an individual or an organization.
- 33 ~~(34)~~ **(36)** "Person related to" with respect to an individual means:
 34 (a) the spouse of the individual;
 35 (b) a brother, brother-in-law, sister, or sister-in-law of the
 36 individual;
 37 (c) an ancestor or lineal descendants of the individual or the
 38 individual's spouse; and
 39 (d) any other relative, by blood or marriage, of the individual or
 40 the individual's spouse who shares the same home with the
 41 individual.
- 42 ~~(35)~~ **(37)** "Person related to" with respect to an organization means:



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

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

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

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

9 ~~(36)~~ **(38)** "Presumed" or "presumption" means that the trier of fact
10 must find the existence of the fact presumed, unless and until evidence
11 is introduced that would support a finding of its nonexistence.

12 ~~(37)~~ **(39)** "Real estate brokerage activity" means any activity that
13 involves offering or providing real estate brokerage services to the
14 public, including the following:

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

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

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

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

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

29 ~~(38)~~ **(40)** "Registered mortgage loan originator" means any
30 individual who:

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

33 (i) a depository institution;

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

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

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

40 ~~(39)~~ **(41)** "Regularly engaged", with respect to a person who extends
41 consumer credit, refers to a person who:

42 (a) extended consumer credit:



- 1 (i) more than twenty-five (25) times; or
 2 (ii) more than five (5) times for a mortgage transaction secured
 3 by a dwelling;
 4 in the preceding calendar year; or
 5 (b) extends or will extend consumer credit:
 6 (i) more than twenty-five (25) times; or
 7 (ii) more than five (5) times for a mortgage transaction secured
 8 by a dwelling;
 9 in the current calendar year, if the person did not meet the
 10 numerical standards described in subdivision (a) in the preceding
 11 calendar year.
- 12 ~~(40)~~ **(42)** "Residential real estate" means any real property that is
 13 located in Indiana and on which there is located or intended to be
 14 constructed a dwelling.
- 15 ~~(41)~~ **(43)** "Seller credit card" means an arrangement that gives to a
 16 buyer or lessee the privilege of using a credit card, letter of credit, or
 17 other credit confirmation or identification for the purpose of purchasing
 18 or leasing goods or services from that person, a person related to that
 19 person, or from that person and any other person. The term includes a
 20 card that is issued by a person, that is in the name of the seller, and that
 21 can be used by the buyer or lessee only for purchases or leases at
 22 locations of the named seller.
- 23 ~~(42)~~ **(44)** "Subordinate lien mortgage transaction" means:
 24 (a) a consumer loan; or
 25 (b) a consumer credit sale;
 26 that is or will be used by the debtor primarily for personal, family, or
 27 household purposes and that is secured by a mortgage or a land
 28 contract (or another consensual security interest equivalent to a
 29 mortgage or a land contract) that constitutes a subordinate lien on a
 30 dwelling or on residential real estate upon which a dwelling is
 31 constructed or intended to be constructed.
- 32 ~~(43)~~ **(45)** "Unique identifier" means a number or other identifier
 33 assigned by protocols established by the NMLSR.
- 34 ~~(44)~~ **(46)** "Land contract" means a contract for the sale of real estate
 35 in which the seller of the real estate retains legal title to the real estate
 36 until the total contract price is paid by the buyer.
- 37 ~~(45)~~ **(47)** "Bona fide nonprofit organization" means an organization
 38 that does the following, as determined by the director under criteria
 39 established by the director:
 40 (a) Maintains tax exempt status under Section 501(c)(3) of the
 41 Internal Revenue Code.
 42 (b) Promotes affordable housing or provides home ownership



- 1 education or similar services.
 2 (c) Conducts the organization's activities in a manner that serves
 3 public or charitable purposes.
 4 (d) Receives funding and revenue and charges fees in a manner
 5 that does not encourage the organization or the organization's
 6 employees to act other than in the best interests of the
 7 organization's clients.
 8 (e) Compensates the organization's employees in a manner that
 9 does not encourage employees to act other than in the best
 10 interests of the organization's clients.
 11 (f) Provides to, or identifies for, debtors mortgage transactions
 12 with terms that are favorable to the debtor (as described in section
 13 202(b)(15) of this chapter) and comparable to mortgage
 14 transactions and housing assistance provided under government
 15 housing assistance programs.
 16 (g) Maintains certification by the United States Department of
 17 Housing and Urban Development or employs counselors who are
 18 certified by the Indiana housing and community development
 19 authority.

20 SECTION 15. IC 24-4.5-2-103, AS AMENDED BY P.L.89-2011,
 21 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 2015]: Sec. 103. Definitions — The following definitions
 23 apply to this article and appear in this article as follows:

24 "Amount financed"	Section 111 of this chapter
25 "Cash price"	Section 110 of this chapter
26 "Consumer credit sale"	IC 24-4.5-1-301.5(8)
27	IC 24-4.5-1-301.5
28 "Consumer lease"	Section 106 of this chapter
29 "Consumer related sale"	Section 602 of this chapter
30 "Credit service charge"	Section 109 of this chapter
31 "Goods"	Section 105(1) of this chapter
32 "Home solicitation sale"	Section 501 of this chapter
33 "Merchandise certificate"	Section 105(2) of this chapter
34 "Precomputed"	Section 105(7) of this chapter
35 "Revolving charge account"	Section 108 of this chapter
36 "Sale of goods"	Section 105(4) of this chapter
37 "Sale of an interest in land"	Section 105(6) of this chapter
38 "Sale of services"	Section 105(5) of this chapter
39 "Seller"	Section 107 of this chapter
40 "Services"	Section 105(3) of this chapter

41 SECTION 16. IC 24-4.5-2-301, AS AMENDED BY P.L.35-2010,
 42 SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2015]: Sec. 301. (1) For purposes of this section, "consumer
 2 credit sale" includes the sale of an interest in land which is a first lien
 3 mortgage transaction if the sale is otherwise a consumer credit sale
 4 (~~IC 24-4.5-1-301.5(8)~~): **(IC 24-4.5-1-301.5).**

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

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

12 SECTION 17. IC 24-4.5-2-407, AS AMENDED BY P.L.137-2014,
 13 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2015]: Sec. 407. (1) With respect to a consumer credit sale,
 15 a seller may take a security interest in the property sold. In addition, a
 16 seller may take a security interest in goods upon which services are
 17 performed or in which goods sold are installed or to which they are
 18 annexed, or in land to which the goods are affixed or which is
 19 maintained, repaired or improved as a result of the sale of the goods or
 20 services, if, in the case of a subordinate lien mortgage transaction, the
 21 debt secured is four thousand dollars (\$4,000) or more, or, in the case
 22 of a security interest in goods the debt secured is three hundred dollars
 23 (\$300) or more. Except as provided with respect to cross-collateral
 24 (IC 24-4.5-2-408), a seller may not otherwise take a security interest in
 25 property of the buyer to secure the debt arising from a consumer credit
 26 sale.

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

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

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

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

38 **(b) four thousand dollars (\$4,000)** is the Index for October
 39 **2012.**

40 SECTION 18. IC 24-4.5-3-106 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 106. Definition: "Loan"
 42 — "Loan" includes:



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

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

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

8 (4) the forbearance of debt arising from a loan; **and**

9 **(5) the creation of a debt under a civil justice funding**
 10 **transaction.**

11 SECTION 19. IC 24-4.5-3-204 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 204. Deferral Charges
 13 — (1) With respect to a precomputed consumer loan, refinancing, or
 14 consolidation, the parties before or after default may agree in writing
 15 to a deferral of all or part of one **(1)** or more unpaid instalments, and
 16 the lender may make and collect a charge not exceeding **the lesser of**
 17 **thirty-six percent (36%) per year or** the rate previously stated to the
 18 debtor pursuant to the provisions on disclosure (Part 3) applied to the
 19 amount or amounts deferred for the period of deferral calculated
 20 without regard to difference in the lengths of months, but
 21 proportionally for a part of a month, counting each day as one-thirtieth
 22 (1/30) of a month. A deferral charge may be collected at the time it is
 23 assessed or at any time thereafter.

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

28 (3) The parties may agree in writing at the time of a precomputed
 29 consumer loan, refinancing, or consolidation that if an instalment is not
 30 paid within ten (10) days after its due date, the lender may unilaterally
 31 grant a deferral and make charges as provided in this section. No
 32 deferral charge may be made for a period after the date that the lender
 33 elects to accelerate the maturity of the agreement.

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

37 SECTION 20. IC 24-4.5-3-301, AS AMENDED BY P.L.35-2010,
 38 SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2015]: Sec. 301. (1) For the purposes of this section,
 40 "consumer loan" includes a loan that is a first lien mortgage transaction
 41 if the loan is otherwise a consumer loan (~~IC 24-4.5-1-301.5(9)~~).
 42 **(IC 24-4.5-1-301.5).**



1 (2) The lender shall disclose to the debtor to whom credit is
 2 extended with respect to a consumer loan the information required by
 3 the Federal Consumer Credit Protection Act.

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

7 SECTION 21. IC 24-4.5-3-501.5 IS ADDED TO THE INDIANA
 8 CODE AS A NEW SECTION TO READ AS FOLLOWS
 9 [EFFECTIVE JULY 1, 2015]: **Sec. 501.5. (1) If a person licensed or
 10 required to be licensed under section 502.1 of this chapter also
 11 engages in the loan brokerage business, the person's loan
 12 brokerage business is subject to the following sections of the
 13 Indiana Code and any rules adopted to implement these sections:**

14 (a) IC 23-2-5-9.

15 (b) IC 23-2-5-9.1.

16 (c) IC 23-2-5-15.

17 (d) IC 23-2-5-16.

18 (e) IC 23-2-5-17.

19 (f) IC 23-2-5-18.

20 (g) IC 23-2-5-18.5.

21 (h) IC 23-2-5-20.

22 (i) IC 23-2-5-23, except for IC 23-2-5-23(2)(B).

23 (j) IC 23-2-5-24.

24 (2) **Loan broker business transactions engaged in by persons
 25 licensed or required to be licensed under section 502.1 of this
 26 chapter are subject to examination by the department and to the
 27 examination fees described in section 503(8)(b) of this chapter. The
 28 department may cooperate with the securities division of the office
 29 of the secretary of state in the department's examination of loan
 30 broker business transactions and may use the securities division's
 31 examiners to conduct examinations.**

32 SECTION 22. IC 24-4.5-3-502, AS AMENDED BY P.L.35-2010,
 33 SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 JULY 1, 2015]: Sec. 502. (1) A person that is a:

35 (a) depository institution;

36 (b) subsidiary that is owned and controlled by a depository
 37 institution **and regulated by a federal banking agency;** or

38 (c) credit union service organization;

39 may engage **in Indiana** in the making of consumer loans **(including
 40 small loans that are subject to IC 24-4.5-7)** that are not mortgage
 41 transactions without obtaining a license under this article.

42 (2) A collection agency licensed under IC 25-11-1 may engage in:



1 (a) taking assignments of consumer loans ~~in Indiana~~; **(including**
 2 **small loans that are subject to IC 24-4.5-7) that are not**
 3 **mortgage transactions;** and

4 (b) undertaking **the** direct collection of payments from or **the**
 5 enforcement of rights ~~in Indiana~~ against debtors arising from
 6 consumer loans **(including small loans that are subject to**
 7 **IC 24-4.5-7) that are not mortgage transactions;**

8 **in Indiana** without obtaining a license under this article.

9 (3) A person that does not qualify under subsection (1) or (2) shall
 10 acquire and retain a license under this ~~article~~ **chapter** in order to
 11 regularly engage in Indiana in the following actions with respect to
 12 consumer loans that are not **small loans (as defined in**
 13 **IC 24-4.5-7-104) or** mortgage transactions:

14 (a) The making of consumer loans.

15 (b) Taking assignments of consumer loans.

16 (c) Undertaking **the** direct collection of payments from or **the**
 17 enforcement of rights against debtors arising from consumer
 18 loans.

19 (4) A separate license under this ~~article~~ **chapter** is required for each
 20 legal entity that engages in Indiana in any activity described in
 21 subsection (3). However, a separate license under this ~~article~~ **chapter**
 22 is not required for each branch of a legal entity licensed under this
 23 ~~article~~ **chapter** to perform an activity described in subsection (3).

24 (5) **Except as otherwise provided in subsections (1) and (2), a**
 25 **separate license under IC 24-4.5-7 is required in order to regularly**
 26 **engage in Indiana in the following actions with respect to small**
 27 **loans (as defined in IC 24-4.5-7-104):**

28 (a) **The making of small loans (as defined in IC 24-4.5-7-104).**

29 (b) **Taking assignments of small loans (as defined in**
 30 **IC 24-4.5-7-104).**

31 (c) **Undertaking the direct collection of payments from or the**
 32 **enforcement of rights against debtors arising from small loans**
 33 **(as defined in IC 24-4.5-7-104).**

34 **A person that seeks licensure under IC 24-4.5-7 in order to**
 35 **regularly engage in Indiana in the actions set forth in this**
 36 **subsection shall apply to the department for that license in the**
 37 **form and manner prescribed by the department, and is subject to**
 38 **the same licensure requirements and procedures as an applicant**
 39 **for a license to make consumer loans (other than small loans or**
 40 **mortgage transactions) under this section.**

41 SECTION 23. IC 24-4.5-3-502.1, AS AMENDED BY
 42 P.L.103-2014, SECTION 5, IS AMENDED TO READ AS FOLLOWS

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1 [EFFECTIVE JULY 1, 2015]: Sec. 502.1. ~~(1)~~ Unless a person:

2 (a) is a depository institution;

3 (b) is a subsidiary that is owned and controlled by a depository
4 institution and regulated by a federal banking agency;

5 (c) is an institution regulated by the Farm Credit Administration;
6 or

7 (d) has first obtained; and subsequently retains, a license from the
8 department under this article;

9 the person shall not regularly engage in Indiana as a creditor in
10 subordinate lien mortgage transactions, take assignments in Indiana of
11 subordinate lien mortgage transactions, or undertake in the direct
12 collection of payments from or enforcement of rights against debtors
13 in Indiana arising from subordinate lien mortgage transactions:

14 (1) A person that is a:

15 (a) depository institution;

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

18 (c) credit union service organization;

19 may engage in Indiana in the making of subordinate lien mortgage
20 transactions without obtaining a license under this article.

21 (2) A collection agency licensed under IC 25-11-1 or an
22 institution regulated by the Farm Credit Administration may
23 engage in:

24 (a) taking assignments of subordinate lien mortgage
25 transactions; and

26 (b) undertaking the direct collection of payments from or the
27 enforcement of rights against debtors arising from
28 subordinate lien mortgage transactions;

29 in Indiana without obtaining a license under this article.

30 (3) A person that does not qualify under subsection (1) or (2)
31 shall acquire and retain a license relating to subordinate lien
32 mortgage transactions under this chapter in order to regularly
33 engage in Indiana in the following actions with respect to
34 subordinate lien mortgage transactions:

35 (a) The making of subordinate lien mortgage loans.

36 (b) Taking assignments of subordinate lien mortgage loans.

37 (c) Undertaking the direct collection of payments from or the
38 enforcement of rights against debtors arising from
39 subordinate lien mortgage loans.

40 ~~(2)~~ (4) Each:

41 (a) creditor licensed by the department under this article chapter
42 to engage in subordinate lien mortgage transactions; and



1 (b) entity that is exempt from licensing under this article or under
2 IC 24-4.4-1-202(b)(6)(a) and that:

- 3 (i) employs a licensed mortgage loan originator; or
4 (ii) sponsors under an exclusive written agreement, as
5 permitted by IC 24-4.4-1-202(b)(6)(a), a licensed mortgage
6 loan originator as an independent agent;

7 shall register with and maintain a valid unique identifier issued by the
8 NMLSR. Each licensed mortgage loan originator must be employed by,
9 or sponsored under an exclusive written agreement (as permitted by
10 IC 24-4.4-1-202(b)(6)(a)) and as an independent agent, and associated
11 with, a ~~licensed~~ creditor **licensed under this chapter to engage in**
12 **subordinate lien mortgage transactions** or an exempt entity
13 described under subdivision (b) in the NMLSR in order to originate
14 loans.

15 ~~(3)~~ **(5)** Applicants for a license **to engage in subordinate lien**
16 **mortgage transactions** must apply for a license under this chapter in
17 a form prescribed by the director. Each form:

- 18 (a) must contain content as set forth by rule, instruction, or
19 procedure of the director; and
20 (b) may be changed or updated as necessary by the director to
21 carry out the purposes of this article.

22 ~~(4)~~ **(6)** To fulfill the purposes of this article, the director may
23 establish relationships or contracts with the NMLSR or other entities
24 designated by the NMLSR to:

- 25 (a) collect and maintain records; and
26 (b) process transaction fees or other fees;

27 related to licensees or other persons subject to this article.

28 ~~(5)~~ **(7)** For the purpose of participating in the NMLSR, the director
29 or the department may:

- 30 (a) waive or modify, in whole or in part, by rule, regulation, or
31 order, any or all of the requirements of this article; and
32 (b) establish new requirements as reasonably necessary to
33 participate in the NMLSR.

34 SECTION 24. IC 24-4.5-3-504, AS AMENDED BY P.L.27-2012,
35 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
36 JULY 1, 2015]: Sec. 504. (1) The department may issue to a person
37 licensed to:

- 38 (a) make consumer loans; or
39 (b) engage in consumer credit sales that are mortgage
40 transactions;

41 an order to show cause why the license should not be revoked or
42 suspended for a period determined by the department.

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- 1 (2) An order issued under subsection (1) must:
 2 (a) include:
 3 (i) a statement of the place, date, and time for a meeting with
 4 the department, which date may not be less than ten (10) days
 5 from the date of the order;
 6 (ii) a description of the action contemplated by the department;
 7 and
 8 (iii) a statement of the facts or conduct supporting the issuance
 9 of the order; and
 10 (b) be accompanied by a notice stating that the licensee is entitled
 11 to:
 12 (i) a reasonable opportunity to be heard; and
 13 (ii) show the licensee's compliance with all lawful
 14 requirements for retention of the license;
 15 at the meeting described in subdivision (a)(i).
 16 (3) After the meeting described in subsection (2)(a)(i), the
 17 department may revoke or suspend the license if the department finds
 18 that:
 19 (a) the licensee has repeatedly and willfully violated:
 20 (i) this article or any **applicable** rule, order, or guidance
 21 document adopted or issued by the department; or
 22 (ii) any other state or federal laws, rules, or regulations
 23 applicable to consumer credit transactions;
 24 (b) the licensee does not meet the licensing qualifications under
 25 section 503 of this chapter;
 26 (c) the licensee obtained the license for the benefit of, or on
 27 behalf of, a person who does not qualify for the license;
 28 (d) the licensee knowingly or intentionally made material
 29 misrepresentations to, or concealed material information from, the
 30 department; or
 31 (e) facts or conditions exist that, had they existed at the time the
 32 licensee applied for the license, would have been grounds for the
 33 department to deny the issuance of the license.
 34 (4) Whenever the department revokes or suspends a license, the
 35 department shall enter an order to that effect and forthwith notify the
 36 licensee of:
 37 (a) the revocation or suspension;
 38 (b) if a suspension has been ordered, the duration of the
 39 suspension;
 40 (c) the procedure for appealing the revocation or suspension
 41 under ~~IC 4-21.5-3-5~~; **IC 4-21.5-3-6**; and
 42 (d) any other terms and conditions that apply to the revocation or



1 suspension.

2 Not later than five (5) days after the entry of the order the department
3 shall deliver to the licensee a copy of the order and the findings
4 supporting the order.

5 (5) Any person holding a license to make consumer loans may
6 relinquish the license by notifying the department in writing of its
7 relinquishment, but this relinquishment does not affect the person's
8 liability for acts previously committed and coming within the scope of
9 this article.

10 (6) If the director determines it is in the public interest, the director
11 may pursue revocation of a license of a licensee that has relinquished
12 the license under subsection (5).

13 (7) If a person's license is revoked, suspended, or relinquished, the
14 revocation, suspension, or relinquishment does not impair or affect any
15 obligation owed by any person under any preexisting lawful contract.

16 (8) If the director has just cause to believe an emergency exists from
17 which it is necessary to protect the interests of the public, the director
18 may proceed with the revocation of a license through an emergency or
19 another temporary order under IC 4-21.5-4.

20 SECTION 25. IC 24-4.5-3-510, AS AMENDED BY P.L.137-2014,
21 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
22 JULY 1, 2015]: Sec. 510. Restrictions on Interest in Land as Security
23 — (1) With respect to a supervised loan in which the principal is four
24 thousand dollars (\$4,000) or less, a lender may not contract for an
25 interest in land as security. A security interest taken in violation of this
26 section is void.

27 (2) The amount of four thousand dollars (\$4,000) in subsection (1)
28 is subject to change pursuant to the provisions on adjustment of dollar
29 amounts (IC 24-4.5-1-106). However, notwithstanding
30 IC 24-4.5-1-106(1), the Reference Base Index to be used under this
31 subsection is the Index for October ~~1992~~ **2012**.

32 SECTION 26. IC 24-4.5-3-511, AS AMENDED BY P.L.137-2014,
33 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
34 JULY 1, 2015]: Sec. 511. Regular Schedule of Payments; Maximum
35 Loan Term — (1) Supervised loans not made pursuant to a revolving
36 loan account and in which the principal is four thousand dollars
37 (\$4,000) or less are payable in a single instalment or shall be scheduled
38 to be payable in substantially equal instalments that are payable at
39 equal periodic intervals, except to the extent that the schedule of
40 payments is adjusted to the seasonal or irregular income of the debtor,
41 and:

42 (a) over a period of not more than thirty-seven (37) months if the



1 principal is more than three hundred dollars (\$300), or
 2 (b) over a period of not more than twenty-five (25) months if the
 3 principal is three hundred dollars (\$300) or less.

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

9 **(1) three hundred dollars (\$300)** is the Index for October 1992;
 10 **and**

11 **(2) four thousand dollars (\$4,000)** is the Index for October
 12 **2012.**

13 SECTION 27. IC 24-4.5-4-102, AS AMENDED BY P.L.35-2010,
 14 SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2015]: Sec. 102. (1) Except as provided in subsection (2), this
 16 chapter applies to insurance provided or to be provided in relation to
 17 a consumer credit sale (~~IC 24-4.5-1-301.5(8)~~); **(IC 24-4.5-1-301.5)**, a
 18 consumer lease (IC 24-4.5-2-106), or a consumer loan
 19 (~~IC 24-4.5-1-301.5(9)~~); **(IC 24-4.5-1-301.5).**

20 (2) The provision on cancellation by a creditor (IC 24-4.5-4-304)
 21 applies to loans the primary purpose of which is the financing of
 22 insurance. No other provision of this chapter applies to insurance so
 23 financed.

24 (3) This chapter supplements and does not repeal IC 27-8-4 (the
 25 credit insurance act). The provisions of this article concerning
 26 administrative controls, liabilities, and penalties do not apply to
 27 persons acting as insurers, and the similar provisions of IC 27-8-4 do
 28 not apply to creditors and debtors.

29 SECTION 28. IC 24-4.5-5-103, AS AMENDED BY P.L.137-2014,
 30 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2015]: Sec. 103. Restrictions on Deficiency Judgments in
 32 Consumer Credit Sales — (1) This section applies to a consumer credit
 33 sale of goods or services.

34 (2) If the seller repossesses or voluntarily accepts surrender of goods
 35 which were the subject of the sale and in which the seller has a security
 36 interest, and the cash price of the goods repossessed or surrendered was
 37 four thousand dollars (\$4,000) or less, the buyer is not personally liable
 38 to the seller for the unpaid balance of the debt arising from the sale of
 39 the goods, and the seller is not obligated to resell the collateral.

40 (3) If the seller repossesses or voluntarily accepts surrender of goods
 41 which were not the subject of the sale but in which the seller has a
 42 security interest to secure a debt arising from a sale of goods or



1 services or a combined sale of goods and services and the cash price of
 2 the sale was four thousand dollars (\$4,000) or less, the buyer is not
 3 personally liable to the seller for the unpaid balance of the debt arising
 4 from the sale.

5 (4) For the purpose of determining the unpaid balance of
 6 consolidated debts or debts pursuant to revolving charge accounts, the
 7 allocation of payments to a debt shall be determined in the same
 8 manner as provided for determining the amount of debt secured by
 9 various security interests (IC 24-4.5-2-409).

10 (5) The buyer may be liable in damages to the seller if the buyer has
 11 wrongfully damaged the collateral or if, after default and demand, the
 12 buyer has wrongfully failed to make the collateral available to the
 13 seller.

14 (6) If the seller elects to bring an action against the buyer for a debt
 15 arising from a consumer credit sale of goods or services, and under this
 16 section the seller would not be entitled to a deficiency judgment if the
 17 seller repossessed the collateral, and the seller obtains a judgment:

18 (a) the seller may not repossess the collateral; and

19 (b) the collateral is not subject to levy or sale on execution or
 20 similar proceedings pursuant to the judgment.

21 (7) The amounts of four thousand dollars (\$4,000) in subsections (2)
 22 and (3) are subject to change pursuant to the provisions on adjustment
 23 of dollar amounts (IC 24-4.5-1-106). However, notwithstanding
 24 IC 24-4.5-1-106(1), the Reference Base Index to be used under this
 25 subsection is the Index for October ~~1992~~: **2012**.

26 SECTION 29. IC 24-4.5-6-106, AS AMENDED BY P.L.216-2013,
 27 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2015]: Sec. 106. (1) In administering this article and in order
 29 to determine whether the provisions of this article are being complied
 30 with by persons engaging in acts subject to this article, the department
 31 may examine the records of persons and may make investigations of
 32 persons as may be necessary to determine compliance. Records subject
 33 to examination under this section include the following:

34 (a) Training, operating, and policy manuals.

35 (b) Minutes of:

36 (i) management meetings; and

37 (ii) other meetings.

38 (c) Other records that the department determines are necessary to
 39 perform its investigation or examination.

40 The department may also administer oaths or affirmations, subpoena
 41 witnesses, and compel the attendance of witnesses, including directors,
 42 executive officers, managers, principals, mortgage loan originators,



1 employees, independent contractors, agents, and customers of the
 2 licensee, individual, or person subject to this article. The department
 3 may also adduce evidence, and require the production of any matter
 4 which is relevant to the investigation. The department shall determine
 5 the sufficiency of the records maintained and whether the person has
 6 made the required information reasonably available. The records
 7 pertaining to any transaction subject to this article shall be retained for
 8 two (2) years after making the final entry relating to the consumer
 9 credit transaction, but in the case of a revolving loan account or
 10 revolving charge account, the two (2) years is measured from the date
 11 of each entry.

12 (2) The department's examination and investigatory authority under
 13 this article includes the following:

14 (a) The authority to require a creditor to refund overcharges
 15 resulting from the creditor's noncompliance with the terms of
 16 consumer credit sales, consumer leases, or consumer loans.

17 (b) The authority to require a creditor to comply with the
 18 prepayment penalty provisions set forth in IC 24-4.5-3-209.

19 (c) The authority to investigate complaints filed with the
 20 department by debtors.

21 (3) If the department:

22 (a) investigates; or

23 (b) examines the books and records of;

24 a person that is subject to IC 24-4.5-6-201, IC 24-4.5-6-202, and
 25 IC 24-4.5-6-203, the person shall pay all reasonably incurred costs of
 26 the investigation or examination in accordance with the fee schedule
 27 adopted by the department under IC 28-11-3-5. However, the person is
 28 liable for the costs of an investigation or examination under this
 29 subsection only to the extent that the costs exceed the amount of the
 30 filing fees paid most recently under IC 24-4.5-6-203. Any costs
 31 required to be paid under this ~~subsection~~ **section** shall be paid not later
 32 than sixty (60) days after the person receives a notice from the
 33 department of the costs being assessed. The department may impose a
 34 fee, in an amount fixed by the department under IC 28-11-3-5, for each
 35 day that the assessed costs are not paid, beginning on the first day after
 36 the sixty (60) day period described in this subsection.

37 (4) The department shall be given free access to the records
 38 wherever located. In making any examination or investigation
 39 authorized by this article, the director may control access to any
 40 documents and records of the licensee or person under examination or
 41 investigation. The director may take possession of the documents and
 42 records or place a person in exclusive charge of the documents and



1 records in the place where the documents are usually kept. During the
 2 period of control, the licensee or person may not remove or attempt to
 3 remove any of the documents and records except under a court order
 4 or with the consent of the director. Unless the director has reasonable
 5 grounds to believe the documents or records of the licensee or person
 6 have been, or are, at risk of being altered or destroyed for purposes of
 7 concealing a violation of this article, the licensee or person being
 8 examined or investigated is entitled to access to the documents or
 9 records as necessary to conduct the licensee's or person's ordinary
 10 business affairs. If the person's records are located outside Indiana, the
 11 records shall be made available to the department at a convenient
 12 location within Indiana, or the person shall pay the reasonable and
 13 necessary expenses for the department or its representative to examine
 14 them where they are maintained. The department may designate
 15 comparable officials of the state in which the records are located to
 16 inspect them on behalf of the department.

17 (5) Upon a person's failure without lawful excuse to obey a
 18 subpoena or to give testimony and upon reasonable notice to all
 19 affected persons, the department may apply to any civil court with
 20 jurisdiction for an order compelling compliance.

21 (6) The department shall not make public the name or identity of a
 22 person whose acts or conduct the department investigates pursuant to
 23 this section or the facts disclosed in the investigation, but this
 24 subsection does not apply to disclosures in actions or enforcement
 25 proceedings pursuant to this article.

26 (7) To discover violations of this article or to secure information
 27 necessary for the enforcement of this article, the department may
 28 investigate any:

29 (a) licensee or registrant; or

30 (b) person that the department suspects to be operating:

31 (i) without a license or registration, when a license or
 32 registration is required under this article; or

33 (ii) otherwise in violation of this article.

34 The department has all investigatory and enforcement authority under
 35 this article that the department has under IC 28-11 with respect to
 36 financial institutions. If the department conducts an investigation under
 37 this section, the licensee, registrant, or other person investigated shall
 38 pay all reasonably incurred costs of the investigation in accordance
 39 with the fee schedule adopted under IC 28-11-3-5. **Any costs required**
 40 **to be paid under this section shall be paid not later than sixty (60)**
 41 **days after the person receives a notice from the department of the**
 42 **costs being assessed. The department may impose a fee, in an**



1 **amount fixed by the department under IC 28-11-3-5, for each day**
 2 **that the assessed costs are not paid, beginning on the first day after**
 3 **the sixty (60) day period described in this subsection.**

4 (8) If a creditor contracts with an outside vendor to provide a service
 5 that would otherwise be undertaken internally by the creditor and be
 6 subject to the department's routine examination procedures, the person
 7 that provides the service to the creditor shall, at the request of the
 8 director, submit to an examination by the department. If the director
 9 determines that an examination under this subsection is necessary or
 10 desirable, the examination may be made at the expense of the person
 11 to be examined. If the person to be examined under this subsection
 12 refuses to permit the examination to be made, the director may order
 13 any creditor that is licensed under this article and that receives services
 14 from the person refusing the examination to:

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

17 (b) otherwise cease conducting business with the person.

18 SECTION 30. IC 24-4.5-7-102, AS AMENDED BY P.L.137-2014,
 19 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2015]: Sec. 102. (1) Except as otherwise provided, all
 21 provisions of this article applying to consumer loans, including
 22 IC 24-4.5-3-502.2, apply to small loans, as defined in this chapter.

23 (2) **Subject to subsection (7), a person may not regularly engage**
 24 **in Indiana in any of the following actions unless the department**
 25 **first issues to the person a license under this chapter:**

26 (a) **The making of small loans.**

27 (b) **Taking assignments of small loans.**

28 (c) **Undertaking the direct collection of payments from or the**
 29 **enforcement of rights against debtors arising from small**
 30 **loans.**

31 (3) **Subject to subsection (4), a person that seeks licensure under**
 32 **this chapter:**

33 (a) **shall apply to the department for a license in the form and**
 34 **manner prescribed by the department; and**

35 (b) **is subject to the same licensure requirements and**
 36 **procedures as an applicant for a license to make consumer**
 37 **loans (other than mortgage transactions) under**
 38 **IC 24-4.5-3-502.**

39 (4) **A person that seeks to make, take assignments of, or**
 40 **undertake the direct collection of payments from or the**
 41 **enforcement of rights against debtors arising from both:**

42 (a) **small loans under this chapter; and**



1 **(b) consumer loans (other than mortgage transactions) that**
 2 **are not small loans;**
 3 **must obtain a separate license from the department for each type**
 4 **of loan, as described in IC 24-4.5-3-502(5).**

5 ~~(2)~~ **(5)** This chapter applies to:

6 (a) a lender or to any person who facilitates, enables, or acts as a
 7 conduit for any person who is or may be exempt from licensing
 8 under IC 24-4.5-3-502;

9 (b) a bank, savings association, credit union, or other state or
 10 federally regulated financial institution except those that are
 11 specifically exempt regarding limitations on interest rates and
 12 fees; or

13 (c) a person, if the department determines that a transaction is:

14 (i) in substance a disguised loan; or

15 (ii) the application of subterfuge for the purpose of avoiding
 16 this chapter.

17 ~~(3)~~ **(6)** A loan that:

18 (a) does not qualify as a small loan under section 104 of this
 19 chapter;

20 (b) is for a term shorter than that specified in section 401(1) of
 21 this chapter; or

22 (c) is made in violation of section 201, 401, 402, 404, or 410 of
 23 this chapter;

24 is subject to this article. The department may conform the finance
 25 charge for a loan described in this subsection to the limitations set forth
 26 in IC 24-4.5-3-508.

27 **(7) Notwithstanding IC 24-4.5-1-301.5, for purposes of**
 28 **subsection (2), a person "regularly engages" in any of the activities**
 29 **described in subsection (2) with respect to a small loan if the**
 30 **person:**

31 **(a) performed any of the activities described in subsection (2)**
 32 **with respect to a small loan at least one (1) time in the**
 33 **preceding calendar year; or**

34 **(b) performs or will perform any of the activities described in**
 35 **subsection (2) with respect to a small loan at least one (1) time**
 36 **in the current calendar year if the person did not perform any**
 37 **of the activities described in subsection (2) with respect to a**
 38 **small loan at least one (1) time in the preceding calendar year.**

39 SECTION 31. IC 24-4.5-7-111, AS ADDED BY P.L.57-2006,
 40 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2015]: Sec. 111. "Lender" means a person ~~licensed that~~
 42 **acquires and retains a license issued** by the department of financial



1 institutions under this chapter to engage in small loans.

2 SECTION 32. IC 24-4.5-7-401, AS AMENDED BY P.L.217-2007,
3 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2015]: Sec. 401. (1) A small loan may not be made for a term
5 of less than fourteen (14) days.

6 (2) If five (5) consecutive small loans have been made to a borrower
7 after the borrower's initial small loan, another small loan may not be
8 made to that borrower within seven (7) days after the fifth consecutive
9 small loan is paid in full. After the borrower's fifth consecutive small
10 loan, the balance must be paid in full.

11 (3) Subject to subsection (4), whenever a borrower has entered into
12 an initial small loan followed by three (3) consecutive small loans, the
13 lender shall offer the borrower the option to repay:

14 (a) the third consecutive small loan; and

15 (b) subject to subsection (2), any small loan entered into after the
16 third consecutive small loan;

17 under an extended payment plan. At the time of execution of a small
18 loan described in subdivision (a) or (b), the lender shall disclose to the
19 borrower the extended payment plan option by providing the borrower
20 a written description of the extended payment plan option in a separate
21 disclosure document approved by the director.

22 (4) A lender shall offer an extended payment plan under subsection
23 (3) under the following terms and conditions:

24 (a) A borrower shall be permitted to request an extended payment
25 plan at any time during the term of a third or subsequent
26 consecutive small loan if the borrower has not defaulted on the
27 outstanding small loan.

28 (b) An extended payment plan must allow the outstanding small
29 loan to be paid in at least four (4) equal installments over a period
30 of not less than sixty (60) days.

31 **(c) An agreement for an extended payment plan may not**
32 **require a borrower to pay any amount before the original**
33 **maturity date of the outstanding small loan.**

34 ~~(d)~~ (d) The lender may not assess any fee or charge on a borrower
35 for entering into an extended payment plan.

36 ~~(e)~~ (e) An agreement for an extended payment plan must be in
37 writing and acknowledged by both the borrower and the lender.

38 ~~(f)~~ (f) A borrower may not enter into another small loan
39 transaction while engaged in an extended payment plan.

40 **(g) A lender may not compel or require a borrower to pay off**
41 **an outstanding small loan that is eligible for an extended**
42 **payment plan and to subsequently enter into a new small loan**



1 **with the lender if the borrower and lender have not entered**
 2 **into an extended payment plan with respect to the eligible**
 3 **outstanding small loan.**

4 (5) An agreement for an extended payment plan under subsection
 5 (3):

6 (a) shall be considered an extension of the outstanding small loan;
 7 and

8 (b) may not be considered a new loan.

9 SECTION 33. IC 24-7-7-2, AS AMENDED BY THE TECHNICAL
 10 CORRECTIONS BILL OF THE 2015 GENERAL ASSEMBLY, IS
 11 AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:
 12 Sec. 2. (a) A person subject to this article shall make the books and
 13 records of the person reasonably available for inspection by the
 14 department or the department's representative. At a minimum, every
 15 lessor shall keep a record of all payments remitted by the lessee on a
 16 rental purchase agreement, including the following:

17 (1) The name of the lessee.

18 (2) The date of each transaction.

19 (3) The total amount of each payment.

20 (4) A breakdown of each payment reflecting:

21 (A) each type of charge; and

22 (B) the amount of each type of charge.

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

29 (b) In administering this article and in order to determine
 30 compliance with this article, the department or the department's
 31 representative may examine the books and records of persons subject
 32 to the article and may make investigations of persons necessary to
 33 determine compliance. For this purpose, the department may
 34 administer oaths or affirmations, and, upon the department's own
 35 motion or upon request of any party, may subpoena witnesses, compel
 36 their attendance, compel testimony, and require the production of any
 37 matter that is relevant to the investigation, including the existence,
 38 description, nature, custody, condition, and location of any books,
 39 documents, or other tangible things and the identity and location of
 40 persons having knowledge of relevant facts, or any other matter
 41 reasonably calculated to lead to the discovery of admissible evidence.

42 (c) If the person's records are located outside Indiana, the person



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

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

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

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

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

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

27 (1) any person subject to this article; and

28 (2) any person that the department suspects to be operating in
 29 violation of **this** article.

30 The department has all investigatory and enforcement authority under
 31 this article that the department has under IC 28-11 with respect to
 32 financial institutions. If the department conducts an investigation under
 33 this section, the person investigated shall pay all reasonably incurred
 34 costs of the investigation in accordance with the fee schedule adopted
 35 under IC 28-11-3-5. **Any costs required to be paid under this section**
 36 **shall be paid not later than sixty (60) days after the person receives**
 37 **a notice from the department of the costs being assessed. The**
 38 **department may impose a fee, in an amount fixed by the**
 39 **department under IC 28-11-3-5, for each day that the assessed**
 40 **costs are not paid, beginning on the first day after the sixty (60)**
 41 **day period described in this subsection.**

42 (i) If a lessor contracts with an outside vendor to provide a service



1 that would otherwise be undertaken internally by the lessor and be
 2 subject to the department's routine examination procedures, the person
 3 that provides the service to the lessor shall, at the request of the
 4 director, submit to an examination by the department. If the director
 5 determines that an examination under this subsection is necessary or
 6 desirable, the examination may be made at the expense of the person
 7 to be examined. If the person to be examined under this subsection
 8 refuses to permit the examination to be made, the director may order
 9 any lessor that receives services from the person refusing the
 10 examination to:

- 11 (1) discontinue receiving one (1) or more services from the
- 12 person; or
- 13 (2) otherwise cease conducting business with the person.

14 SECTION 34. IC 24-8-1-1, AS AMENDED BY P.L.135-2014,
 15 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2015]: Sec. 1. (a) This article applies to a promotion offer
 17 made:

- 18 (1) by a person in Indiana; or
- 19 (2) to a person in Indiana.

20 (b) This article does not apply to a prize linked savings program
 21 that:

- 22 (1) is offered or conducted by an eligible financial institution
- 23 under IC 28-1-23.2; ~~or~~
- 24 (2) is:
 - 25 (A) offered or conducted by a credit union organized or
 - 26 reorganized under United States law; and
 - 27 (B) conducted in the same manner as a prize linked savings
 - 28 program under IC 28-1-23.2; ~~or~~

29 **(3) is:**

30 **(A) offered or conducted by an insured depository**
 31 **institution (as defined in 12 U.S.C. 1813) that is:**

- 32 **(i) a national bank formed under 12 U.S.C. 21;**
- 33 **(ii) a state member bank (as defined in 12 U.S.C. 1813);**
- 34 **(iii) a state nonmember bank (as defined in 12 U.S.C.**
 35 **1813); or**
- 36 **(iv) a savings association (as defined in 12 U.S.C. 1813);**
 37 **and**

38 **(B) conducted in the same manner as a prize linked savings**
 39 **program under IC 28-1-23.2.**

40 SECTION 35. IC 28-1-11-4, AS AMENDED BY P.L.27-2012,
 41 SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 42 JULY 1, 2015]: Sec. 4. (a) Except as otherwise provided in this article,



1 the business of dealing in investment securities by any bank or trust
 2 company is limited to purchasing and selling securities without
 3 recourse, solely upon the order and for the account of customers and in
 4 no event for its own account. A bank or trust company may not
 5 underwrite or guarantee all or any part of any issue of securities other
 6 than obligations issued or guaranteed by or on behalf of the state or any
 7 political subdivision of the state or any agency or instrumentality of
 8 either. A bank or trust company may purchase for its own account and
 9 sell investment securities under such limitations and restrictions as the
 10 department prescribes by regulation, rule, policy, or guidance, but in no
 11 event may the total amount of the investment securities of any one (1)
 12 obligor or maker, purchased or held by a bank or trust company for its
 13 own account, exceed at any time ten percent (10%) of the amount of
 14 the total equity capital of the bank or trust company. The limitations
 15 imposed by this section do not apply to the direct or indirect obligations
 16 of the United States or the direct obligations of a United States territory
 17 or insular possession or of the state of Indiana or any municipal
 18 corporation or taxing district in Indiana. A bank or trust company may
 19 purchase for its own account and sell shares of stock in federal or state
 20 chartered small business investment companies that have received a
 21 permit or license to operate under the federal Small Business
 22 Investment Act (15 U.S.C. 681). However, a bank or trust company
 23 may not acquire shares in any small business investment company if,
 24 upon the making of that acquisition, the aggregate amount of shares in
 25 small business investment companies then held by the bank would
 26 exceed five percent (5%) of its total equity capital.

27 (b) A bank or trust company may purchase for its own account and
 28 sell:

- 29 (1) shares of open-end investment companies the portfolios of
 30 which consist solely of securities that are eligible for purchase
 31 and sale by national banking associations; and
- 32 (2) collateralized obligations that are eligible for purchase and
 33 sale by national banking associations. However, a bank or trust
 34 company may purchase for its own account and sell the
 35 obligations only to the extent that a national banking association
 36 can purchase and sell those obligations.

37 (c) A bank or trust company may deposit its funds in:

- 38 (1) a federally chartered savings association; **or**
- 39 (2) a savings association or other entity organized and operated
 40 according to federal law or the laws of any state or the District of
 41 Columbia; **or**
- 42 (3) **a bank organized and operated according to federal law or**



- 1 **the laws of any state or the District of Columbia;**
 2 the accounts of which are insured by the Federal Deposit Insurance
 3 Corporation.
- 4 (d) A bank or trust company may not purchase for its own account
 5 any bond, note, or other evidence of indebtedness that is commonly
 6 designated as a security that is speculative in character or that has
 7 speculative characteristics. For the purposes of this subsection, a
 8 security is speculative or has speculative characteristics if at the time
 9 of purchase the security:
- 10 (1) is rated below the first four (4) rating classes by a generally
 11 recognized security rating service;
 12 (2) is in default; or
 13 (3) is otherwise considered speculative by the director.
- 14 (e) A bank or trust company may purchase for its own account a
 15 security that is not rated by a generally recognized security rating
 16 service if:
- 17 (1) the bank or trust company at the time of purchase obtains
 18 financial information that is adequate to document the investment
 19 quality of the security; and
 20 (2) the security is not otherwise considered speculative by the
 21 director.
- 22 (f) Except as otherwise authorized by this title, a bank or trust
 23 company may not purchase any share of stock of a corporation that is
 24 not a subsidiary of that bank or trust company unless the purchase is
 25 considered expedient to prevent loss from a debt previously contracted
 26 in good faith. Any shares of stock thus acquired by a bank or trust
 27 company that would not have been eligible for purchase shall be sold
 28 and disposed of within six (6) months from the date of acquisition
 29 unless the director grants an extension of time for the sale and
 30 disposition.
- 31 (g) Notwithstanding any other provision of this article, a bank or
 32 trust company may purchase for its own account shares of stock of a
 33 banker's bank insured by the Federal Deposit Insurance Corporation or
 34 a holding company that owns or controls a banker's bank insured by the
 35 Federal Deposit Insurance Corporation. For the purposes of this
 36 subsection, a "banker's bank" is a bank (as defined in IC 28-2-14-2):
- 37 (1) the stock of which is owned exclusively by other banks (as
 38 defined in IC 28-2-14-2), or by a bank holding company the stock
 39 of which is owned exclusively by other banks (as defined in
 40 IC 28-2-14-2); and
 41 (2) that is engaged exclusively in providing services to other
 42 banks (as defined in IC 28-2-14-2), and to their officers, directors,



- 1 and employees.
- 2 A bank's or trust company's holdings of the stock of an insured banker's
- 3 bank or of a holding company that owns or controls an insured banker's
- 4 bank may not exceed ten percent (10%) of the capital and surplus of
- 5 the bank or trust company. A bank or trust company may not purchase
- 6 the stock of an insured banker's bank or of a holding company that
- 7 owns or controls an insured banker's bank if, after the purchase, the
- 8 bank or trust company would own more than five percent (5%) of any
- 9 class of voting securities of the banker's bank or holding company.
- 10 (h) Notwithstanding any other provision of this article, a bank or
- 11 trust company may invest in a casualty insurance company organized
- 12 solely for the purpose of insuring banks, trust companies, and bank
- 13 holding companies and their officers and directors from and against
- 14 liabilities, including those covered by bankers' blanket bonds and
- 15 director and officer liability insurance and other public liability
- 16 insurance. The investment must take the form of:
- 17 (1) the purchase for the bank's or trust company's own account of
- 18 shares of stock of the casualty insurance company or shares of
- 19 stock of an association of banks organized for the purpose of
- 20 funding the casualty insurance company; or
- 21 (2) loans to such an association of banks.
- 22 The total investment of any bank or trust company under this
- 23 subsection may not exceed five percent (5%) of the capital and surplus
- 24 of the bank or trust company.
- 25 (i) Any bank or trust company may establish or acquire a subsidiary
- 26 that engages in:
- 27 (1) the sale, distribution, or underwriting of securities issued by
- 28 investment companies (as defined in Section 3 of the Investment
- 29 Company Act of 1940 (15 U.S.C. 80a-3); or
- 30 (2) the underwriting or distribution of securities backed by or
- 31 representing an interest in mortgages.
- 32 (j) As used in this section, "total equity capital" means unimpaired
- 33 capital stock, unimpaired surplus, unimpaired undivided profits,
- 34 subordinated debt that has been approved by the state or federal
- 35 regulatory agencies, and one hundred percent (100%) of loan reserves.
- 36 (k) The department may define an investment security by
- 37 department policy or by rule.
- 38 (l) A bank or trust company may establish a trading account for the
- 39 purchase and resale of securities that are otherwise eligible for
- 40 purchase or resale by the bank or trust company. The trading account
- 41 must comply with the requirements established by policy or rule of the
- 42 department.



1 (m) A bank or trust company that purchases a security for its own
 2 account shall maintain sufficient records of the security to allow the
 3 security to be properly identified by the department for examination
 4 purposes.

5 SECTION 36. IC 28-1-20-4, AS AMENDED BY P.L.90-2008,
 6 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2015]: Sec. 4. (a) Except as provided in subsections (c), (d),
 8 (g), and (o), it is unlawful for any person, firm, limited liability
 9 company, or corporation (other than a bank or trust company, a bank
 10 holding company, a subsidiary of a bank or trust company, a subsidiary
 11 of a bank holding company, a subsidiary of a savings bank, or a
 12 subsidiary of a savings association organized or reorganized under
 13 IC 28 or statutes in effect at the time of organization or reorganization
 14 or under the laws of the United States):

15 (1) to use the word, **or a derivation of the word**, "bank", "banc",
 16 or "banco", **or "bankcor"**, as a part of the name or title of the
 17 person, firm, limited liability company, or corporation **if the use**
 18 **of the word would create a substantial likelihood of**
 19 **misleading the public by implying that the person, firm,**
 20 **limited liability company, or corporation is a state or**
 21 **federally chartered bank, trust company, savings bank, or**
 22 **savings association; or**

23 (2) to advertise or represent the person, firm, limited liability
 24 company, or corporation to the public:

25 (A) as a bank or trust company or a corporate fiduciary; or

26 (B) as affording the services or performing the duties which by
 27 law only a bank or trust company or a corporate fiduciary is
 28 entitled to afford and perform.

29 (b) A financial institution organized under the laws of any state or
 30 the United States is authorized to do business in Indiana:

31 (1) at its principal office;

32 (2) at any branch office; or

33 (3) otherwise;

34 using a name other than its official entity name if the financial
 35 institution notifies the department at least ten (10) days before using
 36 the other name.

37 (c) Notwithstanding the prohibitions of this section, an out-of-state
 38 financial institution with the word "bank" in its legal name may use the
 39 word "bank" if the financial institution is insured by the Federal
 40 Deposit Insurance Corporation or its successor.

41 (d) Notwithstanding subsection (a), a building and loan association
 42 organized under IC 28-4 (before its repeal) may include in its name or



- 1 title:
2 (1) the words "savings bank"; or
3 (2) the word "bank" if the name or title also includes either the
4 words "savings bank" or letters "SB".
5 A building and loan association that includes "savings bank" in its title
6 under this section does not by that action become a savings bank for
7 purposes of IC 28-6.1.
8 (e) The name or title of a savings bank governed by IC 28-6.1 must
9 include the words "savings bank" or the letters "SB".
10 (f) A savings association may include in its name the words
11 "building and loan association".
12 (g) Notwithstanding subsection (a), a bank holding company (as
13 defined in 12 U.S.C. 1841) may use the word "bank" or "banks" as a
14 part of its name. However, this subsection does not permit a bank
15 holding company to advertise or represent itself to the public as
16 affording the services or performing the duties that by law a bank or
17 trust company only is entitled to afford and perform.
18 (h) The department is authorized to investigate the business affairs
19 of any person, firm, limited liability company, or corporation that uses
20 "bank", "banc", or "banco" in its title or holds itself out as a bank,
21 corporate fiduciary, or trust company for the purpose of determining
22 whether the person, firm, limited liability company, or corporation is
23 violating any of the provisions of this article, and, for that purpose, the
24 department and its agents shall have access to any and all of the books,
25 records, papers, and effects of the person, firm, limited liability
26 company, or corporation. In making its examination, the department
27 may examine any person and the partners, officers, members, or agents
28 of the firm, limited liability company, or corporation under oath,
29 subpoena witnesses, and require the production of the books, records,
30 papers, and effects considered necessary. On application of the
31 department, the circuit or superior court of the county in which the
32 person, firm, limited liability company, or corporation maintains a
33 place of business shall, by proper proceedings, enforce the attendance
34 and testimony of witnesses and the production and examination of
35 books, papers, records, and effects.
36 (i) The department is authorized to exercise the powers under
37 IC 28-11-4 against a person, firm, limited liability company, or
38 corporation that improperly holds itself out as a financial institution.
39 (j) A person, firm, limited liability company, or corporation who
40 violates this section is subject to a penalty of five hundred dollars
41 (\$500) per day for each and every day during which the violation
42 continues. The penalty imposed shall be recovered in the name of the



1 state on relation of the department and, when recovered, shall be paid
2 into the financial institutions fund established by IC 28-11-2-9.

3 (k) The word, **or a derivation of the word**, "bank", "banc", **or**
4 "banco", **or "bankcor"** may not be included in the name of a corporate
5 fiduciary **if the inclusion of the word would create a substantial**
6 **likelihood of misleading the public by implying that the corporate**
7 **fiduciary is a state or federally chartered bank, trust company,**
8 **savings bank, or savings association.**

9 (l) A person, firm, limited liability company, or corporation may not
10 use the name of an existing depository financial institution or holding
11 company of a depository financial institution, or a name confusingly
12 similar to that of an existing depository financial institution or holding
13 company of a depository financial institution, when marketing to or
14 soliciting business from a customer or prospective customer if the
15 reference to the existing depository financial institution or holding
16 company of a depository financial institution is:

17 (1) without the consent of the existing depository financial
18 institution or holding company of a depository financial
19 institution; and

20 (2) in a manner that could cause a reasonable person to believe
21 that the marketing material or solicitation:

22 (A) originated from;

23 (B) is endorsed by; or

24 (C) is in any other way the responsibility of;

25 the existing depository financial institution or holding company of a
26 depository financial institution.

27 (m) An existing depository financial institution or holding company
28 of a depository financial institution may, in addition to any other
29 remedies available under the law, report an alleged violation of
30 subsection (l) to the department. If the department finds that the
31 marketing material or solicitation in question is in violation of
32 subsection (l), the department may direct the person, firm, limited
33 liability company, or corporation to cease and desist from using that
34 marketing material or solicitation in Indiana. If that person, firm,
35 limited liability company, or corporation persists in using the marketing
36 material or solicitation, the department may impose a civil penalty of
37 up to fifteen thousand dollars (\$15,000) for each violation. Each
38 instance in which the marketing material or solicitation is sent to a
39 customer or prospective customer constitutes a separate violation of
40 subsection (l).

41 (n) Nothing in subsection (l) or (m) prohibits the use of or reference
42 to the name of an existing depository financial institution or holding



1 company of a depository financial institution in marketing materials or
 2 solicitations, if the use or reference does not deceive or confuse a
 3 reasonable person regarding whether the marketing material or
 4 solicitation:

- 5 (1) originated from;
- 6 (2) is endorsed by; or
- 7 (3) is in any other way the responsibility of;

8 the existing depository financial institution or holding company of a
 9 depository financial institution.

10 (o) A person, firm, limited liability company, or corporation may
 11 use the word, **or a derivation of the word**, "bank", "banc", ~~or~~ "banco",
 12 **or "bankcor"** if ~~it~~ **the use of the word** would not create a substantial
 13 likelihood of misleading the public by implying that the person, firm,
 14 limited liability company, or corporation is a state or federally
 15 chartered bank, **trust company**, ~~or~~ savings bank, **or savings**
 16 **association.**

17 (p) As used in this section, "depository financial institution" has the
 18 meaning set forth in IC 28-1-1-6.

19 (q) The department may adopt rules under IC 4-22-2 to implement
 20 this section.

21 SECTION 37. IC 28-1-22-1.5 IS ADDED TO THE INDIANA
 22 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 23 [EFFECTIVE JULY 1, 2015]: **Sec. 1.5. (a) As used in this section,**
 24 **"eligible entity" means a bank, savings bank, trust company,**
 25 **corporate fiduciary, credit union, industrial loan and investment**
 26 **company, or savings association that:**

- 27 (1) is organized under the laws of:
 - 28 (A) any other state (as defined in IC 28-2-17-19);
 - 29 (B) the United States; or
 - 30 (C) any other country; and
- 31 (2) is domiciled in Indiana.

32 (b) An eligible entity may file with the secretary of state a notice
 33 concerning the eligible entity's:

- 34 (1) registered office; and
- 35 (2) registered agent;

36 in accordance with IC 23-15-11.

37 SECTION 38. IC 28-1-29-4, AS AMENDED BY P.L.27-2012,
 38 SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2015]: Sec. 4. (a) The department may issue to a licensee an
 40 order to show cause why the licensee's license should not be revoked
 41 or suspended for a period determined by the department.

42 (b) An order issued under subsection (a) must:



- 1 (1) include:
- 2 (A) a statement of the place, date, and time for a meeting with
- 3 the department, which date may not be less than ten (10) days
- 4 from the date of the order;
- 5 (B) a description of the action contemplated by the
- 6 department; and
- 7 (C) a statement of the facts or conduct supporting the issuance
- 8 of the order; and
- 9 (2) be accompanied by a notice stating that the licensee is entitled
- 10 to:
- 11 (A) a reasonable opportunity to be heard; and
- 12 (B) show the licensee's compliance with all lawful
- 13 requirements for retention of the license;
- 14 at the meeting described in subdivision (1)(A).
- 15 (c) After the meeting described in subsection (b)(1)(A), the
- 16 department may revoke or suspend the license if the department finds
- 17 that:
- 18 (1) the licensee has repeatedly and willfully violated:
- 19 (A) this chapter or any **applicable** rule, order, or guidance
- 20 document adopted or issued by the department; or
- 21 (B) any other state or federal law, regulation, or rule applicable
- 22 to debt management companies;
- 23 (2) the licensee does not meet the licensing qualifications set forth
- 24 in section 5 of this chapter;
- 25 (3) the licensee obtained the license for the benefit of, or on
- 26 behalf of, a person who does not qualify for the license;
- 27 (4) the licensee knowingly or intentionally made material
- 28 misrepresentations to, or concealed material information from, the
- 29 department; or
- 30 (5) facts or conditions exist that, had they existed at the time the
- 31 licensee applied for the license, would have been grounds for the
- 32 department to deny the issuance of the license.
- 33 (d) Whenever the department revokes or suspends a license, the
- 34 department shall enter an order to that effect and notify the licensee of:
- 35 (1) the revocation or suspension;
- 36 (2) if a suspension has been ordered, the duration of the
- 37 suspension;
- 38 (3) the procedure for appealing the revocation or suspension
- 39 under ~~IC 4-21.5-3-5~~; **IC 4-21.5-3-6**; and
- 40 (4) any other terms and conditions that apply to the revocation or
- 41 suspension.
- 42 Not later than five (5) days after the entry of the order, the department



1 shall deliver to the licensee a copy of the order and the findings
2 supporting the order.

3 (e) Any person holding a license to operate a debt management
4 company may relinquish the license by notifying the department in
5 writing of the relinquishment. However, a relinquishment under this
6 subsection does not affect the person's liability for acts previously
7 committed and coming within the scope of this chapter.

8 (f) If the director determines it to be in the public interest, the
9 director may pursue revocation of a license of a licensee that has
10 relinquished the license under subsection (e).

11 (g) If a person's license is revoked, suspended, or relinquished, the
12 revocation, suspension, or relinquishment does not impair or affect any
13 obligation owed by any person under any existing agreement or
14 contract.

15 (h) If the director of the department has just cause to believe an
16 emergency exists from which it is necessary to protect the interests of
17 the public, the director may proceed with the revocation of a license
18 through an emergency or another temporary order under IC 4-21.5-4.

19 SECTION 39. IC 28-1-29-8, AS AMENDED BY P.L.216-2013,
20 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
21 JULY 1, 2015]: Sec. 8. (a) An agreement between a licensee and a
22 debtor must:

- 23 (1) be in a written form;
24 (2) be dated and signed by the licensee and the debtor;
25 (3) include the name of the debtor and the address where the
26 debtor resides;
27 (4) include the name, business address, and telephone number of
28 the licensee;
29 (5) be delivered to the debtor immediately upon formation of the
30 agreement; and
31 (6) disclose the following:
32 (A) The services to be provided.
33 (B) The amount or method of determining the amount of all
34 fees **and charges**, individually itemized, to be paid by the
35 debtor.
36 (C) The schedule of payments to be made by or on behalf of
37 the debtor, including the amount of each payment, the date on
38 which each payment is due, and an estimate of the date of the
39 final payment.
40 (D) If a plan provides for regular periodic payments to
41 creditors:
42 (i) each creditor of the debtor to which payment will be



- 1 made, the amount owed to each creditor, and any
 2 concessions the licensee reasonably believes each creditor
 3 will offer; and
 4 (ii) the schedule of expected payments to each creditor,
 5 including the amount of each payment and the date on which
 6 the payment will be made.
- 7 (E) Each creditor that the licensee believes will not participate
 8 in the plan and to which the licensee will not direct payment.
- 9 (F) The manner in which the licensee will comply with the
 10 licensee's obligations under section 9(k) of this chapter.
- 11 (G) A statement that:
 12 (i) the licensee may terminate the agreement for good cause,
 13 upon return of unexpended money of the debtor; and
 14 (ii) the debtor may contact the department with any
 15 questions or complaints regarding the licensee.
- 16 (H) The address, telephone number, and Internet address or
 17 web site of the department.
- 18 (b) For purposes of subsection (a)(5), delivery of an electronic
 19 record occurs when:
 20 (1) the record is made available in a format in which the debtor
 21 may retrieve, save, and print the record; and
 22 (2) the debtor is notified that the record is available.
- 23 (c) An agreement must provide that:
 24 (1) the debtor has a right to terminate the agreement at any time
 25 without penalty, notwithstanding the close-out fee as permitted by
 26 section 8.3(d) of this chapter, or obligation, by giving the licensee
 27 written or electronic notice, in which event:
 28 (A) the licensee shall refund all unexpended money that the
 29 licensee or the licensee's agent has received from or on behalf
 30 of the debtor for the reduction or satisfaction of the debtor's
 31 debt; and
 32 (B) all powers of attorney granted by the debtor to the licensee
 33 are revoked and ineffective;
- 34 (2) the debtor authorizes any bank insured by the Federal Deposit
 35 Insurance Corporation in which the licensee or the licensee's
 36 agent has established a trust account to disclose to the department
 37 any financial records relating to the trust account;
- 38 (3) the licensee shall notify the debtor within five (5) days after
 39 learning of a creditor's final decision to reject or withdraw from
 40 a plan under the agreement; and
 41 (4) the notice under subdivision (3) must include:
 42 (A) the identity of the creditor; and



- 1 (B) a statement that the debtor has the right to modify or
 2 terminate the agreement.
- 3 (d) All creditors included in the plan must be notified of the
 4 **contract** debtor's and licensee's relationship.
- 5 (e) A licensee shall give to the contract debtor a dated receipt for
 6 each payment, at the time of the payment, unless the payment is made
 7 by check, money order, or automated clearinghouse withdrawal as
 8 authorized by the contract debtor.
- 9 (f) A licensee shall, upon cancellation by a contract debtor of the
 10 agreement, notify immediately in writing all creditors in the debt
 11 management plan of the cancellation by the contract debtor.
- 12 (g) A licensee may not enter into an agreement with a debtor unless
 13 a thorough, written budget analysis of the debtor indicates that the
 14 debtor can reasonably meet the payments required under a proposed
 15 plan. The following must be included in the budget analysis:
- 16 (1) Documentation and verification of all income considered. All
 17 income verification must be dated not more than sixty (60) days
 18 before the completion of the budget analysis.
- 19 (2) Monthly living expense figures, which must be reasonable for
 20 the particular family size and part of Indiana. If expenditure
 21 reductions are part of the planned budget for the debtor, details of
 22 the expected savings must be documented in the debtor's file and
 23 set forth in the budget provided to the debtor.
- 24 (3) Documentation and verification, by a current credit bureau
 25 report, current debtor account statements, or direct documentation
 26 from the creditor, of monthly debt payments and balances to be
 27 paid outside the plan.
- 28 (4) Documentation and verification, by a current credit bureau
 29 report, current debtor account statements, or direct documentation
 30 from the creditor, of the monthly debt payments and current
 31 balances to be paid through the plan.
- 32 (5) The date of the budget analysis and the signature of the debtor.
- 33 (h) A licensee may not enter into an agreement with a ~~contract~~
 34 debtor for a period longer than sixty (60) months.
- 35 (i) A licensee may provide services under this chapter in the same
 36 place of business in which another business is operating, or from which
 37 other products or services are sold, if the director issues a written
 38 determination that:
- 39 (1) the operation of the other business; or
 40 (2) the sale of other products and services;
 41 from the location in question is not contrary to the best interests of ~~the~~
 42 licensee's ~~contract~~ debtors.



- 1 (j) A licensee without a physical location in Indiana may:
 2 (1) solicit sales of; and
 3 (2) sell;
 4 additional products and services to Indiana residents if the director
 5 issues a written determination that the proposed solicitation or sale is
 6 not contrary to the best interests of ~~contract~~ debtors.
- 7 (k) A licensee shall maintain a toll free communication system,
 8 staffed at a level that reasonably permits a contract debtor to speak to
 9 a counselor, debt specialist, or customer service representative, as
 10 appropriate, during ordinary business hours.
- 11 (l) A debt management company shall act in good faith in all
 12 matters under this chapter.
- 13 SECTION 40. IC 28-1-29-8.3, AS AMENDED BY P.L.216-2013,
 14 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2015]: Sec. 8.3. (a) Except as otherwise permitted by this
 16 section, a licensee may not:
- 17 (1) impose, directly or indirectly, a fee or other charge on a
 18 debtor; or
 19 (2) receive money from or on behalf of a debtor for debt
 20 management services.
- 21 (b) A licensee may not impose charges or receive payment for debt
 22 management services until:
- 23 (1) the licensee and the debtor have agreed upon a plan and have
 24 signed an agreement that complies with sections 8 and 9.5 of this
 25 chapter; and
 26 (2) at least one (1) payment has been made to a creditor under the
 27 plan.
- 28 All creditors must be notified of the debtor's and licensee's relationship.
- 29 (c) If a debtor assents to a plan, the licensee may charge the
 30 following:
- 31 (1) A set up fee of not more than fifty dollars (\$50) for
 32 consultation, obtaining a credit report, and setting up an account.
 33 Acceptance of a plan payment by a creditor constitutes agreement
 34 by the creditor to the plan. A set up fee under this subdivision
 35 may not be collected until the debtor, or the licensee on behalf of
 36 the debtor, has made at least one (1) payment to a creditor under
 37 the plan.
- 38 (2) Subject to subsection (d), a monthly service fee of the lesser
 39 of the following:
- 40 (A) Not more than fifteen percent (15%) of the amount the
 41 licensee receives from the contract debtor for payment to the
 42 contract debtor's creditors ~~for~~ **during** the applicable month.



- 1 However, if the amount calculated under this clause is less
2 than five dollars (\$5) for a particular month, the licensee may
3 charge a monthly service fee of five dollars (\$5) for that
4 month.
- 5 (B) Seventy-five dollars (\$75).
- 6 The monthly service fee under this subdivision may be charged
7 for any one (1) month or part of a month. The amount of a set up
8 fee under subdivision (1) may not be included in the calculation
9 of the monthly service fee.
- 10 (d) Upon cancellation by a contract debtor or termination of
11 payments by a contract debtor, a licensee may withhold for the
12 licensee's own benefit not more than one hundred dollars (\$100), which
13 may be accrued as a close-out fee.
- 14 (e) A licensee may not charge a contract debtor more than one (1)
15 set up fee or one (1) close-out fee unless the contract debtor leaves the
16 services of the licensee for more than six (6) months.
- 17 (f) With respect to any additional charge not specifically provided
18 for in this section, the licensee must submit a written explanation of the
19 charge to the department indicating how the charge would be assessed
20 and the value or benefit conferred on the contract debtor in connection
21 with the charge. Supporting documents may be required by the
22 department. The department shall determine whether the charge:
23 (1) would be imposed in relation to some benefit conferred on the
24 consumer; and
25 (2) is reasonable in relation to the benefit conferred.
- 26 An additional charge is not permitted unless approved by the
27 department.
- 28 (g) For purposes of this chapter, the terms of an agreement
29 commence on the date on which the agreement is made.
- 30 (h) A licensee may assess a charge of not more than twenty-five
31 dollars (\$25) for each return by a bank or other depository institution
32 of a dishonored check, negotiable order of withdrawal, or share draft
33 issued by the contract debtor.
- 34 (i) Any fee charged by the licensee to the debtor under this section
35 for services rendered by the licensee, other than the fees described
36 under subsection (e), is not considered a debt owed by the debtor to the
37 licensee.
- 38 SECTION 41. IC 28-5-1-8, AS AMENDED BY P.L.158-2013,
39 SECTION 300, IS AMENDED TO READ AS FOLLOWS
40 [EFFECTIVE JULY 1, 2015]: Sec. 8. (a) Except as otherwise provided
41 in subsections (c), (d), and (e), the total obligation of any person, firm,
42 limited liability company, or corporation to any industrial loan and



1 investment company shall at no time exceed fifteen percent (15%) of
2 the amount of the capital and surplus of the company.

3 (b) The term "obligations" as used in this section means the direct
4 liability of the maker or acceptor of paper discounted with or sold to
5 any such company, and the liability of the indorser, drawer, or
6 guarantor who obtains a loan from, or discounts paper with or sells
7 paper under the person's guaranty to any such company, and, in the
8 case of obligations of a copartnership or association, includes only
9 those obligations of the several members thereof directly related to the
10 copartnership or association, and, in the case of obligations of a
11 corporation, includes all obligations of all subsidiaries thereof in which
12 such corporation owns or controls a majority interest.

13 (c) Subsection (a) does not apply to the following:

14 (1) Obligations arising out of the discount of commercial or
15 business paper actually owned by the person, firm, limited
16 liability company, or corporation negotiating such paper.

17 (2) Obligations of the United States or any instrumentality thereof
18 or of this state, or of any municipal corporation or taxing district
19 thereof, or obligations fully insured by the federal housing
20 administrator as to principal; however, the department may, under
21 such rules and regulations as it may prescribe, limit the total
22 amount that may be invested by any industrial loan and
23 investment company in any one (1) obligation or in any class of
24 obligations described in subdivisions (1) and (2).

25 (3) Obligations arising out of the agreement to repurchase, or the
26 guaranty or endorsement of, retail installment sales contracts by
27 a retail seller or subsequent assignee. However, this subdivision
28 does not apply in any case where such company purchasing such
29 paper does not become the absolute owner, or in any case where
30 installment payments are collected by a prior owner of the paper,
31 or by a retail seller of the goods represented thereby.

32 (4) Obligations arising out of the agreement to repurchase, or the
33 guaranty or indorsement of, title-retaining real estate installment
34 sales contracts by a seller, or subsequent assignees; however, this
35 subdivision does not apply in any case where such company
36 purchasing such contracts does not become the absolute owner,
37 or in any case where installment payments are collected by a prior
38 owner of the contracts or by a seller of such contracts.

39 (5) Obligations of the borrower arising out of loans in which the
40 borrower has no personal liability but which are secured by
41 bailment leases or the rentals due and to become due thereunder;
42 and the rights of the lessor in said leases and the property being



1 leased thereunder, and which loans are to be repaid out of said
 2 rentals due and to become due under said leases; or obligations
 3 arising out of the guaranty, endorsement, or assignment of
 4 bailment leases or the rentals due and to become due thereunder
 5 by the lessor. However, this subdivision does not apply in any
 6 such case where such company does not have the right or does not
 7 actually collect the rentals due or to become due thereunder.

8 (d) Obligations to an industrial loan and investment company of any
 9 subsidiary or subsidiaries of the company engaged in business for the
 10 purpose provided in section 6(a)(15) of this chapter shall at no time
 11 exceed in the case of one (1) subsidiary ten percent (10%) of the capital
 12 and surplus of the company or, in the case of more than one (1)
 13 subsidiary, in the aggregate twenty percent (20%) of the capital and
 14 surplus of the company unless in either case the department shall
 15 approve a larger percentage.

16 (e) Obligations to an industrial loan and investment company of any
 17 subsidiary or subsidiaries of the company engaged in business for the
 18 purpose provided in section 6(a)(14) of this chapter shall at no time
 19 exceed in the aggregate thirty percent (30%) of the amount of the
 20 capital and surplus of the company or such larger sum as the
 21 department may approve.

22 (f) Except as otherwise provided in this subsection and in section 9
 23 of this chapter, no loan shall be made, directly or indirectly, by any
 24 industrial loan and investment company, to any active executive
 25 officer, agent, or employee thereof. The board of directors or executive
 26 committee of any industrial loan and investment company may, by
 27 resolution, duly entered in the records of the proceedings of the board
 28 or committee, authorize loans to or extend lines of credit to:

29 (1) any active executive officer, agent, or employee of such
 30 industrial loan and investment company in any amount not
 31 exceeding, at any one (1) time outstanding:

32 (A) ten thousand dollars (\$10,000); plus

33 (B) ten thousand dollars (\$10,000) which may be used for the
 34 sole purpose of educating the children of such active executive
 35 officer, agent, or employee as hereinafter provided; or

36 (2) directors not holding any office in such industrial loan and
 37 investment company, and not acting as an agent or employee
 38 thereof.

39 The board or committee may likewise authorize loans to or extend lines
 40 of credit to firms, limited liability companies, or corporations in which
 41 active executive officers, agents or employees or directors may be
 42 partners, members, or stockholders, but the total amount of the



1 obligations of all such active executive officers, agents, or employees,
2 and directors, or other firms, limited liability companies, or
3 corporations in which such active executive officers, agents,
4 employees, and directors are partners, members, or stockholders, shall
5 not at any time exceed fifteen percent (15%) of the total resources of
6 the industrial loan and investment company at the time any such loan
7 or extension of credit is made. Loans and lines of credit permitted by
8 this subsection shall be made only on authorization by a majority of all
9 of the directors or members of the executive committee of such
10 industrial loan and investment company, and by the affirmative vote of
11 all directors or members of the executive committee present at the
12 meeting, and such authorization may be general and need not be given
13 for each loan or line of credit extended. However, such general
14 authorization shall be voted upon at least annually. When a line of
15 credit has been extended pursuant to this subsection to any such active
16 executive officer, agent, or employee or to any such director, or to any
17 firm, corporation, limited liability company, or partnership in which an
18 active executive officer, agent, employee, or director may be a partner,
19 member, or stockholder, any notes or other instruments evidencing an
20 indebtedness to the industrial loan and investment company, and any
21 renewals or extensions thereof, need not be authorized as otherwise
22 required by this subsection if such loan, or any renewal or any
23 extension thereof, is within the terms of the authorization of the line of
24 credit theretofore extended by the directors or executive committee to
25 such active executive officer, agent, or employee, or to such director,
26 or to any firm, corporation, limited liability company, or partnership in
27 which any active executive officer, agent, employee, or director may be
28 a partner, member or stockholder. The department, under such general
29 rules and regulations as it may prescribe, which shall apply to all
30 industrial loan and investment companies alike, may require full
31 collateral security for all loans of the types permitted by this subsection
32 and, for the purpose of providing that such security may be adequate,
33 may specify the types thereof that may be pledged. Subject to section
34 9 of this chapter, the limitations of this subsection shall not apply to a
35 loan by an industrial loan and investment company to an active
36 executive officer, agent, or employee thereof made upon the security
37 of real estate whereupon such active executive officer, agent, or
38 employee maintains the person's actual residence. The term "actual
39 residence" includes a two (2) family dwelling unit if one (1) of such
40 units is occupied by the active executive officer, agent, or employee of
41 the industrial loan and investment company.

42 (g) An officer or director of any industrial loan and investment



1 company who knowingly violates subsection (f) commits a Level 4
2 felony.

3 **(h) For purposes of any lending limits set forth in this section**
4 **with respect to an industrial loan and investment company, the**
5 **total loans and extensions of credit by an industrial loan and**
6 **investment company includes any credit exposure to a person**
7 **arising from a derivative transaction (as defined in 12 U.S.C.**
8 **84(b)(3)) between the industrial loan and investment company and**
9 **the person.**

10 SECTION 42. IC 28-7-1-17, AS AMENDED BY P.L.27-2012,
11 SECTION 93, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2015]: Sec. 17. (a) Every loan application shall be submitted
13 on a form approved by the board of directors. ~~When making an~~
14 ~~application, a member shall state the security offered.~~ Loans may be
15 dispersed upon written approval by a majority of the credit committee
16 or a loan officer. If the credit committee or loan officer fails to approve
17 an application for a loan, the applicant may appeal to the board of
18 directors, ~~providing if~~ such appeal is authorized by the bylaws.

19 (b) Loans to members may be made only under the following terms
20 and conditions:

21 (1) All loans shall be evidenced by notes signed by the borrowing
22 member.

23 (2) Except as otherwise provided in this section, the terms of any
24 loan to a member with a maturity of more than six (6) months
25 shall provide for principal and interest payments that will
26 amortize the obligation in full within the terms of the loan
27 contract. If the income of the borrowing member is seasonal, the
28 terms of the loan contract may provide for seasonal amortization.

29 (3) Loans may be made upon the security of improved or
30 unimproved real estate. Except as otherwise specified in this
31 section, such loans must be secured by a first lien upon real estate
32 prior to all other liens, except for taxes and assessments not
33 delinquent, and may be made with repayment terms other than as
34 provided in subdivision (2). The credit union loan folder for all
35 real estate mortgage loans shall include the following:

36 (A) The loan application.

37 (B) The mortgage instrument.

38 (C) The note.

39 (D) The disclosure statement.

40 (E) The documentation of property insurance.

41 (F) For the real estate for which the loan is made, a written
42 appraisal, which must be performed by a state licensed or



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certified appraiser designated by the board of directors if the amount of the loan is at least two hundred fifty thousand dollars (\$250,000).

~~(G) The attorney's opinion of titles or a certificate of title insurance on the real estate upon which the mortgage loan is made.~~

(4) Loans made upon security of real estate are subject to the following restrictions:

(A) Real estate loans in which no principal amortization is required shall provide for the payment of interest at least annually and shall mature within five (5) years of the date of the loan unless extended and shall not exceed fifty percent (50%) of the fair cash value of the real estate used as security.

(B) Real estate loans on improved real estate, except for variable rate mortgage loans and rollover mortgage loans provided for in subdivision (5), shall require substantially equal payments at successive intervals of not more than one (1) year, shall mature within thirty (30) years, and shall not exceed one hundred percent (100%) of the fair cash value of the real estate used as security.

(C) Real estate loans on unimproved real estate may be made. The terms of the loan shall:

- (i) require substantially equal payments of interest and principal at successive intervals of one (1) year or less;
- (ii) mature within ten (10) years; and
- (iii) not exceed eighty-five percent (85%) of the fair cash value of the real estate used as security.

(D) Loans primarily secured by a mortgage which constitutes a second lien on improved real estate may be made only if the aggregate amount of all loans on the real estate does not exceed one hundred percent (100%) of the fair cash value of the real estate after such loan is made. Repayment terms shall be in accordance with subdivision (2).

(E) Real estate loans may be made for the construction of improvements to real property. Funds borrowed may be advanced as work on the improvements progresses. Repayment terms must comply with subdivision (2).

(5) Subject to the limitations of subdivision (3), variable rate mortgage loans and rollover mortgage loans may be made under the same limitations and rights provided state chartered savings associations under IC 28-1-21.5 (before its repeal) or IC 28-15 or federal credit unions.



- 1 (6) As used in this subdivision, "originating lender" means the
 2 participating lender with which the member contracts. A credit
 3 union may participate with other state and federal depository
 4 financial institutions (as defined in IC 28-1-1-6) or credit union
 5 service organizations in making loans to credit union members
 6 and may sell a participating interest in any of its loans under
 7 written participation loan policies established by the board of
 8 directors. However, the credit union may not sell more than ninety
 9 percent (90%) of the principal of participating loans outstanding
 10 at the time of sale. A participating credit union that is not the
 11 originating lender may participate only in loans made to the credit
 12 union's own members or to members of another participating state
 13 or federal credit union. A master participation agreement must be
 14 properly executed. The agreement must include provisions for
 15 identifying, either through documents incorporated by reference
 16 or directly in the agreement, the participation loan or loans before
 17 the sale of the loans.
- 18 (7) Notwithstanding subdivisions (1) through (6), a credit union
 19 may make any of the following:
- 20 (A) Any loan that may be made by a federal credit union.
 21 However, IC 24-4.5 applies to any loan that is:
- 22 (i) made under this clause; and
 23 (ii) within the scope of IC 24-4.5.
- 24 Any provision of federal law that is in conflict with IC 24-4.5
 25 does not apply to a loan made under this clause.
- 26 (B) Subject to subdivision (3), any alternative mortgage loan
 27 (as defined in IC 28-15-11-2) that may be made by a savings
 28 association (as defined in IC 28-15-1-11) under IC 28-15-11.
 29 A loan made under this clause by a credit union is subject to
 30 the same terms, conditions, exceptions, and limitations that
 31 apply to an alternative mortgage loan made by a savings
 32 association under IC 28-15-11.
- 33 (8) A credit union may make a loan under either:
- 34 (A) subdivisions (2) through (6); or
 35 (B) subdivision (7);
- 36 but not both. A credit union shall make an initial determination as
 37 to whether to make a loan under subdivisions (2) through (6) or
 38 under subdivision (7). If the credit union determines that a loan or
 39 category of loans is to be made under subdivision (7), the written
 40 loan policies of the credit union must include that determination.
 41 A credit union may not combine the terms and conditions that
 42 apply to a loan made under subdivisions (2) through (6) with the



1 terms and conditions that apply to a loan made under subdivision
 2 (7) to make a loan not expressly described and authorized either
 3 under subdivisions (2) through (6) or under subdivision (7).

4 (c) Nothing in this section prevents any credit union from taking an
 5 indemnifying or second mortgage on real estate as additional security.

6 SECTION 43. IC 28-7-1-18, AS AMENDED BY P.L.137-2014,
 7 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2015]: Sec. 18. (a) The supervisory committee shall cause the
 9 share and loan accounts of the members to be verified with the records
 10 of the treasurer at least each biennium. **A verification under this**
 11 **subsection shall be performed using one (1) of the following**
 12 **methods:**

13 **(1) A verification of one hundred percent (100%) of the share**
 14 **and loan accounts of all members.**

15 **(2) A verification of share and loan accounts in accordance**
 16 **with the requirements of the National Credit Union**
 17 **Administration set forth in 12 CFR 715.8.**

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

20 (c) By a majority vote, the supervisory committee may call a
 21 meeting of the shareholders to consider any violation of this chapter,
 22 or of the bylaws, or any practice of the credit union which, in the
 23 opinion of the committee is unsafe and unauthorized.

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

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

35 (f) A credit union with assets of at least five million dollars
 36 (\$5,000,000) shall have an annual audit performed by an outside
 37 professional accounting firm. The department may require a
 38 professional outside audit to be performed upon any credit union if the
 39 department questions the safety and soundness of the credit union.

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

42 SECTION 44. IC 28-7-1-24, AS AMENDED BY P.L.35-2010,



1 SECTION 163, IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2015]: Sec. 24. (a) All entrance charges shall,
3 after payment of the organization expenses, be known as reserve
4 income, and shall be added to the regular reserve of the credit union.
5 At the close of the dividend period, there shall be set apart to the
6 regular reserve ten percent (10%) of gross income until the regular
7 reserve shall equal seven and one-half percent (7 1/2%) of the total of
8 outstanding loans, then five percent (5%) of gross income until the
9 regular reserve shall equal ten percent (10%) of the total of outstanding
10 loans. Whenever the regular reserve falls below ten percent (10%) or
11 seven and one-half percent (7 1/2%) of the total of outstanding loans,
12 it shall be replenished by regular contributions to maintain the reserve
13 goals of seven and one-half percent (7 1/2%) or ten percent (10%). The
14 regular reserve shall be held to meet contingencies and shall not be
15 distributed to the members except upon dissolution of the credit union.

16 (b) A credit union may have an undivided profits account. The
17 undivided profits account may be transferred to the regular reserve.

18 (c) The department may, by rule, revise the formula prescribed by
19 this section. A revised formula must be prudent and must reasonably
20 be expected to protect the credit unions.

21 (d) Financial statements of credit unions must provide for full and
22 fair disclosure of all assets, liabilities, and members' equity, including
23 such allowance for loan loss accounts necessary to present fairly the
24 financial position, and all income and expenses necessary to present
25 fairly the results of operation for the period concerned.

26 (e) The maintenance of an allowance for loan losses and investment
27 or other losses does not exempt a credit union from the requirement set
28 forth in subsection (a) or regulation CU-2. The totals of the regular
29 reserve, the allowance for loan losses account, and the allowance for
30 investment losses shall be combined for determining the percentage of
31 gross income to be transferred to the regular reserve.

32 (f) Loan losses of a credit union must be charged against the
33 allowance for loan loss. Adjustments to the allowance for loan losses
34 shall be made before the distribution of any dividend so that the
35 allowance for loan loss represents the value of loans and anticipated
36 losses resulting from:

- 37 (1) uncollectible loans, notes, and contracts receivable, including
- 38 any uncollectible accrued interest receivable thereon;
- 39 (2) assets acquired in liquidation of loans; and
- 40 (3) loans purchased from other credit unions.

41 (g) Adjustments to the allowance for loan losses must be recorded
42 in the expense account "provision for loan losses".



1 (h) If the balance of the allowance for loan losses is considered to
 2 be in excess of the amount needed to meet the full and fair disclosure
 3 requirements, the excess amount must be transferred to the regular
 4 reserve account or deducted from the provision for loan loss expense
 5 account.

6 SECTION 45. IC 28-7-1-24.1 IS REPEALED [EFFECTIVE JULY
 7 1, 2015]. Sec. 24.1: (a) Notwithstanding section 24(a) of this chapter
 8 as it applies to the regular reserve formula, a credit union that:

9 (1) has only share accounts that are insured by an agency of the
 10 federal government, the state, or an insuring entity that is
 11 approved by the department to insure credit union shares;

12 (2) has assets of five hundred thousand dollars (\$500,000) or
 13 more; and

14 (3) has been in operation for more than four (4) years;

15 may maintain reserves in accordance with this section.

16 (b) For purposes of this section, "risk assets" means all assets except
 17 the following:

18 (1) Cash on hand.

19 (2) Deposits or shares in federally or state insured banks, savings
 20 and loan associations, and credit unions.

21 (3) Investments that are direct or indirect obligations of the
 22 United States government or its agencies.

23 (4) Loans to other credit unions.

24 (5) Student loans insured under the Higher Education Act (20
 25 U.S.C. 1071 et seq.) or similar state insurance programs.

26 (6) Loans insured under the National Housing Act (12 U.S.C.
 27 1703) by the Federal Housing Authority.

28 (7) Credit union mutual funds authorized by the Indiana Credit
 29 Union Act under IC 28-7-1-9(3)(f).

30 (8) Prepaid expenses.

31 (9) Accrued interest on nonrisk investments.

32 (10) Furniture and equipment.

33 (11) Land and buildings.

34 (12) Loans fully secured by a pledge of shares in the lending
 35 credit union, equal to and maintained to at least the amount of
 36 loan outstanding.

37 (13) Loans that are purchased from liquidating credit unions and
 38 guaranteed by an insuring agency of the federal government, the
 39 state, or an agency approved by the department to insure credit
 40 union share accounts.

41 (c) At the end of each accounting period, the gross income shall be
 42 determined. Based on the amount of gross income, ten percent (10%)



1 of the gross income shall be set aside, as a regular reserve, until the
 2 reserve shall equal four percent (4%) of total risk assets, and then five
 3 percent (5%) of the gross income shall be set aside, until the reserve
 4 equals six percent (6%) of total risk assets:

5 (d) Except for the method of calculating the regular reserve formula,
 6 all other provisions of section 24 of this chapter pertaining to entrance
 7 fees and charges, requirements of a special reserve for delinquent
 8 loans, and waiver of such special reserve, apply to credit unions that
 9 have reserves that are calculated under this section.

10 SECTION 46. IC 28-7-1-29 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 29. Any credit union
 12 organized or reorganized under the laws of Indiana or the United States
 13 may convert from a state charter to a federal charter or from a federal
 14 charter to a state charter as follows:

15 (1) A federally chartered credit union may apply for a state
 16 charter by observing the following procedures:

17 (A) The board of directors shall pass a resolution that the
 18 federal charter be canceled when and if a state charter is
 19 applied for and issued to the credit union by the department of
 20 financial institutions.

21 (B) Written notice of the resolution shall be sent to each
 22 member at least thirty (30) days prior to the meeting in which
 23 the resolution is to be submitted to the members.

24 (C) An affirmative majority vote of the members present at the
 25 meeting shall be required to effect the conversion from federal
 26 to state charter, provided a quorum is present at the meeting.

27 (D) Certified copies of the minutes of the proceedings of the
 28 meeting of the members shall be filed with both the National
 29 Credit Union Administration and the department.

30 (E) ~~Within thirty (30)~~ **Not later than seventy-five (75)** days
 31 after receiving the certified copies of the minutes, an
 32 examination of the financial condition of the credit union shall
 33 be made by the department. The cost of the examination shall
 34 be paid by the credit union.

35 (F) Within thirty (30) days after the completion of the
 36 examination, the department shall report to the credit union the
 37 results of its examination and supply the National Credit
 38 Union Administration with a copy of the examination report.

39 (G) If it receives a satisfactory report of the examination, the
 40 credit union must within thirty (30) days file its amended
 41 articles of incorporation and amended bylaws pursuant to this
 42 chapter with the secretary of state, and copies of the amended



- 1 articles and amended bylaws must be directed to the
- 2 department and the National Credit Union Administration.
- 3 (H) Officers, directors, and committee members shall retain
- 4 their respective offices for the unexpired terms existing prior
- 5 to the conversion, subject to the provisions of this chapter.
- 6 (I) The newly chartered credit union shall have all of the rights
- 7 and privileges in and to all of the assets of the prior existing
- 8 credit union and shall assume and be responsible for all of the
- 9 obligations imposed while operating under the federal charter.
- 10 (2) A state chartered credit union may be converted into a
- 11 federally chartered credit union by complying with the following
- 12 requirements:
- 13 (A) The board must adopt and approve by a majority of the
- 14 directors a resolution of conversion. The proposition for such
- 15 conversion shall first be approved by a majority of the
- 16 directors of the state credit union.
- 17 (B) The board must notify the membership either in person or
- 18 by mail of the membership meeting at which the resolution of
- 19 conversion will be acted upon. The notice must be mailed not
- 20 more than thirty (30) and not less than seven (7) days before
- 21 the meeting.
- 22 (C) The resolution must be approved by a majority of those
- 23 voting, either in person or by absentee ballot, at the
- 24 membership meeting called by the board.
- 25 (D) The results of the vote, verified by the affidavits of the
- 26 chairperson or vice chairperson and the secretary, shall be
- 27 filed with the department within ten (10) days after the vote is
- 28 taken.
- 29 (E) If the proposition for conversion is approved, the credit
- 30 union shall within ninety (90) days take the action necessary
- 31 to make it a federal credit union. Within ten (10) days after
- 32 receipt of the federal charter, the credit union shall file with
- 33 the department a copy of the charter. Upon such filing, and
- 34 after the credit union has notified the office of the secretary of
- 35 state that the conversion is concluded, the credit union shall
- 36 cease to be a state credit union.

37 SECTION 47. IC 28-7-5-9, AS AMENDED BY P.L.89-2011,
 38 SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2015]: Sec. 9. **(a) As used in this section, "branch location"**
 40 **means a location that:**

- 41 **(1) is maintained by a person licensed or required to be**
- 42 **licensed under this chapter;**



1 **(2) is located somewhere other than the person's main office**
 2 **location; and**

3 **(3) does not constitute a separate legal entity from, or a**
 4 **subsidiary of, the person.**

5 **(b) Except in a transaction approved under section 9.1 of this**
 6 **chapter, a license shall is not be transferable or assignable. More than**
 7 **Subject to section 10 of this chapter, one (1) place of business or**
 8 **more branch locations may be maintained under the same license.**

9 SECTION 48. IC 28-7-5-13, AS AMENDED BY P.L.27-2012,
 10 SECTION 95, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2015]: Sec. 13. (a) The department may issue to a licensee an
 12 order to show cause why the licensee's license should not be revoked
 13 or suspended for a period determined by the department.

14 (b) An order issued under subsection (a) must:

15 (1) include:

16 (A) a statement of the place, date, and time for a meeting with
 17 the department, which date may not be less than ten (10) days
 18 from the date of the order;

19 (B) a description of the action contemplated by the
 20 department; and

21 (C) a statement of the facts or conduct supporting the issuance
 22 of the order; and

23 (2) be accompanied by a notice stating that the licensee is entitled
 24 to:

25 (A) a reasonable opportunity to be heard; and

26 (B) show the licensee's compliance with all lawful
 27 requirements for retention of the license;

28 at the meeting described in subdivision (1)(A).

29 (c) After the meeting described in subsection (b)(1)(A), the
 30 department may revoke or suspend the license if the department finds
 31 that:

32 (1) the licensee has repeatedly and willfully violated:

33 (A) this chapter or any **applicable** rule, order, or guidance
 34 document adopted or issued by the department; or

35 (B) any other state or federal law, regulation, or rule applicable
 36 to the business of a pawnbroker;

37 (2) the licensee does not meet the licensing qualifications set forth
 38 in this chapter;

39 (3) the licensee obtained the license for the benefit of, or on
 40 behalf of, a person who does not qualify for the license;

41 (4) the licensee knowingly or intentionally made material
 42 misrepresentations to, or concealed material information from, the



- 1 department; or
 2 (5) facts or conditions exist that, had they existed at the time the
 3 licensee applied for the license, would have been grounds for the
 4 department to deny the issuance of the license.
- 5 (d) Whenever the department revokes or suspends a license, the
 6 department shall enter an order to that effect and notify the licensee of:
 7 (1) the revocation or suspension;
 8 (2) if a suspension has been ordered, the duration of the
 9 suspension;
 10 (3) the procedure for appealing the revocation or suspension
 11 under ~~IC 4-21.5-3-5~~; **IC 4-21.5-3-6**; and
 12 (4) any other terms and conditions that apply to the revocation or
 13 suspension.
- 14 Not later than five (5) days after the entry of the order, the department
 15 shall deliver to the licensee a copy of the order and the findings
 16 supporting the order.
- 17 (e) Any person holding a license to operate as a pawnbroker may
 18 surrender the license by complying with section 10.1 of this chapter.
 19 However, a surrender of a license under section 10.1 of this chapter
 20 does not affect the person's liability for acts previously committed and
 21 coming within the scope of this chapter.
- 22 (f) If the director determines it to be in the public interest, the
 23 director may pursue the revocation of a license of a licensee that has
 24 surrendered the license under section 10.1 of this chapter.
- 25 (g) If a person's license is revoked, suspended, or surrendered, the
 26 revocation, suspension, or surrender does not impair or affect any
 27 obligation owed by any person under any existing contract, pledge, or
 28 pawn ticket.
- 29 (h) If the director of the department has just cause to believe an
 30 emergency exists from which it is necessary to protect the interests of
 31 the public, the director may proceed with the revocation of a license
 32 through an emergency or another temporary order under IC 4-21.5-4.
- 33 SECTION 49. IC 28-7-5-16, AS AMENDED BY P.L.137-2014,
 34 SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2015]: Sec. 16. (a) The licensee shall keep and use in the
 36 licensee's business such books, accounts, and records as will enable the
 37 department to determine whether the licensee is complying with this
 38 chapter and with the rules adopted by the department under this
 39 chapter. Every licensee shall preserve such books, accounts, and
 40 records, including cards used in the card system for at least two (2)
 41 years after making the final entry on any loan recorded therein. The
 42 books and records of the licensee shall be kept so that the pawnbroking



1 business transacted in Indiana may be readily separated and
 2 distinguished from the business of the licensee transacted elsewhere
 3 and from any other business in which the licensee may be engaged. To
 4 determine whether the licensee is complying with this chapter and with
 5 rules adopted by the department under this chapter, the department may
 6 examine the books, accounts, and records required to be kept by the
 7 licensee under this subsection. If the department examines the books,
 8 accounts, and records of the licensee under this subsection, the licensee
 9 shall pay all reasonably incurred costs of the examination in
 10 accordance with the fee schedule adopted under IC 28-11-3-5. A fee
 11 established by the department under IC 28-11-3-5 may be charged for
 12 each day a fee under this subsection is delinquent. **Any costs required**
 13 **to be paid under this section shall be paid not later than sixty (60)**
 14 **days after the person receives a notice from the department of the**
 15 **costs being assessed. The department may impose a fee, in an**
 16 **amount fixed by the department under IC 28-11-3-5, for each day**
 17 **that the assessed costs are not paid, beginning on the first day after**
 18 **the sixty (60) day period described in this subsection.**

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

23 (1) Date of bill of sale.

24 (2) Amount of consideration.

25 (3) Name of pawnbroker.

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

35 (5) Signature of seller.

36 (6) Address of seller.

37 (7) Date of birth of the seller.

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

42 (c) The original copy of the bill of sale shall be retained by the



1 pawnbroker. The second copy shall be delivered to the seller by the
 2 pawnbroker at the time of sale. The heading on all bill of sale forms
 3 must be in boldface type.

4 (d) If a pawnbroker, in the conduct of the business, purchases
 5 precious metal (as defined in IC 24-4-19-6) from a seller, the
 6 pawnbroker shall, for at least ten (10) calendar days after the date the
 7 pawnbroker purchases the precious metal, retain the precious metal:

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

10 (2) separate from other precious metal.

11 (e) Each licensee shall maintain a record of control indicating the
 12 number of accounts and dollar value of all outstanding pawnbroking
 13 receivables.

14 (f) If a licensee contracts with an outside vendor to provide a service
 15 that would otherwise be undertaken internally by the licensee and be
 16 subject to the department's routine examination procedures, the person
 17 that provides the service to the licensee shall, at the request of the
 18 director, submit to an examination by the department. If the director
 19 determines that an examination under this subsection is necessary or
 20 desirable, the examination may be made at the expense of the person
 21 to be examined. If the person to be examined under this subsection
 22 refuses to permit the examination to be made, the director may order
 23 any licensee that receives services from the person refusing the
 24 examination to:

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

27 (2) otherwise cease conducting business with the person.

28 SECTION 50. IC 28-8-4-38, AS AMENDED BY P.L.137-2014,
 29 SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 JULY 1, 2015]: Sec. 38. (a) A licensee may renew a license by
 31 complying with the following:

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

38 (A) Either:

39 (i) a copy of the licensee's most recent audited consolidated
 40 annual financial statements, including a balance sheet, a
 41 statement of income or loss, a statement of changes in
 42 ~~shareholder's~~ **shareholder** equity, and a statement of



1 changes in financial position; or
 2 (ii) if the licensee is a wholly owned subsidiary, the parent
 3 corporation's or parent organization's most recent
 4 consolidated audited annual financial statements or the
 5 parent corporation's or parent organization's most recent
 6 Form 10K report filed with the Securities and Exchange
 7 Commission, along with the licensee's unaudited annual
 8 financial statements.

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

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

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

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

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

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

38 (b) A licensee that:

39 (1) does not:

40 (A) file:

41 (i) a renewal; or

42 (ii) any financial statements required by subsection



1 (a)(1)(A);
 2 by the renewal filing deadline set by the director; or
 3 (B) pay the renewal fee by December 31 of each year; and
 4 (2) has not been granted an extension of time by the department
 5 to meet the requirements described in subdivision (1);
 6 shall be notified by the department, in writing, that a hearing will be
 7 scheduled at which the licensee will be required to show cause why its
 8 license should not be suspended pending compliance with these
 9 requirements. If after the hearing the license is not suspended, the
 10 department shall require a daily late fee beginning with the date the
 11 renewal, the financial statements, or the annual renewal fee is required
 12 by this chapter, in an amount fixed by the department under
 13 IC 28-11-3-5.

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

16 SECTION 51. IC 28-8-4-41, AS AMENDED BY P.L.137-2014,
 17 SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2015]: Sec. 41. (a) The director may conduct an annual onsite
 19 examination of a licensee or an authorized delegate of a licensee.

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

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

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

32 (e) If the director concludes that an onsite examination of a licensee
 33 is necessary, the licensee shall pay all reasonably incurred costs of such
 34 examination in accordance with the fee schedule adopted under
 35 IC 28-11-3-5. A fee established by the department under IC 28-11-3-5
 36 may be charged for each day a fee under this section is delinquent. **Any**
 37 **costs required to be paid under this section shall be paid not later**
 38 **than sixty (60) days after the person receives a notice from the**
 39 **department of the costs being assessed. The department may**
 40 **impose a fee, in an amount fixed by the department under**
 41 **IC 28-11-3-5, for each day that the assessed costs are not paid,**
 42 **beginning on the first day after the sixty (60) day period described**



1 **in this subsection.**

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

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

- 12 (1) licensee; or
13 (2) person that the department suspects to be operating:
14 (A) without a license, when a license is required under this
15 chapter; or
16 (B) otherwise in violation of this chapter.

17 The department has all investigatory and enforcement authority under
18 this chapter that the department has under IC 28-11 with respect to
19 financial institutions. If the department conducts an investigation under
20 this section, the licensee or other person investigated shall pay all
21 reasonably incurred costs of the investigation in accordance with the
22 fee schedule adopted under IC 28-11-3-5. **Any costs required to be
23 paid under this section shall be paid not later than sixty (60) days
24 after the person receives a notice from the department of the costs
25 being assessed. The department may impose a fee, in an amount
26 fixed by the department under IC 28-11-3-5, for each day that the
27 assessed costs are not paid, beginning on the first day after the
28 sixty (60) day period described in this subsection.**

29 (h) If a licensee contracts with an outside vendor to provide a
30 service that would otherwise be undertaken internally by the licensee
31 and be subject to the department's routine examination procedures, the
32 person that provides the service to the licensee shall, at the request of
33 the director, submit to an examination by the department. If the director
34 determines that an examination under this subsection is necessary or
35 desirable, the examination may be made at the expense of the person
36 to be examined. If the person to be examined under this subsection
37 refuses to permit the examination to be made, the director may order
38 any licensee that receives services from the person refusing the
39 examination to:

- 40 (1) discontinue receiving one (1) or more services from the
41 person; or
42 (2) otherwise cease conducting business with the person.



1 SECTION 52. IC 28-8-4-48, AS AMENDED BY P.L.27-2012,
 2 SECTION 101, IS AMENDED TO READ AS FOLLOWS
 3 [EFFECTIVE JULY 1, 2015]: Sec. 48. (a) The director may issue to a
 4 licensee an order to show cause why the licensee's license should not
 5 be revoked or suspended for a period determined by the department.

6 (b) An order issued under subsection (a) must:

7 (1) include:

8 (A) a statement of the place, date, and time for a meeting with
 9 the department, which date may not be less than ten (10) days
 10 from the date of the order;

11 (B) a description of the action contemplated by the
 12 department; and

13 (C) a statement of the facts or conduct supporting the issuance
 14 of the order; and

15 (2) be accompanied by a notice stating that the licensee is entitled
 16 to:

17 (A) a reasonable opportunity to be heard; and

18 (B) show the licensee's compliance with all lawful
 19 requirements for retention of the license;

20 at the meeting described in subdivision (1)(A).

21 (c) After the meeting described in subsection (b)(1)(A), the
 22 department may revoke or suspend the license if the department finds
 23 that:

24 (1) the licensee has repeatedly and willfully violated:

25 (A) this chapter or any **applicable** rule, order, or guidance
 26 document adopted or issued by the department; or

27 (B) any other state or federal law, regulation, or rule applicable
 28 to the business of money transmission;

29 (2) the licensee does not meet the licensing qualifications set forth
 30 in this chapter;

31 (3) the licensee obtained the license for the benefit of, or on
 32 behalf of, a person who does not qualify for the license;

33 (4) the licensee knowingly or intentionally made material
 34 misrepresentations to, or concealed material information from, the
 35 department; or

36 (5) facts or conditions exist that, had they existed at the time the
 37 licensee applied for the license, would have been grounds for the
 38 department to deny the issuance of the license.

39 (d) Whenever the department revokes or suspends a license, the
 40 department shall enter an order to that effect and notify the licensee of:

41 (1) the revocation or suspension;

42 (2) if a suspension has been ordered, the duration of the



- 1 suspension;
 2 (3) the procedure for appealing the revocation or suspension
 3 under ~~IC 4-21.5-3-5~~; **IC 4-21.5-3-6**; and
 4 (4) any other terms and conditions that apply to the revocation or
 5 suspension.

6 Not later than five (5) days after the entry of the order, the department
 7 shall deliver to the licensee a copy of the order and the findings
 8 supporting the order.

9 (e) Any person holding a license to engage in the business of money
 10 transmission may relinquish the license by notifying the department in
 11 writing of the relinquishment. However, a relinquishment under this
 12 subsection does not affect the person's liability for acts previously
 13 committed and coming within the scope of this chapter.

14 (f) If the director determines it to be in the public interest, the
 15 director may pursue the revocation of a license of a licensee that has
 16 relinquished the license under subsection (e).

17 (g) If a person's license is revoked, suspended, or relinquished, the
 18 revocation, suspension, or relinquishment does not impair or affect any
 19 obligation owed by any person under any existing lawful contract.

20 (h) If the director of the department has just cause to believe an
 21 emergency exists from which it is necessary to protect the interests of
 22 the public, the director may proceed with the revocation of a license
 23 through an emergency or another temporary order under IC 4-21.5-4.

24 SECTION 53. IC 28-8-5-18.4, AS AMENDED BY P.L.35-2010,
 25 SECTION 188, IS AMENDED TO READ AS FOLLOWS
 26 [EFFECTIVE JULY 1, 2015]: Sec. 18.4. (a) This section applies if,
 27 after a person has been issued a license or renewal license under this
 28 chapter, the licensee, or any individual described in section 11(b)(2) of
 29 this chapter, has been convicted of or pleaded guilty ~~or noto contendere~~
 30 to a felony under the laws of Indiana or any other jurisdiction.

31 (b) If this section applies, the licensee shall provide to the
 32 department the information required under section 11(b)(2)(D) of this
 33 chapter:

- 34 (1) not later than thirty (30) days after the licensee or individual
 35 described in section 11(b)(2) of this chapter has been convicted
 36 of or pleaded guilty ~~or noto contendere~~ to the felony; or
 37 (2) if the licensee's next license renewal fee under section 15 of
 38 this chapter is due before the date described in subdivision (1),
 39 along with the licensee's next license renewal fee under section 15
 40 of this chapter.

41 SECTION 54. IC 28-8-5-19, AS AMENDED BY THE
 42 TECHNICAL CORRECTIONS BILL OF THE 2015 GENERAL



1 ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2015]: Sec. 19. (a) The department may examine the books,
3 accounts, and records of a licensee and may make investigations to
4 determine compliance.

5 (b) If the department examines the books, accounts, and records of
6 a licensee, the licensee shall pay all reasonably incurred costs of the
7 examination in accordance with the fee schedule adopted under
8 IC 28-11-3-5. A fee established by the department under IC 28-11-3-5
9 may be charged for each day a fee under this section is delinquent. **Any
10 costs required to be paid under this section shall be paid not later
11 than sixty (60) days after the person receives a notice from the
12 department of the costs being assessed. The department may
13 impose a fee, in an amount fixed by the department under
14 IC 28-11-3-5, for each day that the assessed costs are not paid,
15 beginning on the first day after the sixty (60) day period described
16 in this subsection.**

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

20 (1) licensee; or

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

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

24 (B) otherwise in violation of **this** chapter.

25 The department has all investigatory and enforcement authority under
26 this chapter that the department has under IC 28-11 with respect to
27 financial institutions. If the department conducts an investigation under
28 this section, the licensee or other person investigated shall pay all
29 reasonably incurred costs of the investigation in accordance with the
30 fee schedule adopted under IC 28-11-3-5. **Any costs required to be
31 paid under this section shall be paid not later than sixty (60) days
32 after the person receives a notice from the department of the costs
33 being assessed. The department may impose a fee, in an amount
34 fixed by the department under IC 28-11-3-5, for each day that the
35 assessed costs are not paid, beginning on the first day after the
36 sixty (60) day period described in this subsection.**

37 (d) If a licensee contracts with an outside vendor to provide a
38 service that would otherwise be undertaken internally by the licensee
39 and be subject to the department's routine examination procedures, the
40 person that provides the service to the licensee shall, at the request of
41 the director, submit to an examination by the department. If the director
42 determines that an examination under this subsection is necessary or



1 desirable, the examination may be made at the expense of the person
 2 to be examined. If the person to be examined under this subsection
 3 refuses to permit the examination to be made, the director may order
 4 any licensee that receives services from the person refusing the
 5 examination to:

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

8 (2) otherwise cease conducting business with the person.

9 SECTION 55. IC 28-8-5-22, AS AMENDED BY P.L.27-2012,
 10 SECTION 105, IS AMENDED TO READ AS FOLLOWS
 11 [EFFECTIVE JULY 1, 2015]: Sec. 22. (a) The department may issue
 12 to a licensee an order to show cause why the licensee's license should
 13 not be revoked or suspended for a period determined by the
 14 department.

15 (b) An order issued under subsection (a) must:

16 (1) include:

17 (A) a statement of the place, date, and time for a meeting with
 18 the department, which date may not be less than ten (10) days
 19 from the date of the order;

20 (B) a description of the action contemplated by the
 21 department; and

22 (C) a statement of the facts or conduct supporting the issuance
 23 of the order; and

24 (2) be accompanied by a notice stating that the licensee is entitled
 25 to:

26 (A) a reasonable opportunity to be heard; and

27 (B) show the licensee's compliance with all lawful
 28 requirements for retention of the license;

29 at the meeting described in subdivision (1)(A).

30 (c) After the meeting described in subsection (b)(1)(A), the
 31 department may revoke or suspend the license if the department finds
 32 that:

33 (1) the licensee has repeatedly and willfully violated:

34 (A) this chapter or any **applicable** rule, order, or guidance
 35 document adopted or issued by the department; or

36 (B) any other state or federal law, regulation, or rule applicable
 37 to the business of cashing checks for consideration;

38 (2) the licensee does not meet the licensing qualifications set forth
 39 in this chapter;

40 (3) the licensee obtained the license for the benefit of, or on
 41 behalf of, a person who does not qualify for the license;

42 (4) the licensee knowingly or intentionally made material



- 1 misrepresentations to, or concealed material information from, the
 2 department; or
 3 (5) facts or conditions exist that, had they existed at the time the
 4 licensee applied for the license, would have been grounds for the
 5 department to deny the issuance of the license.
- 6 (d) Whenever the department revokes or suspends a license, the
 7 department shall enter an order to that effect and notify the licensee of:
 8 (1) the revocation or suspension;
 9 (2) if a suspension has been ordered, the duration of the
 10 suspension;
 11 (3) the procedure for appealing the revocation or suspension
 12 under ~~IC 4-21.5-3-5~~; **IC 4-21.5-3-6**; and
 13 (4) any other terms and conditions that apply to the revocation or
 14 suspension.
- 15 Not later than five (5) days after the entry of the order, the department
 16 shall deliver to the licensee a copy of the order and the findings
 17 supporting the order.
- 18 (e) Any person holding a license to engage in the business of
 19 cashing checks for consideration may relinquish the license by
 20 notifying the department in writing of the relinquishment. However, a
 21 relinquishment under this subsection does not affect the person's
 22 liability for acts previously committed and coming within the scope of
 23 this chapter.
- 24 (f) If the director determines it to be in the public interest, the
 25 director may pursue the revocation of a license of a licensee that has
 26 relinquished the license under subsection (e).
- 27 (g) If a person's license is revoked, suspended, or relinquished, the
 28 revocation, suspension, or relinquishment does not impair or affect any
 29 obligation owed by any person under any existing lawful contract.
- 30 (h) If the director of the department has just cause to believe an
 31 emergency exists from which it is necessary to protect the interests of
 32 the public, the director may proceed with the revocation of a license
 33 through an emergency or another temporary order under IC 4-21.5-4.
- 34 SECTION 56. IC 28-10-1-1, AS AMENDED BY P.L.137-2014,
 35 SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 JULY 1, 2015]: Sec. 1. A reference to a federal law or federal
 37 regulation in this title is a reference to the law or regulation as in effect
 38 December 31, ~~2013~~; **2014**.
- 39 SECTION 57. IC 35-45-5-7, AS AMENDED BY P.L.135-2014,
 40 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2015]: Sec. 7. This chapter does not apply to the publication
 42 or broadcast of an advertisement, a list of prizes, or other information



- 1 concerning:
- 2 (1) pari-mutuel wagering on horse races or a lottery authorized by
- 3 the law of any state;
- 4 (2) a game of chance operated in accordance with IC 4-32.2;
- 5 (3) a gambling game operated in accordance with IC 4-35; or
- 6 (4) a prize linked savings program that:
- 7 (A) is offered or conducted by an eligible financial institution
- 8 under IC 28-1-23.2; ~~or~~
- 9 (B) is:
- 10 (i) offered or conducted by a credit union organized or
- 11 reorganized under United States law; and
- 12 (ii) conducted in the same manner as a prize linked savings
- 13 program under IC 28-1-23.2; **or**
- 14 **(C) is offered or conducted by an insured depository**
- 15 **institution (as defined in 12 U.S.C. 1813) that is:**
- 16 **(i) a national bank formed under 12 U.S.C. 21;**
- 17 **(ii) a state member bank (as defined in 12 U.S.C. 1813);**
- 18 **(iii) a state nonmember bank (as defined in 12 U.S.C.**
- 19 **1813); or**
- 20 **(iv) a savings association (as defined in 12 U.S.C. 1813);**
- 21 **if the prize linked savings program is conducted in the**
- 22 **same manner as a prize linked savings program under**
- 23 **IC 28-1-23.2.**
- 24 SECTION 58. IC 35-45-5-13, AS ADDED BY P.L.135-2014,
- 25 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 26 JULY 1, 2015]: Sec. 13. This chapter does not apply to a prize linked
- 27 savings program that:
- 28 (1) is offered or conducted by an eligible financial institution
- 29 under IC 28-1-23.2; ~~or~~
- 30 (2) is:
- 31 (A) offered or conducted by a credit union organized or
- 32 reorganized under United States law; and
- 33 (B) conducted in the same manner as a prize linked savings
- 34 program under IC 28-1-23.2; **or**
- 35 **(3) is:**
- 36 **(A) offered or conducted by an insured depository**
- 37 **institution (as defined in 12 U.S.C. 1813) that is:**
- 38 **(i) a national bank formed under 12 U.S.C. 21;**
- 39 **(ii) a state member bank (as defined in 12 U.S.C. 1813);**
- 40 **(iii) a state nonmember bank (as defined in 12 U.S.C.**
- 41 **1813); or**
- 42 **(iv) a savings association (as defined in 12 U.S.C. 1813);**



1 **and**
2 **(B) conducted in the same manner as a prize linked savings**
3 **program under IC 28-1-23.2.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Financial Institutions, to which was referred House Bill 1287, 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 24, line 34, delete "A" and insert "**Subject to subsection (7), a**".

Page 25, between lines 37 and 38, begin a new paragraph and insert:

"(7) Notwithstanding IC 24-4.5-1-301.5(39), for purposes of subsection (2), a person "regularly engages" in any of the activities described in subsection (2) with respect to a small loan if the person:

(a) performed any of the activities described in subsection (2) with respect to a small loan at least one (1) time in the preceding calendar year; or

(b) performs or will perform any of the activities described in subsection (2) with respect to a small loan at least one (1) time in the current calendar year if the person did not perform any of the activities described in subsection (2) with respect to a small loan at least one (1) time in the preceding calendar year."

Page 26, line 39, delete "coerce" and insert "**compel**".

Page 29, delete lines 13 through 22.

Page 51, line 39, after "(30)" insert "**Not later than seventy-five (75)**".

Page 51, line 39, reset in roman "days after receiving the certified copies".

Page 51, line 40, reset in roman "of the minutes,".

Page 51, line 40, delete "An" and insert "an".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1287 as introduced.)

BURTON

Committee Vote: yeas 12, nays 0.



HOUSE MOTION

Mr. Speaker: I move that House Bill 1287 be amended to read as follows:

Page 4, between lines 12 and 13, begin a new paragraph and insert:
"SECTION 4. IC 23-15-11 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

Chapter 11. Registered Office and Agent for Certain Indiana Domiciled Financial Institutions

Sec. 1. As used in this chapter, "eligible entity" has the meaning set forth in IC 28-1-22-1.5.

Sec. 2. (a) An eligible entity may file a notice concerning the eligible entity's:

- (1) registered office; and**
- (2) registered agent;**

as described in IC 28-1-22-1.5.

(b) A notice filed by an eligible entity under subsection (a) must include the following information with respect to the eligible entity:

- (1) The address of a registered office in Indiana.**
- (2) The name of a registered agent, who must be:**
 - (A) an individual who resides in Indiana and whose business office is identical with the registered office identified under subdivision (1);**
 - (B) a domestic limited liability company, domestic corporation, or nonprofit domestic corporation whose business office is identical with the registered office identified under subdivision (1); or**
 - (C) a foreign limited liability company, foreign corporation, or nonprofit foreign corporation authorized to transact business in Indiana and whose business office is identical with the registered office identified under subdivision (1).**

(c) In addition to the information set forth in subsection (b), a notice filed by an eligible entity under subsection (a) must include:

- (1) the written consent of the registered agent designated under subsection (b)(2) to the designation; or**
- (2) a representation that the registered agent has consented to the designation.**

Sec. 3. (a) An eligible entity that files a notice under section 2 of this chapter may change the eligible entity's registered office or registered agent by delivering to the secretary of state for filing a statement of change that includes the following:

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- (1) The name of the eligible entity.
- (2) The address of the eligible entity's registered office at the time of filing.
- (3) If the registered office identified under subdivision (2) is to be changed, the address of the new registered office.
- (4) The name of the eligible entity's registered agent at the time of filing.
- (5) If the registered agent identified under subdivision (4) is to be changed, the name of the new registered agent, along with:
 - (A) the written consent of the new registered agent to the designation; or
 - (B) a representation that the new registered agent has consented to the designation.

The written consent described in clause (A) or the representation described in clause (B) may be incorporated into the statement of change filed under this section or filed along with the statement of change as an attachment.

- (6) A statement indicating that after the identified changes to the registered office or the registered agent are made, the address of the eligible entity's registered office and the business address of the eligible entity's registered agent will be identical.

(b) If the registered agent for an eligible entity changes the address of the registered agent's business office, the registered agent may change the address of the registered office for the eligible entity by:

- (1) notifying the eligible entity in writing of the change; and
- (2) signing (either manually or in facsimile) and delivering to the secretary of state for filing a statement that:
 - (A) complies with subsection (a); and
 - (B) states that the eligible entity has been notified of the change.

Sec. 4. (a) The registered agent for an eligible entity may resign the agency appointment by signing and delivering to the secretary of state for filing, as described in IC 23-1-18, a statement of resignation. The statement of resignation may include a statement that the registered office for the eligible entity is also discontinued.

(b) After filing the statement, the secretary of state shall mail one (1) copy to the eligible entity at the eligible entity's principal office, if known, and one (1) copy to the eligible entity's registered office, if the registered office is not discontinued.



(c) On the thirty-first day after the date on which a statement is filed under this section:

- (1) the agency appointment is terminated; and**
- (2) the registered office for the eligible entity is discontinued if so provided in the statement of resignation.**

Sec. 5. (a) The registered agent of an eligible entity is the eligible entity's agent for service of process, notice, or demand required or permitted by law to be served on the eligible entity.

(b) If an eligible entity has no registered agent or the eligible entity's registered agent cannot with reasonable diligence be served, the eligible entity may be served by registered or certified mail, return receipt requested, addressed to the secretary of the eligible entity or to another executive officer, as that term is used in Trial Rule 4.6(A)(1), at the eligible entity's principal office. Service is perfected under this subsection at the earliest of:

- (1) the date the eligible entity receives the mail;**
- (2) the date shown on the return receipt, if signed on behalf of the eligible entity; or**
- (3) five (5) days after deposit in the United States mail, if mailed postpaid and correctly addressed.**

(c) This section does not prescribe the only means, or necessarily the required means, of serving an eligible entity."

Page 36, between lines 5 and 6, begin a new paragraph and insert:

"SECTION 28. IC 28-1-22-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1.5. (a) As used in this section, "eligible entity" means a bank, savings bank, trust company, corporate fiduciary, credit union, industrial loan and investment company, or savings association that:

- (1) is organized under the laws of:**
 - (A) any other state (as defined in IC 28-2-17-19);**
 - (B) the United States; or**
 - (C) any other country; and**
- (2) is domiciled in Indiana.**

(b) An eligible entity may file with the secretary of state a notice concerning the eligible entity's:

- (1) registered office; and**



**(2) registered agent;
in accordance with IC 23-15-11."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1287 as printed January 30, 2015.)

BURTON

HOUSE MOTION

Mr. Speaker: I move that House Bill 1287 be amended to read as follows:

Page 3, between lines 14 and 15, begin a new paragraph and insert:
"SECTION 2. IC 4-32.2-1-1, AS AMENDED BY P.L.135-2014, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1. (a) This article applies only to a qualified organization.

(b) This article applies only to the following approved gambling events conducted as fundraising activities by qualified organizations:

(1) Bingo events, charity game nights, door prize events, raffle events, festivals, and other gaming events approved by the commission.

(2) The sale of pull tabs, punchboards, and tip boards:

(A) at bingo events, charity game nights, door prize events, raffle events, and festivals conducted by qualified organizations; or

(B) at any time on the premises owned or leased by a qualified organization and regularly used for the activities of the qualified organization.

This article does not apply to any other sale of pull tabs, punchboards, and tip boards.

(c) This article does not apply to a promotion offer subject to IC 24-8.

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

(1) A type II gambling game authorized by IC 4-36.

(2) A raffle or other gambling game authorized by IC 4-36-5-1(b).

(e) This article does not apply to a prize linked savings program that:

(1) is offered or conducted by an eligible financial institution under IC 28-1-23.2; ~~or~~

(2) is:

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(A) offered or conducted by a credit union organized or reorganized under United States law; and

(B) conducted in the same manner as a prize linked savings program under IC 28-1-23.2; or

(3) is:

(A) offered or conducted by an insured depository institution (as defined in 12 U.S.C. 1813) that is:

(i) a national bank formed under 12 U.S.C. 21;

(ii) a state member bank (as defined in 12 U.S.C. 1813);

(iii) a state nonmember bank (as defined in 12 U.S.C. 1813); or

(iv) a savings association (as defined in 12 U.S.C. 1813); and

(B) conducted in the same manner as a prize linked savings program under IC 28-1-23.2."

Page 29, between lines 24 and 25, begin a new paragraph and insert:
"SECTION 25. IC 24-8-1-1, AS AMENDED BY P.L.135-2014, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1. (a) This article applies to a promotion offer made:

(1) by a person in Indiana; or

(2) to a person in Indiana.

(b) This article does not apply to a prize linked savings program that:

(1) is offered or conducted by an eligible financial institution under IC 28-1-23.2; or

(2) is:

(A) offered or conducted by a credit union organized or reorganized under United States law; and

(B) conducted in the same manner as a prize linked savings program under IC 28-1-23.2; or

(3) is:

(A) offered or conducted by an insured depository institution (as defined in 12 U.S.C. 1813) that is:

(i) a national bank formed under 12 U.S.C. 21;

(ii) a state member bank (as defined in 12 U.S.C. 1813);

(iii) a state nonmember bank (as defined in 12 U.S.C. 1813); or

(iv) a savings association (as defined in 12 U.S.C. 1813); and

(B) conducted in the same manner as a prize linked savings program under IC 28-1-23.2."



Page 65, after line 7, begin a new paragraph and insert:

"SECTION 47. IC 35-45-5-7, AS AMENDED BY P.L.135-2014, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 7. This chapter does not apply to the publication or broadcast of an advertisement, a list of prizes, or other information concerning:

- (1) pari-mutuel wagering on horse races or a lottery authorized by the law of any state;
 - (2) a game of chance operated in accordance with IC 4-32.2;
 - (3) a gambling game operated in accordance with IC 4-35; or
 - (4) a prize linked savings program that:
 - (A) is offered or conducted by an eligible financial institution under IC 28-1-23.2; **or**
 - (B) is:
 - (i) offered or conducted by a credit union organized or reorganized under United States law; and
 - (ii) conducted in the same manner as a prize linked savings program under IC 28-1-23.2; **or**
 - (C) is offered or conducted by an insured depository institution (as defined in 12 U.S.C. 1813) that is:**
 - (i) a national bank formed under 12 U.S.C. 21;**
 - (ii) a state member bank (as defined in 12 U.S.C. 1813);**
 - (iii) a state nonmember bank (as defined in 12 U.S.C. 1813); or**
 - (iv) a savings association (as defined in 12 U.S.C. 1813);**
- if the prize linked savings program is conducted in the same manner as a prize linked savings program under IC 28-1-23.2.**

SECTION 48. IC 35-45-5-13, AS ADDED BY P.L.135-2014, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 13. This chapter does not apply to a prize linked savings program that:

- (1) is offered or conducted by an eligible financial institution under IC 28-1-23.2; **or**
- (2) is:
 - (A) offered or conducted by a credit union organized or reorganized under United States law; and
 - (B) conducted in the same manner as a prize linked savings program under IC 28-1-23.2; **or**
- (3) is:**
 - (A) offered or conducted by an insured depository institution (as defined in 12 U.S.C. 1813) that is:**



- (i) a national bank formed under 12 U.S.C. 21;
 - (ii) a state member bank (as defined in 12 U.S.C. 1813);
 - (iii) a state nonmember bank (as defined in 12 U.S.C. 1813); or
 - (iv) a savings association (as defined in 12 U.S.C. 1813);
- and

(B) conducted in the same manner as a prize linked savings program under IC 28-1-23.2."

Renumber all SECTIONS consecutively.

(Reference is to HB 1287 as printed January 30, 2015.)

RIECKEN

COMMITTEE REPORT

Madam President: The Senate Committee on Insurance and Financial Institutions, to which was referred House Bill No. 1287, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 13, between lines 34 and 35, begin a new paragraph and insert:

"SECTION 11. IC 24-4.5-1-108, AS AMENDED BY P.L.35-2010, SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 108. (1) This article prescribes maximum charges for all creditors, except lessors and those excluded (IC 24-4.5-1-202), extending consumer credit, including consumer credit sales (~~IC 24-4.5-1-301.5(8)~~); **(IC 24-4.5-1-301.5)**, consumer loans (~~IC 24-4.5-1-301.5(9)~~); **(IC 24-4.5-1-301.5)**, and consumer related sales and loans (IC 24-4.5-2-602 and IC 24-4.5-3-602), and displaces existing limitations on the powers of those creditors based on maximum charges.

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

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

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

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

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

Page 15, line 42, strike "301.5(45)" and insert "**301.5**".

Page 16, line 1, strike "(a)" and insert "**(A)**".

Page 16, line 8, strike "(b)" and insert "**(B)**".

Page 16, between lines 40 and 41, begin a new paragraph and insert:

"SECTION 13. IC 24-4.5-1-301.5, AS AMENDED BY P.L.137-2014, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: 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) "Civil justice funding company" means a person that enters into a civil justice funding transaction with a consumer. The term



does not include the following:

- (a) An immediate family member of the consumer.
- (b) A bank, lender, financing entity, or other special purpose entity:
 - (i) that provides financing to the person; or
 - (ii) to which the person grants a security interest or transfers rights or interest in a civil justice funding transaction.
- (c) An attorney or accountant who provides services to the consumer.

(6) "Civil justice funding transaction" means a transaction in which a:

- (a) person purchases; and
- (b) consumer assigns to the person described in paragraph (a);

a contingent right to receive an amount of the potential proceeds of a settlement, judgment, award, or verdict obtained in the consumer's legal claim.

~~(5)~~ (7) "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)~~ (8) "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)~~ (9) "Consumer credit" means credit offered or extended to a consumer primarily for a personal, family, or household purpose.

~~(8)~~ (10) "Consumer credit sale" is a sale of goods, services, or an interest in land in which:

- (a) credit is granted by a person who regularly engages as a seller in credit transactions of the same kind;
- (b) the buyer is a person other than an organization;
- (c) the goods, services, or interest in land are purchased primarily for a personal, family, or household purpose;
- (d) either the debt is payable in installments or a credit service charge is made; and



- (e) with respect to a sale of goods or services, either:
- (i) the amount of credit extended, the written credit limit, or the initial advance does not exceed fifty-three thousand five hundred dollars (\$53,500) or another amount as adjusted in accordance with the annual adjustment of the exempt threshold amount specified in Regulation Z (12 CFR 226.3 or 12 CFR 1026.3(b), as applicable); or
 - (ii) the debt is secured by personal property used or expected to be used as the principal dwelling of the buyer.

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

~~(9)~~ **(11)** "Consumer loan" means a loan made by a person regularly engaged in the business of making loans in which:

- (a) the debtor is a person other than an organization;
- (b) the debt is primarily for a personal, family, or household purpose;
- (c) either the debt is payable in installments or a loan finance charge is made; and
- (d) either:
 - (i) the amount of credit extended, the written credit limit, or the initial advance does not exceed fifty-three thousand five hundred dollars (\$53,500) or another amount as adjusted in accordance with the annual adjustment of the exempt threshold amount specified in Regulation Z (12 CFR 226.3 or 12 CFR 1026.3(b), as applicable); or
 - (ii) the debt is secured by an interest in land or by personal property used or expected to be used as the principal dwelling of the debtor.

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

~~(10)~~ **(12)** "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)~~ **(13)** "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)~~ **(14)** "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)~~ **(15)** "Director" means the director of the department of financial institutions or the director's designee.

~~(14)~~ **(16)** "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)~~ **(17)** "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)~~ **(18)** "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)~~ **(19)** "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)~~ **(20)** "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)~~ **(21)** "Immediate family member" means a spouse, child, sibling, parent, grandparent, or grandchild. The term includes stepparents, stepchildren, stepsiblings, and adoptive relationships.



~~(20)~~ **(22)** "Individual" means a natural person.

~~(21)~~ **(23)** "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)~~ **(24)** "Licensee" means a person licensed as a creditor under this article.

~~(23)~~ **(25)** "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)~~ **(26)** "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)~~ **(27)** "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)~~ **(28)** "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)~~ **(29)** "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)~~ **(30)** "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)~~ **(31)** "Nontraditional mortgage product" means any mortgage product other than a thirty (30) year fixed rate mortgage.

~~(30)~~ **(32)** "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)~~ **(33)** "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)~~ **(34)** "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)~~ **(35)** "Person" includes an individual or an organization.

~~(34)~~ **(36)** "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)~~ **(37)** "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)~~ **(38)** "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)~~ **(39)** "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)~~ **(40)** "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)~~ **(41)** "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)~~ **(42)** "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)~~ **(43)** "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)~~ **(44)** "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)~~ **(45)** "Unique identifier" means a number or other identifier assigned by protocols established by the NMLSR.

~~(44)~~ **(46)** "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)~~ **(47)** "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 14. IC 24-4.5-2-103, AS AMENDED BY P.L.89-2011, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 103. Definitions — The following definitions apply to this article and appear in this article as follows:

"Amount financed"	Section 111 of this chapter
"Cash price"	Section 110 of this chapter
"Consumer credit sale"	IC 24-4.5-1-301.5(8) IC 24-4.5-1-301.5
"Consumer lease"	Section 106 of this chapter
"Consumer related sale"	Section 602 of this chapter
"Credit service charge"	Section 109 of this chapter
"Goods"	Section 105(1) of this chapter
"Home solicitation sale"	Section 501 of this chapter
"Merchandise certificate"	Section 105(2) of this chapter
"Precomputed"	Section 105(7) of this chapter
"Revolving charge account"	Section 108 of this chapter
"Sale of goods"	Section 105(4) of this chapter
"Sale of an interest in land"	Section 105(6) of this chapter
"Sale of services"	Section 105(5) of this chapter
"Seller"	Section 107 of this chapter
"Services"	Section 105(3) of this chapter".

Page 16, between lines 40 and 41, begin a new paragraph and insert:

"SECTION 16. IC 24-4.5-2-301, AS AMENDED BY P.L.35-2010, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 301. (1) For purposes of this section, "consumer credit sale" includes the sale of an interest in land which is a first lien mortgage transaction if the sale is otherwise a consumer credit sale (~~IC 24-4.5-1-301.5(8)~~): **(IC 24-4.5-1-301.5)**.

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

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

Page 17, between lines 26 and 27, begin a new paragraph and insert:

"SECTION 18. IC 24-4.5-3-106 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 106. Definition: "Loan"



— "Loan" includes:

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

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

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

(4) the forbearance of debt arising from a loan; ~~and~~

(5) the creation of a debt under a civil justice funding transaction."

Page 18, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 20. IC 24-4.5-3-301, AS AMENDED BY P.L.35-2010, SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 301. (1) For the purposes of this section, "consumer loan" includes a loan that is a first lien mortgage transaction if the loan is otherwise a consumer loan (~~IC 24-4.5-1-301.5(9)~~): **(IC 24-4.5-1-301.5)**.

(2) The lender shall disclose to the debtor to whom credit is extended with respect to a consumer loan the information required by the Federal Consumer Credit Protection Act.

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

Page 24, between lines 16 and 17, begin a new paragraph and insert:

"SECTION 27. IC 24-4.5-4-102, AS AMENDED BY P.L.35-2010, SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 102. (1) Except as provided in subsection (2), this chapter applies to insurance provided or to be provided in relation to a consumer credit sale (~~IC 24-4.5-1-301.5(8)~~); **(IC 24-4.5-1-301.5)**, a consumer lease (IC 24-4.5-2-106), or a consumer loan (~~IC 24-4.5-1-301.5(9)~~): **(IC 24-4.5-1-301.5)**.

(2) The provision on cancellation by a creditor (IC 24-4.5-4-304) applies to loans the primary purpose of which is the financing of insurance. No other provision of this chapter applies to insurance so financed.

(3) This chapter supplements and does not repeal IC 27-8-4 (the credit insurance act). The provisions of this article concerning administrative controls, liabilities, and penalties do not apply to persons acting as insurers, and the similar provisions of IC 27-8-4 do not apply to creditors and debtors."

Page 28, line 21, delete "(1)" and insert "(a)".



Page 28, line 23, delete "(2)" and insert "**(b)**".

Page 28, line 30, delete "(1)" and insert "**(a)**".

Page 28, line 31, delete "(2)" and insert "**(b)**".

Page 29, line 15, delete "IC 24-4.5-1-301.5(39)," and insert "**IC 24-4.5-1-301.5,**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1287 as reprinted February 4, 2015.)

HOLDMAN, Chairperson

Committee Vote: Yeas 10, Nays 0.

