



January 24, 2014

HOUSE BILL No. 1245

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

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

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

Effective: Upon passage; July 1, 2014.

Heaton, Burton, Hale, Moed

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

HB 1245—LS 7105/DI 101



January 24, 2014

Second Regular Session 118th General Assembly (2014)

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

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

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

HOUSE BILL No. 1245

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

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

- 1 SECTION 1. IC 24-4.4-1-102, AS AMENDED BY P.L.216-2013,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 102. (1) This article shall be liberally
4 construed and applied to promote its underlying purposes and policies.
5 (2) The underlying purposes and policies of this article are:
6 (a) to permit and encourage the development of fair and
7 economically sound first lien mortgage lending practices; and
8 (b) to conform the regulation of first lien mortgage lending
9 practices to applicable state and federal laws, rules, regulations,
10 policies, and guidance.
11 (3) A reference to a requirement imposed by this article includes
12 reference to a related rule of the department adopted under this article.
13 (4) A reference to a federal law in this article is a reference to the
14 law as in effect December 31, ~~2012~~: **2013**.
15 SECTION 2. IC 24-4.4-1-202, AS AMENDED BY P.L.13-2013,
16 SECTION 65, IS AMENDED TO READ AS FOLLOWS

HB 1245—LS 7105/DI 101



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

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

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

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

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

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

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

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

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

26 (4) Except for IC 24-4.4-2-401(2), IC 24-4.4-2-402.3,
 27 IC 24-4.4-2-405(4), and IC 24-4.4-2-405(5), a first lien mortgage
 28 transaction made:

29 (a) in compliance with the requirements of; and

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

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

34 (5) Except for IC 24-4.4-2-401(2), IC 24-4.4-2-402.3,
 35 IC 24-4.4-2-405(4), and IC 24-4.4-2-405(5), a first lien mortgage
 36 transaction made by an entity that exclusively uses funds provided
 37 by the United States Department of Housing and Urban
 38 Development under Title 1 of the federal Housing and
 39 Community Development Act of 1974, Public Law 93-383, as
 40 amended (42 U.S.C. 5301 et seq.).

41 (6) An extension of credit originated by:

42 (a) a depository institution;



- 1 (b) subsidiaries **that are not licensed under this article and**
 2 that are:
- 3 (i) owned and controlled by a depository institution; and
 4 (ii) regulated by a federal banking agency; or
 5 (c) an institution regulated by the Farm Credit Administration.
- 6 (7) Except for IC 24-4.4-2-401(2), IC 24-4.4-2-402.3,
 7 IC 24-4.4-2-405(4), and IC 24-4.4-2-405(5), a credit union service
 8 organization that is majority owned, directly or indirectly, by one
 9 (1) or more credit unions.
- 10 (8) A first lien mortgage transaction originated by a registered
 11 mortgage loan originator, when acting for an entity described in
 12 subsection (6). However, a privately insured state chartered credit
 13 union shall comply with the system of mortgage loan originator
 14 registration developed by the Federal Financial Institutions
 15 Examinations Council under Section 1507 of the federal Secure
 16 and Fair Enforcement for Mortgage Licensing Act of 2008
 17 (SAFE).
- 18 (9) An individual who offers or negotiates terms of a mortgage
 19 transaction with or on behalf of an immediate family member of
 20 the individual.
- 21 (10) An individual who offers or negotiates terms of a mortgage
 22 transaction secured by a dwelling that served as the individual's
 23 residence.
- 24 (11) Unless the attorney is compensated by:
- 25 (a) a lender;
 26 (b) a mortgage broker;
 27 (c) another mortgage loan originator; or
 28 (d) any agent of the lender, mortgage broker, or other
 29 mortgage loan originator described in clauses (a) through (c);
 30 a licensed attorney who negotiates the terms of a mortgage
 31 transaction on behalf of a client as an ancillary matter to the
 32 attorney's representation of the client.
- 33 (12) The United States, any state or local government, or any
 34 agency or instrumentality of any governmental entity, including
 35 United States government sponsored enterprises.
- 36 (13) A person in whose name a tablefunded transaction is closed,
 37 as described in section 301(34)(a) of this chapter. However, the
 38 exemption provided by this subsection does not apply if:
- 39 (a) the transaction:
 40 (i) is secured by a dwelling that is a mobile home, a
 41 manufactured home, or a trailer; and
 42 (ii) is not also secured by an interest in land; and



- 1 (b) the person in whose name the transaction is closed, as
 2 described in section 301(34)(a) of this chapter, sells the
 3 dwelling to the debtor through a retail installment contract or
 4 other similar transaction.
- 5 (14) A bona fide nonprofit organization not operating in a
 6 commercial context, as determined by the director, if the
 7 following criteria are satisfied:
- 8 (a) Subject to clause (b), the organization originates only one
 9 (1) or both of the following types of mortgage transactions:
 10 (i) Zero (0) interest first lien mortgage transactions.
 11 (ii) Zero (0) interest subordinate lien mortgage transactions.
- 12 (b) The organization does not require, under the terms of the
 13 mortgage or otherwise, balloon payments with respect to the
 14 mortgage transactions described in clause (a).
- 15 (c) The organization is exempt from federal income taxation
 16 under Section 501(c)(3) of the Internal Revenue Code.
- 17 (d) The organization's primary purpose is to serve the public
 18 by helping low income individuals and families build, repair,
 19 and purchase housing.
- 20 (e) The organization uses only:
 21 (i) unpaid volunteers; or
 22 (ii) employees whose compensation is not based on the
 23 number or size of any mortgage transactions that the
 24 employees originate;
 25 to originate the mortgage transactions described in clause (a).
- 26 (f) The organization does not charge loan origination fees in
 27 connection with the mortgage transactions described in clause
 28 (a).
- 29 (15) A bona fide nonprofit organization (as defined in section
 30 301(37) of this chapter) if the following criteria are satisfied:
- 31 (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(37) of this chapter).
- 38 (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 3. IC 24-4.4-1-301, AS AMENDED BY P.L.216-2013,
 4 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 UPON PASSAGE]: Sec. 301. In addition to definitions appearing in
 6 subsequent chapters of this article, the following definitions apply
 7 throughout this article:
- 8 (1) "Affiliate", with respect to any person subject to this article,
 9 means a person that, directly or indirectly, through one (1) or
 10 more intermediaries:
 11 (a) controls;
 12 (b) is controlled by; or
 13 (c) is under common control with;
 14 the person subject to this article.
- 15 (2) "Agreement" means the bargain of the parties in fact as found
 16 in the parties' language or by implication from other
 17 circumstances, including course of dealing or usage of trade or
 18 course of performance.
- 19 (3) "Agricultural products" includes agricultural products,
 20 horticultural products, viticultural products, dairy products,
 21 livestock, wildlife, poultry, bees, forest products, fish and
 22 shellfish, any products raised or produced on farms, and any
 23 products processed or manufactured from products raised or
 24 produced on farms.
- 25 (4) "Agricultural purpose" means a purpose related to the
 26 production, harvest, exhibition, marketing, transportation,
 27 processing, or manufacture of agricultural products by a natural
 28 person who cultivates, plants, propagates, or nurtures the
 29 agricultural products.
- 30 (5) "Consumer credit sale" is a sale of goods, services, or an
 31 interest in land in which:
 32 (a) credit is granted by a person who engages as a seller in
 33 credit transactions of the same kind;
 34 (b) the buyer is a person other than an organization;
 35 (c) the goods, services, or interest in land are purchased
 36 primarily for a personal, family, or household purpose;
 37 (d) either the debt is payable in installments or a credit service
 38 charge is made; and
 39 (e) with respect to a sale of goods or services, either:
 40 (i) the ~~sale amount of credit extended, the written credit~~
 41 **limit, or the initial advance** does not exceed fifty-three
 42 thousand **five hundred** dollars ~~(\$53,000)~~ **(\$53,500)** or



- 1 another amount as adjusted in accordance with the annual
 2 adjustment of the exempt threshold amount specified in
 3 Regulation Z (12 CFR 226.3 or 12 CFR 1026.3(b), as
 4 applicable); or
 5 (ii) the debt is secured by personal property used or expected
 6 to be used as the principal dwelling of the buyer.
- 7 (6) "Credit" means the right granted by a creditor to a debtor to
 8 defer payment of debt or to incur debt and defer its payment.
- 9 (7) "Creditor" means a person:
 10 (a) that regularly engages in the extension of first lien
 11 mortgage transactions that are subject to a credit service
 12 charge or loan finance charge, as applicable, or are payable by
 13 written agreement in more than four (4) installments (not
 14 including a down payment); and
 15 (b) to which the obligation is initially payable, either on the
 16 face of the note or contract, or by agreement if there is not a
 17 note or contract.
- 18 The term does not include a person described in subsection
 19 (34)(a) in a tablefunded transaction. A creditor may be an
 20 individual, a limited liability company, a sole proprietorship, a
 21 partnership, a trust, a joint venture, a corporation, an
 22 unincorporated organization, or other form of entity, however
 23 organized.
- 24 (8) "Department" refers to the members of the department of
 25 financial institutions.
- 26 (9) "Depository institution" has the meaning set forth in the
 27 Federal Deposit Insurance Act (12 U.S.C. 1813(c)) and includes
 28 any credit union.
- 29 (10) "Director" refers to the director of the department of financial
 30 institutions or the director's designee.
- 31 (11) "Dwelling" means a residential structure that contains one
 32 (1) to four (4) units, regardless of whether the structure is
 33 attached to real property. The term includes an individual:
 34 (a) condominium unit;
 35 (b) cooperative unit;
 36 (c) mobile home; or
 37 (d) trailer;
 38 that is used as a residence.
- 39 (12) "Employee" means an individual who is paid wages or other
 40 compensation by an employer required under federal income tax
 41 law to file Form W-2 on behalf of the individual.
- 42 (13) "Federal banking agencies" means the Board of Governors



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

5 (14) "First lien mortgage transaction" means:

- 6 (a) a consumer loan; or
- 7 (b) a consumer credit sale;

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

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

17 (16) "Individual" means a natural person.

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

20 (18) "Loan" includes:

- 21 (a) the creation of debt by:
 - 22 (i) the creditor's payment of or agreement to pay money to
 - 23 the debtor or to a third party for the account of the debtor; or
 - 24 (ii) the extension of credit by a person who engages as a
 - 25 seller in credit transactions primarily secured by an interest
 - 26 in land;
- 27 (b) the creation of debt by a credit to an account with the
- 28 creditor upon which the debtor is entitled to draw
- 29 immediately; and
- 30 (c) the forbearance of debt arising from a loan.

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

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



- 1 (a) The receipt, collection, distribution, and analysis of
 2 information common for the processing or underwriting of a
 3 mortgage transaction.
- 4 (b) The communication with a consumer to obtain the
 5 information necessary for the processing or underwriting of a
 6 loan, to the extent that the communication does not include:
 7 (i) offering or negotiating loan rates or terms; or
 8 (ii) counseling consumers about mortgage transaction rates
 9 or terms.
- 10 (21) "Mortgage loan originator" means an individual who, for
 11 compensation or gain, or in the expectation of compensation or
 12 gain, regularly engages in taking a mortgage transaction
 13 application or in offering or negotiating the terms of a mortgage
 14 transaction that either is made under this article or under
 15 IC 24-4.5 or is made by an employee of a person licensed or
 16 exempt from licensing under this article or under IC 24-4.5, while
 17 the employee is engaging in the loan brokerage business. The
 18 term does not include the following:
 19 (a) An individual engaged solely as a loan processor or
 20 underwriter as long as the individual works exclusively as an
 21 employee of a person licensed or exempt from licensing under
 22 this article.
 23 (b) Unless the person or entity is compensated by:
 24 (i) a creditor;
 25 (ii) a loan broker;
 26 (iii) another mortgage loan originator; or
 27 (iv) any agent of a creditor, a loan broker, or another
 28 mortgage loan originator described in items (i) through (iii);
 29 a person or entity that performs only real estate brokerage
 30 activities and is licensed or registered in accordance with
 31 applicable state law.
 32 (c) A person solely involved in extensions of credit relating to
 33 timeshare plans (as defined in 11 U.S.C. 101(53D)).
- 34 (22) "Mortgage servicer" means the last person to whom a
 35 mortgagor or the mortgagor's successor in interest has been
 36 instructed by a mortgagee to send payments on a loan secured by
 37 a mortgage.
- 38 (23) "Mortgage transaction" means:
 39 (a) a consumer loan; or
 40 (b) a consumer credit sale;
 41 that is or will be used by the debtor primarily for personal, family,
 42 or household purposes and that is secured by a mortgage or a land



- 1 contract (or another consensual security interest equivalent to a
 2 mortgage or a land contract) on a dwelling or on residential real
 3 estate upon which a dwelling is constructed or intended to be
 4 constructed.
- 5 (24) "Nationwide Mortgage Licensing System and Registry" or
 6 "NMLSR" means a mortgage licensing system developed and
 7 maintained by the Conference of State Bank Supervisors and the
 8 American Association of Residential Mortgage Regulators for the
 9 licensing and registration of creditors and mortgage loan
 10 originators.
- 11 (25) "Nontraditional mortgage product" means any mortgage
 12 product other than a thirty (30) year fixed rate mortgage.
- 13 (26) "Organization" means a corporation, a government or
 14 government subdivision, an agency, a trust, an estate, a
 15 partnership, a limited liability company, a cooperative, an
 16 association, a joint venture, an unincorporated organization, or
 17 any other entity, however organized.
- 18 (27) "Payable in installments", with respect to a debt or an
 19 obligation, means that payment is required or permitted by written
 20 agreement to be made in more than four (4) installments not
 21 including a down payment.
- 22 (28) "Person" includes an individual or an organization.
- 23 (29) "Principal" of a mortgage transaction means the total of:
 24 (a) the net amount paid to, receivable by, or paid or payable
 25 for the account of the debtor; and
 26 (b) to the extent that payment is deferred, amounts actually
 27 paid or to be paid by the creditor for registration, certificate of
 28 title, or license fees if not included in clause (a).
- 29 (30) "Real estate brokerage activity" means any activity that
 30 involves offering or providing real estate brokerage services to the
 31 public, including the following:
 32 (a) Acting as a real estate agent or real estate broker for a
 33 buyer, seller, lessor, or lessee of real property.
 34 (b) Bringing together parties interested in the sale, purchase,
 35 lease, rental, or exchange of real property.
 36 (c) Negotiating, on behalf of any party, any part of a contract
 37 relating to the sale, purchase, lease, rental, or exchange of real
 38 property (other than in connection with providing financing
 39 with respect to the sale, purchase, lease, rental, or exchange of
 40 real property).
 41 (d) Engaging in any activity for which a person engaged in the
 42 activity is required to be registered or licensed as a real estate



- 1 agent or real estate broker under any applicable law.
 2 (e) Offering to engage in any activity, or act in any capacity,
 3 described in this subsection.
- 4 (31) "Registered mortgage loan originator" means any individual
 5 who:
 6 (a) meets the definition of mortgage loan originator and is an
 7 employee of:
 8 (i) a depository institution;
 9 (ii) a subsidiary that is owned and controlled by a depository
 10 institution and regulated by a federal banking agency; or
 11 (iii) an institution regulated by the Farm Credit
 12 Administration; and
 13 (b) is registered with, and maintains a unique identifier
 14 through, the NMLSR.
- 15 (32) "Residential real estate" means any real property that is
 16 located in Indiana and on which there is located or intended to be
 17 constructed a dwelling.
- 18 (33) "Revolving first lien mortgage transaction" means a first lien
 19 mortgage transaction in which:
 20 (a) the creditor permits the debtor to obtain advances from
 21 time to time;
 22 (b) the unpaid balances of principal, finance charges, and other
 23 appropriate charges are debited to an account; and
 24 (c) the debtor has the privilege of paying the balances in
 25 installments.
- 26 (34) "Tablefunded" means a transaction in which:
 27 (a) a person closes a first lien mortgage transaction in the
 28 person's own name as a mortgagee with funds provided by one
 29 (1) or more other persons; and
 30 (b) the transaction is assigned, not later than one (1) business
 31 day after the funding of the transaction, to the mortgage
 32 creditor providing the funding.
- 33 (35) "Unique identifier" means a number or other identifier
 34 assigned by protocols established by the NMLSR.
- 35 (36) "Land contract" means a contract for the sale of real estate in
 36 which the seller of the real estate retains legal title to the real
 37 estate until the total contract price is paid by the buyer.
- 38 (37) "Bona fide nonprofit organization" means an organization
 39 that does the following, as determined by the director, under
 40 criteria established by the director:
 41 (a) Maintains tax exempt status under Section 501(c)(3) of the
 42 Internal Revenue Code.



- 1 (b) Promotes affordable housing or provides home ownership
- 2 education or similar services.
- 3 (c) Conducts the organization's activities in a manner that
- 4 serves public or charitable purposes.
- 5 (d) Receives funding and revenue and charges fees in a
- 6 manner that does not encourage the organization or the
- 7 organization's employees to act other than in the best interests
- 8 of the organization's clients.
- 9 (e) Compensates the organization's employees in a manner that
- 10 does not encourage employees to act other than in the best
- 11 interests of the organization's clients.
- 12 (f) Provides to, or identifies for, debtors mortgage transactions
- 13 with terms that are favorable to the debtor (as described in
- 14 section 202(b)(15) of this chapter) and comparable to
- 15 mortgage transactions and housing assistance provided under
- 16 government housing assistance programs.
- 17 (g) Maintains certification by the United States Department of
- 18 Housing and Urban Development or employs counselors who
- 19 are certified by the Indiana housing and community
- 20 development authority.
- 21 (38) "Regularly engaged", with respect to a person who extends
- 22 or originates first lien mortgage transactions, refers to a person
- 23 who:
- 24 (a) extended or originated more than five (5) first lien
- 25 mortgage transactions in the preceding calendar year; or
- 26 (b) extends or originates, or will extend or originate, more than
- 27 five (5) first lien mortgage transactions in the current calendar
- 28 year if the person did not extend or originate more than five
- 29 (5) first lien mortgage transactions in the preceding calendar
- 30 year.
- 31 SECTION 4. IC 24-4.4-2-402.3, AS AMENDED BY P.L.216-2013,
- 32 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 33 JULY 1, 2014]: Sec. 402.3. (1) Each:
- 34 (a) creditor; and
- 35 (b) person exempt from licensing under this article that employs
- 36 a licensed mortgage loan originator;
- 37 must be covered by a surety bond in accordance with this section.
- 38 (2) A surety bond must:
- 39 (a) provide coverage for:
- 40 (i) a creditor; or
- 41 (ii) a person exempt from licensing under this article that
- 42 employs a **licensed** mortgage loan originator;



- 1 in an amount as prescribed in subsection (4);
 2 (b) be in a form prescribed by the director;
 3 (c) be in effect:
 4 (i) during the term of the creditor's license under this chapter;
 5 or
 6 (ii) at any time during which the person exempt from licensing
 7 under this article employs a licensed mortgage loan originator;
 8 as applicable;
 9 (d) remain in effect during the two (2) years after:
 10 (i) the creditor ceases offering financial services to individuals
 11 in Indiana; or
 12 (ii) the person exempt from licensing under this article ceases
 13 to employ a licensed mortgage loan originator or to offer
 14 financial services to individuals in Indiana, whichever is later;
 15 as applicable;
 16 (e) be payable to the department for the benefit of:
 17 (i) the state; and
 18 (ii) individuals who reside in Indiana when they agree to
 19 receive financial services from the creditor or the person
 20 exempt from licensing under this article, as applicable;
 21 (f) be issued by a bonding, surety, or insurance company
 22 authorized to do business in Indiana and rated at least "A-" by at
 23 least one (1) nationally recognized investment rating service; and
 24 (g) have payment conditioned upon:
 25 (i) the creditor's or any of the creditor's licensed mortgage loan
 26 originators'; or
 27 (ii) the exempt person's or any of the exempt person's licensed
 28 mortgage loan originators';
 29 noncompliance with or violation of this chapter, 750 IAC 9, or
 30 other federal or state laws or regulations applicable to mortgage
 31 lending.
 32 (3) The director may adopt rules or guidance documents with
 33 respect to the requirements for a surety bond as necessary to
 34 accomplish the purposes of this article.
 35 (4) The penal sum of the surety bond shall be maintained in an
 36 amount that reflects the dollar amount of mortgage transactions
 37 originated as determined by the director. If the principal amount of a
 38 surety bond required under this section is reduced by payment of a
 39 claim or judgment, the creditor or exempt person for whom the bond
 40 is issued shall immediately notify the director of the reduction and, not
 41 later than thirty (30) days after notice by the director, file a new or an
 42 additional surety bond in an amount set by the director. The amount of



1 the new or additional bond set by the director must be at least the
2 amount of the bond before payment of the claim or judgment.

3 (5) If for any reason a surety terminates a bond issued under this
4 section, the creditor or the exempt person shall immediately notify the
5 department and file a new surety bond in an amount determined by the
6 director.

7 (6) Cancellation of a surety bond issued under this section does not
8 affect any liability incurred or accrued during the period when the
9 surety bond was in effect.

10 (7) The director may obtain satisfaction from a surety bond issued
11 under this section if the director incurs expenses, issues a final order,
12 or recovers a final judgment under this chapter.

13 (8) Notices required under this section must be in writing and
14 delivered by certified mail, return receipt requested and postage
15 prepaid, or by overnight delivery using a nationally recognized carrier.

16 SECTION 5. IC 24-4.5-1-102, AS AMENDED BY P.L.216-2013,
17 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
18 UPON PASSAGE]: Sec. 102. (1) This article shall be liberally
19 construed and applied to promote its underlying purposes and policies.

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

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

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

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

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

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

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

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

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



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

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

- 5 (a) is in substance a disguised consumer credit transaction; or
6 (b) involves the application of subterfuge for the purpose of
7 avoiding this article.

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

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

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

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

20 SECTION 6. IC 24-4.5-1-301.5, AS AMENDED BY P.L.216-2013,
21 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
22 UPON PASSAGE]: Sec. 301.5. In addition to definitions appearing in
23 subsequent chapters in this article, the following definitions apply
24 throughout this article:

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

- 28 (a) controls;
29 (b) is controlled by; or
30 (c) is under common control with;

31 the person subject to this article.

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

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



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

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

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

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

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

12 (d) fees for notarizing deeds and other documents;

13 (e) appraisal fees; and

14 (f) fees for credit reports.

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

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

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

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

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

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

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

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

30 (i) the ~~sale~~ amount of **credit extended, the written credit**
 31 **limit, or the initial advance** does not exceed fifty-three
 32 thousand **five hundred** dollars (~~\$53,000~~) (**\$53,500**) or
 33 another amount as adjusted in accordance with the annual
 34 adjustment of the exempt threshold amount specified in
 35 Regulation Z (12 CFR 226.3 or 12 CFR 1026.3(b), as
 36 applicable); or

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

39 Unless the sale is made subject to this article by agreement
 40 (IC 24-4.5-2-601), "consumer credit sale" does not include a sale
 41 in which the seller allows the buyer to purchase goods or services
 42 pursuant to a lender credit card or similar arrangement or except



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

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

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

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

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

13 (d) either:

14 (i) the ~~loan~~ amount of **credit extended, the written credit**
 15 **limit, or the initial advance** does not exceed fifty-three
 16 thousand **five hundred** dollars (~~\$53,000~~) (**\$53,500**) or another
 17 amount as adjusted in accordance with the annual adjustment
 18 of the exempt threshold amount specified in Regulation Z (12
 19 CFR 226.3 or 12 CFR 1026.3(b), as applicable); or

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

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

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

27 (11) "Creditor" means a person:

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

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

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

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

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



- 1 (a) condominium unit;
 2 (b) cooperative unit;
 3 (c) mobile home; or
 4 (d) trailer;
 5 that is used as a residence.
- 6 (15) "Earnings" means compensation paid or payable for personal
 7 services, whether denominated as wages, salary, commission, bonus,
 8 or otherwise, and includes periodic payments under a pension or
 9 retirement program.
- 10 (16) "Employee" means an individual who is paid wages or other
 11 compensation by an employer required under federal income tax law
 12 to file Form W-2 on behalf of the individual.
- 13 (17) "Federal banking agencies" means the Board of Governors of
 14 the Federal Reserve System, the Office of the Comptroller of the
 15 Currency, the Office of Thrift Supervision, the National Credit Union
 16 Administration, and the Federal Deposit Insurance Corporation.
- 17 (18) "First lien mortgage transaction" means:
 18 (a) a consumer loan; or
 19 (b) a consumer credit sale;
 20 that is or will be used by the debtor primarily for personal, family, or
 21 household purposes and that is secured by a mortgage or a land
 22 contract (or another consensual security interest equivalent to a
 23 mortgage or a land contract) that constitutes a first lien on a dwelling
 24 or on residential real estate upon which a dwelling is constructed or
 25 intended to be constructed.
- 26 (19) "Immediate family member" means a spouse, child, sibling,
 27 parent, grandparent, or grandchild. The term includes stepparents,
 28 stepchildren, stepsiblings, and adoptive relationships.
- 29 (20) "Individual" means a natural person.
- 30 (21) "Lender credit card or similar arrangement" means an
 31 arrangement or loan agreement, other than a seller credit card, pursuant
 32 to which a lender gives a debtor the privilege of using a credit card,
 33 letter of credit, or other credit confirmation or identification in
 34 transactions out of which debt arises:
 35 (a) by the lender's honoring a draft or similar order for the
 36 payment of money drawn or accepted by the debtor;
 37 (b) by the lender's payment or agreement to pay the debtor's
 38 obligations; or
 39 (c) by the lender's purchase from the obligee of the debtor's
 40 obligations.
- 41 (22) "Licensee" means a person licensed as a creditor under this
 42 article.



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

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

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

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

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

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

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

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

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

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

41 (i) a creditor;

42 (ii) a loan broker;



- 1 (iii) another mortgage loan originator; or
 2 (iv) any agent of the creditor, loan broker, or other mortgage
 3 loan originator described in items (i) through (iii);
 4 a person or entity that only performs real estate brokerage
 5 activities and is licensed or registered in accordance with
 6 applicable state law.
 7 (c) A person solely involved in extensions of credit relating to
 8 timeshare plans (as defined in 11 U.S.C. 101(53D)).
 9 (26) "Mortgage servicer" means the last person to whom a
 10 mortgagor or the mortgagor's successor in interest has been instructed
 11 by a mortgagee to send payments on a loan secured by a mortgage.
 12 (27) "Mortgage transaction" means:
 13 (a) a consumer loan; or
 14 (b) a consumer credit sale;
 15 that is or will be used by the debtor primarily for personal, family, or
 16 household purposes and that is secured by a mortgage or a land
 17 contract (or another consensual security interest equivalent to a
 18 mortgage or a land contract) on a dwelling or on residential real estate
 19 upon which a dwelling is constructed or intended to be constructed.
 20 (28) "Nationwide Mortgage Licensing System and Registry", or
 21 "NMLSR", means a mortgage licensing system developed and
 22 maintained by the Conference of State Bank Supervisors and the
 23 American Association of Residential Mortgage Regulators for the
 24 licensing and registration of creditors and mortgage loan originators.
 25 (29) "Nontraditional mortgage product" means any mortgage
 26 product other than a thirty (30) year fixed rate mortgage.
 27 (30) "Official fees" means:
 28 (a) fees and charges prescribed by law which actually are or will
 29 be paid to public officials for determining the existence of or for
 30 perfecting, releasing, or satisfying a security interest related to a
 31 consumer credit sale, consumer lease, or consumer loan; or
 32 (b) premiums payable for insurance in lieu of perfecting a security
 33 interest otherwise required by the creditor in connection with the
 34 sale, lease, or loan, if the premium does not exceed the fees and
 35 charges described in paragraph (a) that would otherwise be
 36 payable.
 37 (31) "Organization" means a corporation, a government or
 38 governmental subdivision, an agency, a trust, an estate, a partnership,
 39 a limited liability company, a cooperative, an association, a joint
 40 venture, an unincorporated organization, or any other entity, however
 41 organized.
 42 (32) "Payable in installments" means that payment is required or



1 permitted by written agreement to be made in more than four (4)
2 installments not including a down payment.

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

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

5 (a) the spouse of the individual;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 (38) "Registered mortgage loan originator" means any individual



- 1 who:
- 2 (a) meets the definition of mortgage loan originator and is an
- 3 employee of:
- 4 (i) a depository institution;
- 5 (ii) a subsidiary that is owned and controlled by a depository
- 6 institution and regulated by a federal banking agency; or
- 7 (iii) an institution regulated by the Farm Credit
- 8 Administration; and
- 9 (b) is registered with, and maintains a unique identifier through,
- 10 the NMLSR.
- 11 (39) "Regularly engaged", with respect to a person who extends
- 12 consumer credit, refers to a person who:
- 13 (a) extended consumer credit:
- 14 (i) more than twenty-five (25) times; or
- 15 (ii) more than five (5) times for a mortgage transaction secured
- 16 by a dwelling;
- 17 in the preceding calendar year; or
- 18 (b) extends or will extend consumer credit:
- 19 (i) more than twenty-five (25) times; or
- 20 (ii) more than five (5) times for a mortgage transaction secured
- 21 by a dwelling;
- 22 in the current calendar year, if the person did not meet the
- 23 numerical standards described in subdivision (a) in the preceding
- 24 calendar year.
- 25 (40) "Residential real estate" means any real property that is located
- 26 in Indiana and on which there is located or intended to be constructed
- 27 a dwelling.
- 28 (41) "Seller credit card" means an arrangement that gives to a buyer
- 29 or lessee the privilege of using a credit card, letter of credit, or other
- 30 credit confirmation or identification for the purpose of purchasing or
- 31 leasing goods or services from that person, a person related to that
- 32 person, or from that person and any other person. The term includes a
- 33 card that is issued by a person, that is in the name of the seller, and that
- 34 can be used by the buyer or lessee only for purchases or leases at
- 35 locations of the named seller.
- 36 (42) "Subordinate lien mortgage transaction" means:
- 37 (a) a consumer loan; or
- 38 (b) a consumer credit sale;
- 39 that is or will be used by the debtor primarily for personal, family, or
- 40 household purposes and that is secured by a mortgage or a land
- 41 contract (or another consensual security interest equivalent to a
- 42 mortgage or a land contract) that constitutes a subordinate lien on a



1 dwelling or on residential real estate upon which a dwelling is
2 constructed or intended to be constructed.

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

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

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

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

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

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

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

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

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

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

33 SECTION 7. IC 24-4.5-2-106, AS AMENDED BY P.L.216-2013,
34 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
35 UPON PASSAGE]: Sec. 106. (1) "Consumer lease" means a lease of
36 goods:

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

40 (b) in which the amount payable under the lease does not exceed
41 fifty-three thousand **five hundred** dollars (~~\$53,000~~) (**\$53,500**) or
42 another amount as adjusted in accordance with the annual



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

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

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

7 SECTION 8. IC 24-4.5-2-407, AS AMENDED BY P.L.35-2010,
 8 SECTION 46, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JULY 1, 2014]: Sec. 407. (1) With respect to a consumer credit sale,
 10 a seller may take a security interest in the property sold. In addition, a
 11 seller may take a security interest in goods upon which services are
 12 performed or in which goods sold are installed or to which they are
 13 annexed, or in land to which the goods are affixed or which is
 14 maintained, repaired or improved as a result of the sale of the goods or
 15 services, if, in the case of a subordinate lien mortgage transaction, the
 16 debt secured is ~~one four~~ thousand dollars (~~\$1,000~~) (**\$4,000**) or more,
 17 or, in the case of a security interest in goods the debt secured is three
 18 hundred dollars (\$300) or more. Except as provided with respect to
 19 cross-collateral (IC 24-4.5-2-408), a seller may not otherwise take a
 20 security interest in property of the buyer to secure the debt arising from
 21 a consumer credit sale.

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

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

26 (4) The amounts of ~~one four~~ thousand dollars (~~\$1,000~~) (**\$4,000**) and
 27 three hundred dollars (\$300) in subsection (1) are subject to change
 28 pursuant to the provisions on adjustment of dollar amounts
 29 (IC 24-4.5-1-106). **However, notwithstanding IC 24-4.5-1-106(1),**
 30 **the Reference Base Index to be used under this subsection is the**
 31 **Index for October 1992.**

32 SECTION 9. IC 24-4.5-2-602, AS AMENDED BY P.L.216-2013,
 33 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 UPON PASSAGE]: Sec. 602. (1) A "consumer related sale" is a sale of
 35 goods, services, or an interest in land in which:

36 (a) credit is granted by a person that is not regularly engaged as
 37 a seller in credit transactions of the same kind;

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

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

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



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

2 (i) either the ~~sale~~ amount of **credit extended, the written**
 3 **credit limit, or the initial advance** does not exceed fifty-three
 4 thousand **five hundred** dollars (~~\$53,000~~) (**\$53,500**) or another
 5 amount as adjusted in accordance with the annual adjustment
 6 of the exempt threshold amount specified in Regulation Z (12
 7 CFR 226.3 or 12 CFR 1026.3(b), as applicable); or

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

10 (2) With respect to a consumer related sale not made pursuant to a
 11 revolving charge account, the parties may contract for an amount
 12 comprising the amount financed and a credit service charge not in
 13 excess of twenty-one percent (21%) per year calculated according to
 14 the actuarial method on the unpaid balances of the amount financed.

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

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

21 SECTION 10. IC 24-4.5-3-502.2 IS ADDED TO THE INDIANA
 22 CODE AS A NEW SECTION TO READ AS FOLLOWS
 23 [EFFECTIVE JULY 1, 2014]: **Sec. 502.2. (1) Subject to subsection**
 24 **(6), the director may designate the NMLSR to serve as the sole**
 25 **entity responsible for:**

26 **(a) processing applications and renewals for licenses required**
 27 **under section 502 of this chapter;**

28 **(b) issuing unique identifiers for licensees and entities exempt**
 29 **from licensing under section 502 of this chapter; and**

30 **(c) performing other services that the director determines are**
 31 **necessary for the orderly administration of the department's**
 32 **licensing system under section 502 of this chapter.**

33 **(2) Subject to the confidentiality provisions contained in**
 34 **IC 5-14-3, this section, and IC 28-1-2-30, the director shall**
 35 **regularly report to the NMLSR significant or recurring violations**
 36 **of this article related to consumer loans that are not mortgage**
 37 **transactions, including small loans under IC 24-4.5-7.**

38 **(3) Subject to the confidentiality provisions contained in**
 39 **IC 5-14-3, this section, and IC 28-1-2-30, the director may report**
 40 **to the NMLSR complaints received regarding licensees under**
 41 **section 502 of this chapter in connection with consumer loans that**
 42 **are not mortgage transactions, including small loans under**



- 1 **IC 24-4.5-7.**
- 2 **(4) The director may report to the NMLSR publicly adjudicated**
- 3 **licensure actions against licensees under section 502 of this chapter.**
- 4 **(5) The director shall establish a process in which persons**
- 5 **licensed in accordance with section 502 of this chapter may**
- 6 **challenge information reported to the NMLSR by the department.**
- 7 **(6) The director's authority to designate the NMLSR under**
- 8 **subsection (1) is subject to the following:**
- 9 **(a) Information stored in the NMLSR is subject to the**
- 10 **confidentiality provisions of IC 28-1-2-30 and IC 5-14-3. A**
- 11 **person may not:**
- 12 **(i) obtain information from the NMLSR unless the person**
- 13 **is authorized to do so by statute;**
- 14 **(ii) initiate any civil action based on information obtained**
- 15 **from the NMLSR if the information is not otherwise**
- 16 **available to the person under any other state law; or**
- 17 **(iii) initiate any civil action based on information obtained**
- 18 **from the NMLSR if the person could not have initiated the**
- 19 **action based on information otherwise available to the**
- 20 **person under any other state law.**
- 21 **(b) Documents, materials, and other forms of information in**
- 22 **the control or possession of the NMLSR that are confidential**
- 23 **under IC 28-1-2-30 and that are:**
- 24 **(i) furnished by the director, the director's designee, or a**
- 25 **licensee; or**
- 26 **(ii) otherwise obtained by the NMLSR;**
- 27 **are confidential and privileged by law and are not subject to**
- 28 **inspection under IC 5-14-3, subject to subpoena, subject to**
- 29 **discovery, or admissible in evidence in any civil action.**
- 30 **However, the director may use the documents, materials, or**
- 31 **other information available to the director in furtherance of**
- 32 **any action brought in connection with the director's duties**
- 33 **under this article.**
- 34 **(c) Disclosure of documents, materials, and information:**
- 35 **(i) to the director; or**
- 36 **(ii) by the director;**
- 37 **under this subsection does not result in a waiver of any**
- 38 **applicable privilege or claim of confidentiality with respect to**
- 39 **the documents, materials, or information.**
- 40 **(d) Information provided to the NMLSR is subject to**
- 41 **IC 4-1-11.**
- 42 **(e) This subsection does not limit or impair a person's right**



- 1 to:
- 2 (i) obtain information;
- 3 (ii) use information as evidence in a civil action or
- 4 proceeding; or
- 5 (iii) use information to initiate a civil action or proceeding;
- 6 if the information may be obtained from the director or the
- 7 director's designee under any law.
- 8 (f) The requirements under any federal law or IC 5-14-3
- 9 regarding the privacy or confidentiality of any information or
- 10 material provided to the NMLSR, and any privilege arising
- 11 under federal or state law, including the rules of any federal
- 12 or state court, with respect to the information or material,
- 13 continue to apply to the information or material after the
- 14 information or material has been disclosed to the NMLSR.
- 15 The information and material may be shared with all state
- 16 and federal regulatory officials with financial services
- 17 industry oversight authority without the loss of privilege or
- 18 the loss of confidentiality protections provided by federal law
- 19 or IC 5-14-3.
- 20 (g) For purposes of this section, the director may enter
- 21 agreements or sharing arrangements with other governmental
- 22 agencies, the Conference of State Bank Supervisors, or other
- 23 associations representing governmental agencies as
- 24 established by rule or order of the director.
- 25 (h) Information or material that is subject to a privilege or
- 26 confidentiality under subdivision (f) is not subject to:
- 27 (i) disclosure under any federal or state law governing the
- 28 disclosure to the public of information held by an officer or
- 29 an agency of the federal government or the respective
- 30 state; or
- 31 (ii) subpoena, discovery, or admission into evidence, in any
- 32 private civil action or administrative process, unless with
- 33 respect to any privileged information or material held by
- 34 the NMLSR, the person to whom the information or
- 35 material pertains waives, in whole or in part, in the
- 36 discretion of the person, that privilege.
- 37 (i) Any provision of IC 5-14-3 that concerns the disclosure of:
- 38 (i) confidential supervisory information; or
- 39 (ii) any information or material described in subdivision
- 40 (f);
- 41 and that is inconsistent with subdivision (f) is superseded by
- 42 this section.



1 (j) This section does not apply with respect to information or
 2 material that concerns the employment history of, and
 3 publicly adjudicated disciplinary and enforcement actions
 4 against, a person licensed in accordance with section 502 of
 5 this chapter and described in section 503(2) of this chapter
 6 and that is included in the NMLSR for access by the public.

7 (k) The director may require a licensee required to submit
 8 information to the NMLSR to pay a processing fee considered
 9 reasonable by the director. In determining whether an
 10 NMLSR processing fee is reasonable, the director shall:

11 (i) require review of; and

12 (ii) make available;

13 the audited financial statements of the NMLSR.

14 (7) Notwithstanding any other provision of law, any:

15 (a) application, renewal, or other form or document that:

16 (i) relates to licenses issued under section 502 of this
 17 chapter; and

18 (ii) is made or produced in an electronic format;

19 (b) document filed as an electronic record in a multistate
 20 automated repository established and operated for the
 21 licensing or registration of financial services entities and their
 22 employees; or

23 (c) electronic record filed through the NMLSR;

24 is considered a valid original document when reproduced in paper
 25 form by the department.

26 SECTION 11. IC 24-4.5-3-510 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 510. Restrictions on
 28 Interest in Land as Security — (1) With respect to a supervised loan in
 29 which the principal is ~~one~~ **four** thousand dollars (~~\$1,000~~) (**\$4,000**) or
 30 less, a lender may not contract for an interest in land as security. A
 31 security interest taken in violation of this section is void.

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

37 SECTION 12. IC 24-4.5-3-511 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 511. Regular Schedule
 39 of Payments; Maximum Loan Term — (1) Supervised loans not made
 40 pursuant to a revolving loan account and in which the principal is ~~one~~
 41 **four** thousand dollars (~~\$1,000~~) (**\$4,000**) or less ~~shall be~~ **are** payable in
 42 a single instalment or shall be scheduled to be payable in substantially



1 equal instalments ~~which shall be that are~~ payable at equal periodic
 2 intervals, except to the extent that the schedule of payments is adjusted
 3 to the seasonal or irregular income of the debtor, and:

- 4 (a) over a period of not more than thirty-seven (37) months if the
 5 principal is more than three hundred dollars (\$300), or
 6 (b) over a period of not more than twenty-five (25) months if the
 7 principal is three hundred dollars (\$300) or less.

8 (2) The amounts of three hundred dollars (\$300) and ~~one four~~
 9 thousand dollars (~~\$1,000~~) (**\$4,000**) in subsection (1) are subject to
 10 change pursuant to the provisions on adjustment of dollar amounts
 11 (IC 24-4.5-1-106). **However, notwithstanding IC 24-4.5-1-106(1),**
 12 **the Reference Base Index to be used under this subsection is the**
 13 **Index for October 1992.**

14 SECTION 13. IC 24-4.5-3-602, AS AMENDED BY P.L.216-2013,
 15 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 UPON PASSAGE]: Sec. 602. (1) A "consumer related loan" is a loan
 17 in which the following apply:

- 18 (a) The loan is made by a person who is not regularly engaged as
 19 a lender in credit transactions of the same kind.
 20 (b) The debtor is a person other than an organization.
 21 (c) The debt is primarily for a personal, family, or household
 22 purpose.
 23 (d) Either the debt is payable in installments or a loan finance
 24 charge is made.
 25 (e) Either:
 26 (i) the ~~loan~~ amount of credit extended, the written credit
 27 limit, or the initial advance does not exceed fifty-three
 28 thousand ~~five hundred~~ dollars (~~\$53,000~~) (**\$53,500**) or another
 29 amount as adjusted in accordance with the annual adjustment
 30 of the exempt threshold amount specified in Regulation Z (12
 31 CFR 226.3 or 12 CFR 1026.3(b), as applicable); or
 32 (ii) the debt is secured by an interest in land or by personal
 33 property used or expected to be used as the principal dwelling
 34 of the debtor.

35 (2) With respect to a consumer related loan, including one made
 36 pursuant to a revolving loan account, the parties may contract for the
 37 payment by the debtor of a loan finance charge not in excess of that
 38 permitted by the provisions on loan finance charge for consumer loans
 39 other than supervised loans (IC 24-4.5-3-201).

40 (3) A person engaged in consumer related loans is not required to
 41 comply with:

- 42 (a) the licensing requirements set forth in section 503 of this



1 chapter; or

2 (b) IC 24-4.5-6-201 through IC 24-4.5-6-203.

3 SECTION 14. IC 24-4.5-4-301 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 301. Property Insurance
5 - (1) A creditor may not contract for or receive a separate charge for
6 insurance against loss of or damage to property unless:

7 (a) the insurance covers a substantial risk of loss of or damage to
8 property related to the credit transaction;

9 (b) the amount, terms, and conditions of the insurance are
10 reasonable in relation to the character and value of the property insured
11 or to be insured; and

12 (c) the term of the insurance is reasonable in relation to the terms of
13 credit.

14 (2) The term of the insurance is reasonable if it is customary and
15 does not extend substantially beyond a scheduled maturity.

16 (3) A creditor may not contract for or receive a separate charge for
17 insurance against loss of or damage to property unless the amount
18 financed or principal exclusive of charges for the insurance is three
19 hundred dollars (\$300) or more, and the value of the property is three
20 hundred ~~dollar~~ (\$300) **dollars** or more.

21 (4) The amounts of three hundred dollars (\$300) in subsection (3)
22 are subject to change pursuant to the provisions on adjustment of dollar
23 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.**

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

30 (2) If the seller repossesses or voluntarily accepts surrender of goods
31 which were the subject of the sale and in which ~~he~~ **the seller** has a
32 security interest, and the cash price of the goods repossessed or
33 surrendered was ~~one~~ **four** thousand dollars (~~\$1,000~~) (**\$4,000**) or less,
34 the buyer is not personally liable to the seller for the unpaid balance of
35 the debt arising from the sale of the goods, and the seller is not
36 obligated to resell the collateral.

37 (3) If the seller repossesses or voluntarily accepts surrender of goods
38 which were not the subject of the sale but in which ~~he~~ **the seller** has a
39 security interest to secure a debt arising from a sale of goods or
40 services or a combined sale of goods and services and the cash price of
41 the sale was ~~one~~ **four** thousand dollars (~~\$1,000~~) (**\$4,000**) or less, the
42 buyer is not personally liable to the seller for the unpaid balance of the



1 debt arising from the sale.

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

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

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

16 (a) ~~he the seller~~ may not repossess the collateral; and

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

19 (7) The amounts of ~~one four~~ thousand dollars (~~\$1000~~) (**\$4,000**) in
20 ~~subsection subsections~~ (2) and (3) are subject to change pursuant to
21 the provisions on adjustment of dollar amounts (IC 24-4.5-1-106).
22 **However, notwithstanding IC 24-4.5-1-106(1), the Reference Base**
23 **Index to be used under this subsection is the Index for October**
24 **1992.**

25 SECTION 16. IC 24-4.5-6-107, AS AMENDED BY P.L.140-2013,
26 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
27 JULY 1, 2014]: Sec. 107. (1) Except as otherwise provided,
28 IC 4-21.5-3 governs all agency action taken by the department under
29 this chapter or IC 24-4.5-3-501 through IC 24-4.5-3-513. All
30 proceedings for administrative review under IC 4-21.5-3 or judicial
31 review under IC 4-21.5-5 shall be held in Marion County. The
32 provisions of IC 4-22-2 prescribing procedures for the adoption of rules
33 by agencies ~~shall~~ apply to the adoption of rules by the department of
34 financial institutions under this article. However, if the department
35 declares an emergency in the document containing the rule, ~~it~~ **the**
36 **department** may adopt rules permitted by this chapter under
37 IC 4-22-2-37.1.

38 (2) A rule under subsection (1) adopted under IC 4-22-2-37.1
39 expires on the date the department is next ~~required to issue~~ **adopts** a
40 rule under the statute authorizing or requiring the rule.

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



1 JULY 1, 2014]: Sec. 102. (1) Except as otherwise provided, all
 2 provisions of this article applying to consumer loans, **including**
 3 **IC 24-4.5-3-502.2**, apply to small loans, as defined in this chapter.

4 (2) This chapter applies to:

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

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

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

13 (i) in substance a disguised loan; or

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

16 (3) A loan that:

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

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

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

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

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

33 (1) The program must be available on a voluntary basis to
 34 creditors that offer mortgages to Indiana customers after June 30,
 35 2010.

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

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

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



- 1 June 30, 2010, at least one (1) mortgage product that qualifies
 2 as a five star mortgage under the program.
- 3 (B) The creditor does not have a record of any significant or
 4 recurring violation of:
- 5 (i) IC 24-5-23.5-7; or
 6 (ii) any other state or federal law, regulation, or rule
 7 applicable to mortgage transactions;
 8 as of the date of the creditor's certification. If the creditor is not
 9 certain whether it meets the criterion set forth in this clause,
 10 the creditor shall consult with the department before filing a
 11 certification to participate in the program.
- 12 (C) The creditor does not have a director or an executive
 13 officer who has been convicted of ~~or pleaded guilty or not~~
 14 ~~contendere~~ to a felony involving fraud, deceit, or
 15 misrepresentation under the laws of Indiana or any other
 16 jurisdiction, as of the date of the creditor's certification. If the
 17 creditor is not certain whether it meets the criterion set forth
 18 in this clause, the creditor shall consult with the department
 19 before filing a certification to participate in the program.
- 20 (4) To qualify as a five star mortgage under the program, a
 21 mortgage must include the following terms and conditions:
- 22 (A) If the mortgage involves a purchase money transaction, the
 23 mortgage must require a down payment by the debtor, or a
 24 person acting on behalf of the debtor, of at least ten percent
 25 (10%) of the purchase price of the dwelling that is the subject
 26 of the mortgage. If the mortgage involves the refinancing of an
 27 existing mortgage, the customer must have equity of at least
 28 ten percent (10%) in the dwelling that is the subject of the
 29 mortgage.
- 30 (B) The mortgage must have a fixed rate of interest.
- 31 (C) The mortgage must provide for an escrow account that:
- 32 (i) is established by the creditor, or a person acting on behalf
 33 of the creditor, for the benefit of the debtor;
 34 (ii) is maintained by the creditor, or a person acting on
 35 behalf of the creditor, during the life of the mortgage; and
 36 (iii) is used during the life of the mortgage to pay taxes and
 37 insurance owed with respect to the dwelling that is the
 38 subject of the mortgage.
- 39 However, this clause does not apply if, in the creditor's
 40 ordinary course of business, the creditor does not regularly
 41 establish and maintain, or contract for the establishment and
 42 maintenance of, escrow accounts for the payment of taxes and



- 1 insurance, on behalf of the creditor's customers.
 2 (D) The term of the mortgage may not exceed thirty (30) years.
 3 (E) The mortgage may not include a prepayment penalty or
 4 fee.
- 5 (5) A creditor that qualifies as a five star mortgage lender and
 6 files a certification with the department under subdivision (3)
 7 shall provide a written statement, on a form and in the manner
 8 prescribed by the department, to any Indiana customer who:
 9 (A) applies for a five star mortgage offered by the creditor; and
 10 (B) does not qualify for the five star mortgage based on the
 11 creditor's underwriting standards for the five star mortgage.
 12 The statement must set forth the reasons why the Indiana
 13 customer did not qualify for the five star mortgage.
- 14 (6) A creditor that qualifies as a five star mortgage lender and
 15 files a certification with the department may include that fact in
 16 any marketing material or solicitation directed at Indiana
 17 customers, subject to any conditions or limitations imposed by the
 18 department in the guidelines adopted under this section.
- 19 (7) If a creditor:
 20 (A) holds itself out as a five star mortgage lender and:
 21 (i) the creditor has not filed an accurate certification,
 22 including any renewal certification required by the
 23 department under subsection (b)(3), with the department
 24 under this chapter; or
 25 (ii) the creditor has filed a certification or a renewal
 26 certification with the department under this chapter and
 27 subsequently ceases offering at least one (1) mortgage
 28 product that qualifies as a five star mortgage; or
 29 (B) fails to comply with any program requirement;
 30 the department, upon discovering the act described in clause (A)
 31 or (B), shall immediately provide written notice to the creditor
 32 that the creditor does not qualify for participation in the program,
 33 or no longer qualifies for participation in the program, as
 34 appropriate. The notice provided under this subdivision must
 35 inform the creditor of the reason or reasons the creditor does not
 36 qualify for participation in the program, or no longer qualifies for
 37 participation in the program, as appropriate. Not later than seven
 38 (7) days after the date of the notice provided to the creditor under
 39 this subdivision, the department shall remove the creditor from
 40 the list of creditors published on the department's Internet web
 41 site under subsection (c), as appropriate, and shall post, on the
 42 same Internet web page on which the list described in subsection



- 1 (c) is published, a link to the notice provided to the creditor under
 2 this subdivision.
- 3 (b) In addition to the program criteria required by subsection (a), the
 4 guidelines adopted by the department under this section may include
 5 the following:
- 6 (1) Provisions allowing a creditor that qualifies as a five star
 7 mortgage lender and files a certification with the department to
 8 include in the paperwork associated with a five star mortgage:
 9 (A) a statement;
 10 (B) a seal; or
 11 (C) any other designation considered appropriate by the
 12 department;
 13 indicating that the particular mortgage product is a five star
 14 mortgage.
- 15 (2) A requirement that a creditor that qualifies as a five star
 16 mortgage lender and files a certification with the department shall
 17 report the following information to the department on an annual
 18 basis, or any other basis determined appropriate by the
 19 department:
- 20 (A) The total number and types of residential mortgage
 21 products that were offered by the creditor to Indiana customers
 22 during the applicable reporting period, including any five star
 23 mortgages reported under clause (C).
- 24 (B) The total number of residential mortgages described in
 25 clause (A) that were closed by the creditor during the
 26 applicable reporting period, including any five star mortgages
 27 that were closed during the reporting period, as reported under
 28 clause (D).
- 29 (C) The number of mortgage products that:
 30 (i) qualified as five star mortgages under the program; and
 31 (ii) were offered by the creditor to Indiana customers;
 32 during the applicable reporting period.
- 33 (D) The number of five star mortgages offered to Indiana
 34 customers that were closed by the creditor during the
 35 applicable reporting period.
- 36 (3) A requirement that a creditor that qualifies as a five star
 37 mortgage lender and files a certification with the department shall
 38 periodically submit to the department a renewal certification, on
 39 a form prescribed by the department, in conjunction with a report
 40 filed under subdivision (2), or at such other time as the
 41 department determines appropriate. In any renewal certification
 42 required under this subdivision, a creditor must attest that the



- 1 creditor:
- 2 (A) continued to meet the criteria necessary to qualify as a five
- 3 star mortgage lender; and
- 4 (B) complied with all program requirements;
- 5 during the applicable reporting period.
- 6 (4) A fee fixed by the department under IC 28-11-3-5 for each
- 7 certification and recertification submitted by a creditor under this
- 8 chapter. However, any fee fixed by the department under this
- 9 subdivision may not exceed the department's actual costs to:
- 10 (A) process certifications and renewal certifications;
- 11 (B) publish the list described in subsection (c) on the
- 12 department's Internet web site; and
- 13 (C) otherwise administer the program.
- 14 (5) Any other program requirements, criteria, or incentives that
- 15 the department determines necessary to implement and evaluate
- 16 a program to encourage creditors to offer stable mortgage
- 17 products to qualified Indiana customers.
- 18 (c) The department shall publish on the department's Internet web
- 19 site a list of all creditors that have a current and accurate:
- 20 (1) certification under this chapter; or
- 21 (2) renewal certification under this chapter;
- 22 on file with the department. The Indiana housing and community
- 23 development authority and the securities division of the office of the
- 24 secretary of state shall provide a link to the list described in this
- 25 subsection on their respective Internet web sites.
- 26 (d) The program guidelines established by the department under
- 27 subsections (a) and (b) must be made available:
- 28 (1) for public inspection and copying at the offices of the
- 29 department under IC 5-14-3; and
- 30 (2) on the department's Internet web site.
- 31 (e) The department shall investigate any credible complaint received
- 32 by any means alleging that a creditor has committed a violation
- 33 described in subsection (a)(7). If the creditor that is the subject of a
- 34 complaint under this subsection is not subject to regulation by the
- 35 department, the department shall forward the complaint to the
- 36 appropriate state or federal regulatory agency.
- 37 (f) Notwithstanding subsection (a), the department may adopt a
- 38 different name for the program, other than the five star mortgage
- 39 program, in adopting the guidelines to implement the program.
- 40 SECTION 19. IC 24-7-5-11 IS AMENDED TO READ AS
- 41 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 11. (a) In addition to
- 42 the other charges permitted by this chapter, a lessor and a lessee may



- 1 contract for a liability waiver fee in the following amounts:
- 2 (1) In the case of a rental purchase agreement with weekly or
- 3 biweekly renewal dates, the liability waiver fee may not exceed
- 4 the greater of:
- 5 (A) ten percent (10%) of a periodic lease payment due; or
- 6 (B) two dollars (\$2).
- 7 (2) In the case of a rental purchase agreement with monthly
- 8 renewal dates, the liability **waiver fee** may not exceed the greater
- 9 of:
- 10 (A) ten percent (10%) of a periodic lease payment due; or
- 11 (B) five dollars (\$5).
- 12 (b) The selling or offering for sale of a liability damage waiver
- 13 under this section is subject to the following prohibitions and
- 14 requirements:
- 15 (1) A lessor may not sell or offer to sell a liability damage waiver
- 16 unless all restrictions, conditions, and exclusions are:
- 17 (A) printed in the rental purchase agreement, or in a separate
- 18 agreement, in 8 point type or larger; or
- 19 (B) written in ink or typewritten in or on the face of the rental
- 20 purchase agreement in a blank space provided therefor.
- 21 (2) The liability damage waiver may exclude only loss or damage
- 22 to the property that is the subject of the rental purchase agreement
- 23 caused by moisture, scratches, mysterious disappearance,
- 24 vandalism, abandonment of the property, or any other damage
- 25 intentionally caused by the lessee or that results from the lessee's
- 26 willful or wanton misconduct.
- 27 (3) The liability damage waiver agreement must include a
- 28 statement of the total charge for the liability damage waiver. The
- 29 liability damage waiver agreement must display in 8 point
- 30 boldface type the following:
- 31 "NOTICE: THIS CONTRACT OFFERS, FOR AN
- 32 ADDITIONAL CHARGE, A LIABILITY DAMAGE
- 33 WAIVER TO COVER YOUR RESPONSIBILITY FOR
- 34 DAMAGE TO THE PROPERTY. BEFORE DECIDING
- 35 WHETHER TO PURCHASE THE LIABILITY DAMAGE
- 36 WAIVER, YOU MAY WISH TO DETERMINE WHETHER
- 37 YOUR OWN HOMEOWNERS OR CASUALTY
- 38 INSURANCE AFFORDS YOU COVERAGE FOR DAMAGE
- 39 TO THE RENTAL PROPERTY, AND THE AMOUNT OF
- 40 THE DEDUCTIBLE UNDER YOUR OWN INSURANCE
- 41 COVERAGE. THE PURCHASE OF THIS LIABILITY
- 42 DAMAGE WAIVER IS NOT MANDATORY AND MAY BE



- 1 DECLINED."
 2 (4) The restrictions, conditions, and exclusions of the liability
 3 damage waiver must be disclosed on the agreement or on a
 4 separate agreement, sheet, or handout given to the lessee before
 5 entering into the rental purchase agreement. The separate
 6 contract, sheet, or handout must be signed or otherwise
 7 acknowledged by the lessee as being received before entering into
 8 the rental purchase agreement.
 9 (5) The lessor shall keep and maintain records as prescribed by
 10 the director of the department. The director of the department may
 11 inspect the records and determine whether the rates charged under
 12 this section are fair and reasonable.
 13 SECTION 20. IC 24-7-7-2, AS AMENDED BY P.L.35-2010,
 14 SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2014]: Sec. 2. (a) A person subject to this article shall make
 16 the books and records of the person reasonably available for inspection
 17 by the department or the department's representative. At a minimum,
 18 every lessor shall keep a record of all payments remitted by the lessee
 19 on a rental purchase agreement, including the following:
 20 (1) The name of the lessee.
 21 (2) The date of each transaction.
 22 (3) The total amount of each payment.
 23 (4) A breakdown of each payment reflecting:
 24 (A) each type of charge; and
 25 (B) the amount of each type of charge.
 26 The method of maintaining this data is at the discretion of the lessor,
 27 if hard copies of the required data are readily available. The record
 28 keeping system of the lessor shall be made available in Indiana for
 29 examination. The director shall determine the sufficiency of the records
 30 and whether the lessor has made the required information reasonably
 31 available.
 32 (b) In administering this article and in order to determine
 33 compliance with this article, the department or the department's
 34 representative may examine the books and records of persons subject
 35 to the article and may make investigations of persons necessary to
 36 determine compliance. For this purpose, the department may
 37 administer oaths or affirmations, and, upon the department's own
 38 motion or upon request of any party, may subpoena witnesses, compel
 39 their attendance, compel testimony, and require the production of any
 40 matter that is relevant to the investigation, including the existence,
 41 description, nature, custody, condition, and location of any books,
 42 documents, or other tangible things and the identity and location of



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

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

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

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

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

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

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

- 30 **(1) any person subject to this article; and**
31 **(2) any person that the department suspects to be operating in**
32 **violation of article.**

33 **The department has all investigatory and enforcement authority**
34 **under this article that the department has under IC 28-11 with**
35 **respect to financial institutions. If the department conducts an**
36 **investigation under this section, the person investigated shall pay**
37 **all reasonably incurred costs of the investigation in accordance**
38 **with the fee schedule adopted under IC 28-11-3-5.**

39 ~~(h)~~ (i) If a lessor contracts with an outside vendor to provide a
40 service that would otherwise be undertaken internally by the lessor and
41 be subject to the department's routine examination procedures, the
42 person that provides the service to the lessor shall, at the request of the



1 director, submit to an examination by the department. If the director
 2 determines that an examination under this subsection is necessary or
 3 desirable, the examination may be made at the expense of the person
 4 to be examined. If the person to be examined under this subsection
 5 refuses to permit the examination to be made, the director may order
 6 any lessor that receives services from the person refusing the
 7 examination to:

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

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

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

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

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

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

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

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

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



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



- 1 (A) was organized, reorganized, or operating under IC 28-6
 2 (before its repeal) before January 1, 1993;
 3 (B) is formed as the result of a conversion under:
 4 (i) IC 28-1-21.7;
 5 (ii) IC 28-1-21.8;
 6 (iii) IC 28-1-21.9; or
 7 (iv) IC 28-1-30; or
 8 (C) is incorporated under IC 28-12.
 9 (19) "Corporate fiduciary" means a financial institution whose
 10 primary business purpose is to engage in the trust business (as
 11 defined in IC 28-14-1-8) and the execution and administration of
 12 fiduciary accounts as a nondepository trust company incorporated
 13 under Indiana law.
 14 SECTION 22. IC 28-1-7.5-4, AS AMENDED BY P.L.217-2007,
 15 SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2014]: Sec. 4. (a) The bank, trust company, corporate
 17 fiduciary, or stock savings bank and the holding company shall file
 18 with the department three (3) copies of the plan of exchange certified
 19 by an officer of each as having been approved in accordance with
 20 section 3 of this chapter. They shall also file a statement which
 21 includes:
 22 (1) information as to the earnings and financial condition of the
 23 bank, trust company, corporate fiduciary, or stock savings bank as
 24 of the end of its last preceding year as filed with the department,
 25 and similar information, to the extent readily available, as of a
 26 date not earlier than one hundred twenty (120) days before the
 27 filing of the plan of exchange;
 28 (2) a balance sheet of the holding company as of the date of the
 29 most recent statement of condition of the bank, trust company,
 30 corporate fiduciary, or stock savings bank required by subdivision
 31 (1);
 32 (3) a pro forma balance sheet of the holding company based on
 33 the assumption that the plan of exchange was effective as
 34 proposed at the date of the balance sheet of the holding company
 35 required by subdivision (2);
 36 (4) a description of the business intended to be done by the
 37 holding company and of any plans or proposals that the holding
 38 company may have to sell its assets or merge or consolidate with
 39 any other person, or to make any other material change in its
 40 investment policy, business, corporate structures, or management;
 41 (5) a list of all persons who are or who have been selected to
 42 become directors or officers of the holding company, a



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

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

5 (B) has been convicted of; **or**

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

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

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

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

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

21 (b) The statement must:

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

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

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

32 SECTION 23. IC 28-1-29-5.5 IS ADDED TO THE INDIANA
 33 CODE AS A NEW SECTION TO READ AS FOLLOWS
 34 [EFFECTIVE JULY 1, 2014]: **Sec. 5.5. (a) As used in this section,**
 35 **"Nationwide Mortgage Licensing System and Registry" or**
 36 **"NMLSR" means a mortgage licensing system developed and**
 37 **maintained by the Conference of State Bank Supervisors and the**
 38 **American Association of Residential Mortgage Regulators for the**
 39 **licensing and registration of creditors, mortgage loan originators,**
 40 **and other financial services entities and their employees and**
 41 **agents.**

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



- 1 NMLSR to serve as the sole entity responsible for:
- 2 (1) processing applications and renewals for licenses under
- 3 this chapter;
- 4 (2) issuing unique identifiers for licensees and entities exempt
- 5 from licensing under this chapter; and
- 6 (3) performing other services that the director determines are
- 7 necessary for the orderly administration of the department's
- 8 licensing system under this chapter.
- 9 (c) Subject to the confidentiality provisions contained in
- 10 IC 5-14-3 and this section, the director shall regularly report
- 11 significant or recurring violations of this chapter to the NMLSR.
- 12 (d) Subject to the confidentiality provisions contained in
- 13 IC 5-14-3 and this section, the director may report complaints
- 14 received regarding licensees under this chapter to the NMLSR.
- 15 (e) The director may report publicly adjudicated licensure
- 16 actions against a licensee to the NMLSR.
- 17 (f) The director shall establish a process by which licensees may
- 18 challenge information reported to the NMLSR by the department.
- 19 (g) The director's authority to designate the NMLSR under
- 20 subsection (b) is subject to the following:
- 21 (1) Information stored in the NMLSR is subject to the
- 22 confidentiality provisions of IC 5-14-3. A person may not:
- 23 (A) obtain information from the NMLSR, unless the
- 24 person is authorized to do so by statute;
- 25 (B) initiate any civil action based on information obtained
- 26 from the NMLSR if the information is not otherwise
- 27 available to the person under any other state law; or
- 28 (C) initiate any civil action based on information obtained
- 29 from the NMLSR if the person could not have initiated the
- 30 action based on information otherwise available to the
- 31 person under any other state law.
- 32 (2) Documents, materials, and other forms of information in
- 33 the control or possession of the NMLSR that are confidential
- 34 under state or federal law and that are:
- 35 (A) furnished by the director, the director's designee, or a
- 36 licensee; or
- 37 (B) otherwise obtained by the NMLSR;
- 38 are confidential and privileged by law and are not subject to
- 39 inspection under IC 5-14-3, subject to subpoena, subject to
- 40 discovery, or admissible in evidence in any civil action.
- 41 However, the director may use the documents, materials, or
- 42 other information available to the director in furtherance of



- 1 any action brought in connection with the director's duties
2 under this chapter.
- 3 **(3) Disclosure of documents, materials, and information:**
4 **(A) to the director; or**
5 **(B) by the director;**
6 under this subsection does not result in a waiver of any
7 applicable privilege or claim of confidentiality with respect to
8 the documents, materials, or information.
- 9 **(4) Information provided to the NMLSR is subject to**
10 **IC 4-1-11.**
- 11 **(5) This subsection does not limit or impair a person's right**
12 **to:**
13 **(A) obtain information;**
14 **(B) use information as evidence in a civil action or**
15 **proceeding; or**
16 **(C) use information to initiate a civil action or proceeding;**
17 if the information may be obtained from the director or the
18 director's designee under any law.
- 19 **(6) The requirements under any federal law or IC 5-14-3**
20 **regarding the privacy or confidentiality of any information or**
21 **material provided to the NMLSR, and any privilege arising**
22 **under federal or state law, including the rules of any federal**
23 **or state court, with respect to the information or material,**
24 **continue to apply to the information or material after the**
25 **information or material has been disclosed to the NMLSR.**
26 **The information and material may be shared with all state**
27 **and federal regulatory officials with financial services**
28 **industry oversight authority without the loss of privilege or**
29 **the loss of confidentiality protections provided by federal law**
30 **or IC 5-14-3.**
- 31 **(7) For purposes of this section, the director may enter**
32 **agreements or sharing arrangements with other governmental**
33 **agencies, the Conference of State Bank Supervisors, or other**
34 **associations representing governmental agencies, as**
35 **established by rule or order of the director.**
- 36 **(8) Information or material that is subject to a privilege or**
37 **confidentiality under subdivision (6) is not subject to:**
38 **(A) disclosure under any federal or state law governing the**
39 **disclosure to the public of information held by an officer or**
40 **an agency of the federal government or the respective**
41 **state; or**
42 **(B) subpoena, discovery, or admission into evidence in any**



- 1 private civil action or administrative process, unless with
 2 respect to any privileged information or material held by
 3 the NMLSR, the person to whom the information or
 4 material pertains waives, in whole or in part, in the
 5 discretion of the person, that privilege.
- 6 (9) Any provision of IC 5-14-3 that concerns the disclosure of:
 7 (A) confidential supervisory information; or
 8 (B) any information or material described in subdivision
 9 (6);
 10 and that is inconsistent with subdivision (6) is superseded by
 11 this section.
- 12 (10) This section does not apply with respect to information or
 13 material that concerns the employment history of, and
 14 publicly adjudicated disciplinary and enforcement actions
 15 against, a person described in section 5(b)(2), 5(b)(3), or
 16 5(b)(4) of this chapter and that is included in the NMLSR for
 17 access by the public.
- 18 (11) The director may require a licensee required to submit
 19 information to the NMLSR to pay a processing fee considered
 20 reasonable by the director. In determining whether the
 21 NMLSR processing fee is reasonable, the director shall:
 22 (A) require review of; and
 23 (B) make available;
 24 the audited financial statements of the NMLSR.
- 25 (12) Notwithstanding any other provision of law, any:
 26 (A) application, renewal, or other form or document that:
 27 (i) relates to licenses issued under this chapter; and
 28 (ii) is made or produced in an electronic format;
 29 (B) document filed as an electronic record in a multistate
 30 automated repository established and operated for the
 31 licensing or registration of financial services entities and
 32 their employees; or
 33 (C) electronic record filed through the NMLSR;
 34 is considered a valid original document when reproduced in
 35 paper form by the department.
- 36 SECTION 24. IC 28-1-29-10.5, AS ADDED BY P.L.35-2010,
 37 SECTION 134, IS AMENDED TO READ AS FOLLOWS
 38 [EFFECTIVE JULY 1, 2014]: Sec. 10.5. (a) A licensee shall maintain
 39 in the licensee's business any books, accounts, and records that enable
 40 the department to determine whether the licensee is complying with
 41 this chapter. The books, accounts, and records shall be preserved for at
 42 least two (2) years after making the final entry of any agreement



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

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

9 (1) Training, operating, and policy manuals.

10 (2) Minutes of:

11 (A) management meetings; and

12 (B) other meetings.

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

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

19 (1) the records maintained are sufficient; and

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

22 (d) If the department:

23 (1) investigates; or

24 (2) examines the books and records of;

25 a person that is subject to this chapter, the person shall pay all
 26 reasonably incurred costs of the investigation or examination in
 27 accordance with the fee schedule adopted by the department under
 28 IC 28-11-3-5. Any costs required to be paid under this subsection shall
 29 be paid not later than sixty (60) days after the person receives a notice
 30 from the department of the costs being assessed. The department may
 31 impose a fee, in an amount fixed by the department under
 32 IC 28-11-3-5, for each day that the assessed costs are not paid,
 33 beginning on the first day after the sixty (60) day period described in
 34 this subsection.

35 (e) The department shall be given free access to the records
 36 wherever located. If the person's records are located outside Indiana, at
 37 the discretion of the director, the records shall be made available to the
 38 department at a convenient location within Indiana, or the person shall
 39 pay the reasonable and necessary expenses for the department or the
 40 department's representative to examine the records where the records
 41 are maintained.

42 (f) If a person fails to:

HB 1245—LS 7105/DI 101



1 (1) obey a subpoena without a lawful excuse; or
 2 (2) give testimony;
 3 the department may apply to a civil court for an order compelling
 4 compliance.

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

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

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

18 **The department has all investigatory and enforcement authority**
 19 **under this chapter that the department has under IC 28-11 with**
 20 **respect to financial institutions. If the department conducts an**
 21 **investigation under this section, the licensee or other person**
 22 **investigated shall pay all reasonably incurred costs of the**
 23 **investigation in accordance with the fee schedule adopted under**
 24 **IC 28-11-3-5.**

25 ~~(h)~~ **(i)** The department may:
 26 (1) enter into a cooperative arrangement with another federal or
 27 state agency having authority over debt management companies;
 28 and
 29 (2) exchange with the agency information about a person subject
 30 to this chapter, including information obtained during an
 31 examination of the person.

32 ~~(h)~~ **(j)** If a person doing business as a debt management company
 33 contracts with an outside vendor to provide a service that would
 34 otherwise be undertaken internally by the person doing business as a
 35 debt management company and be subject to the department's routine
 36 examination procedures, the person that provides the service to the
 37 person doing business as a debt management company shall, at the
 38 request of the director, submit to an examination by the department. If
 39 the director determines that an examination under this subsection is
 40 necessary or desirable, the examination may be made at the expense of
 41 the person to be examined. If the person to be examined under this
 42 subsection refuses to permit the examination to be made, the director



1 may order any person doing business as a debt management company
2 that receives services from the person refusing the examination to:

- 3 (1) discontinue receiving one (1) or more services from the person
4 refusing the examination; or
5 (2) otherwise cease conducting business with the person refusing
6 the examination.

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

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

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

- 18 (A) the principal office of a credit union;
19 (B) the principal office of a credit union affiliate;
20 (C) a branch office of a credit union affiliate;
21 (D) an automated teller machine; or
22 (E) a night depository.

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

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

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

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

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

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



- 1 union transacts or will transact business.
- 2 (9) "Furniture, fixtures, and equipment" means office furnishings,
3 office machines, computer hardware, computer software,
4 automated terminals, and heating and cooling equipment.
- 5 (10) "Fixed assets" means:
6 (A) premises; and
7 (B) furniture, fixtures, and equipment.
- 8 (11) "Audit period" means a twelve (12) month period designated
9 by the board of directors of a credit union.
- 10 (12) "Community" means:
11 (A) a second class city;
12 (B) a third class city;
13 (C) a town;
14 (D) a county other than a county containing a consolidated
15 city;
16 (E) a census tract;
17 (F) a township; or
18 (G) any other municipal corporation (as defined in
19 IC 36-1-2-10).
- 20 (13) "Control of a related interest" refers to a situation in which
21 an individual directly or indirectly, or through or in concert with
22 one (1) or more other individuals, possesses any of the following:
23 (A) The ownership of, control of, or power to vote at least
24 twenty-five percent (25%) of any class of voting securities of
25 the related interest.
26 (B) The control in any manner of the election of a majority of
27 the directors of the related interest.
28 (C) The power to exercise a controlling influence over the
29 management or policies of the related interest. For purposes of
30 this clause, an individual is presumed to have control,
31 including the power to exercise a controlling influence over
32 the management or policies of a related interest, if the
33 individual:
34 (i) is an executive officer or a director of the related interest
35 and directly or indirectly owns, controls, or has the power to
36 vote more than ten percent (10%) of any class of voting
37 securities of the related interest; or
38 (ii) directly or indirectly owns, controls, or has the power to
39 vote more than ten percent (10%) of any class of voting
40 securities of the related interest and no other person owns,
41 controls, or has the power to vote a greater percentage of
42 that class of voting securities.



- 1 (14) "Executive officer" includes any of the following officers of
 2 a credit union:
 3 (A) The chairman of the board of directors.
 4 (B) The president.
 5 (C) A vice president.
 6 (D) The cashier.
 7 (E) The secretary.
 8 (F) The treasurer.
- 9 (15) "Immediate family", for purposes of ~~section~~ **sections** 17.1
 10 **and 17.2** of this chapter, means the spouse of an individual, the
 11 individual's minor children, and any of the individual's children,
 12 including adults, residing in the individual's home.
- 13 (16) "Officer" means any individual who is not solely a director
 14 or committee member and participates or has the authority to
 15 participate in major policymaking functions of a credit union,
 16 regardless of whether:
 17 (A) the individual has an official title;
 18 (B) the individual's title designates the individual as an
 19 assistant; or
 20 (C) the individual is serving without salary or other
 21 compensation.
- 22 (17) "Related interest", with respect to an individual, means:
 23 (A) a partnership, a corporation, or another business
 24 organization that is controlled by the individual; or
 25 (B) a political campaign committee:
 26 (i) controlled by the individual; or
 27 (ii) the funds or services of which benefit the individual.
- 28 (18) Except as provided in section 9(a)(4) of this chapter, "capital
 29 and surplus" means the sum of:
 30 (A) undivided profits;
 31 (B) reserve for contingencies;
 32 (C) regular reserve; and
 33 (D) allowance for loan and lease losses.
- 34 SECTION 26. IC 28-7-1-9, AS AMENDED BY P.L.27-2012,
 35 SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 JULY 1, 2014]: Sec. 9. (a) A credit union has the following powers:
 37 (1) To issue shares of its capital stock to its members. No
 38 commission or compensation shall be paid for securing members
 39 or for the sale of shares.
 40 (2) To make loans to officers, directors, or committee members
 41 under sections 17.1 and 17.2 of this chapter.
 42 (3) To invest in any of the following:



- 1 (A) Bonds, notes, or certificates that are the direct or indirect
 2 obligations of the United States, or of the state, or the direct
 3 obligations of a county, township, city, town, or other taxing
 4 district or municipality or instrumentality of Indiana and that
 5 are not in default.
- 6 (B) Bonds or debentures issued by the Federal Home Loan
 7 Bank Act (12 U.S.C. 1421 through 1449) or the Home Owners'
 8 Loan Act (12 U.S.C. 1461 through 1468).
- 9 (C) Obligations of national mortgage associations issued under
 10 the authority of the National Housing Act.
- 11 (D) Mortgages on real estate situated in Indiana which are
 12 fully insured under Title 2 of the National Housing Act (12
 13 U.S.C. 1707 through 1715z).
- 14 (E) Obligations issued by farm credit banks and banks for
 15 cooperatives under the Farm Credit Act of 1971 (12 U.S.C.
 16 2001 through 2279aa-14).
- 17 (F) Savings and loan associations, other credit unions that are
 18 insured under section 31.5 of this chapter, and certificates of
 19 indebtedness or investment of an industrial loan and
 20 investment company if the association or company is federally
 21 insured. Not more than twenty percent (20%) of the assets of
 22 a credit union may be invested in the shares or certificates of
 23 an association or company, nor more than forty percent (40%)
 24 in all such associations and companies.
- 25 (G) Corporate credit unions.
- 26 (H) Federal funds or similar types of daily funds transactions
 27 with other financial institutions.
- 28 (I) Shares or certificates of an open-end management
 29 investment company registered with the Securities and
 30 Exchange Commission under the Investment Company Act of
 31 1940 (15 U.S.C. 80a-1 through 15 U.S.C. 80a-3 and 15 U.S.C.
 32 80a-4 through 15 U.S.C. 80a-64), if all of the following
 33 conditions are met:
- 34 (i) The fund's assets consist of and are limited to securities
 35 in which a credit union may invest directly.
- 36 (ii) The credit union has an equitable and undivided interest
 37 in the underlying assets of the fund.
- 38 (iii) The credit union is not liable for acts or obligations of
 39 the fund.
- 40 (iv) The credit union's investment in any one (1) fund does
 41 not exceed fifteen percent (15%) of the amount of the credit
 42 union's net worth.



1 (J) For a credit union that is well capitalized (as defined in Part
2 702 of the Rules and Regulations of the National Credit Union
3 Administration, 12 CFR 702), investment securities, as may be
4 defined by a statute or a policy or rule of the department and
5 subject to the following:

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

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

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

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

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

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



- 1 by the department.
- 2 (vii) Subject to items (i) through (iv), a credit union may
3 purchase yankee dollar deposits, eurodollar deposits,
4 banker's acceptances, deposit notes, bank notes with original
5 weighted average maturities of less than five (5) years, and
6 investments in obligations of, or issued by, any state or
7 political subdivision (including any agency, corporation, or
8 instrumentality of a state or political subdivision).
- 9 (K) Collateralized obligations that are eligible for purchase
10 and sale by federal credit unions. However, a credit union may
11 purchase for its own account and sell the obligations only to
12 the extent that a federal credit union can purchase and sell
13 those obligations.
- 14 (4) With the prior approval of the department, and subject to the
15 limitations of this subsection, a credit union may organize, invest
16 in, or loan money to a credit union service organization (as
17 defined in Part 712 of the regulations of the National Credit
18 Union Administration, 12 CFR 712). A credit union may not loan
19 or invest in a credit union service organization if the aggregate
20 amount of all such loans or investments in a particular credit
21 union service organization is greater than ten percent (10%) of the
22 capital, surplus, and unimpaired shares of the credit union without
23 the prior written approval of the department. A credit union may
24 organize, invest in, or loan money to a credit union service
25 organization described in this subdivision only if the following
26 requirements are met:
- 27 (A) The credit union service organization is adequately
28 capitalized or has a reasonable plan for adequate capitalization
29 if the credit union service organization is to be formed or is
30 newly formed.
- 31 (B) The credit union service organization is structured and
32 operated as a separate legal entity from the credit union.
- 33 (C) The credit union obtains a written legal opinion that the
34 credit union service organization is structured and operated in
35 a manner that limits the credit union's potential liability for the
36 debts and liabilities of the credit union service organization to
37 not more than the loss of money invested in or loaned to the
38 credit union service organization by the credit union.
- 39 (D) The credit union service organization agrees in writing to
40 prepare financial statements and provide the financial
41 statements to the credit union at least quarterly, and to the
42 department upon request.



- 1 (E) The credit union service organization agrees in writing to
2 obtain an audit of the credit union service organization from a
3 certified public accountant at least annually and provide a
4 copy of each audit report to the credit union, and to the
5 department upon request. A wholly owned credit union service
6 organization is not required to obtain a separate annual audit
7 if the credit union service organization is included in the
8 annual consolidated audit of the credit union that is the credit
9 union service organization's parent.
- 10 (F) The credit union service organization operates in
11 compliance with all applicable federal and state laws.
- 12 (5) To deposit its funds into:
- 13 (A) depository institutions that are federally insured; or
14 (B) state chartered credit unions that are privately insured by
15 an insurer approved by the department.
- 16 (6) To purchase, hold, own, or convey real estate as may be
17 conveyed to the credit union in satisfaction of debts previously
18 contracted or in exchange for real estate conveyed to the credit
19 union.
- 20 (7) To own, hold, or convey real estate as may be purchased by
21 the credit union upon judgment in its favor or decrees of
22 foreclosure upon mortgages.
- 23 (8) To issue shares of stock and upon the terms, conditions,
24 limitations, and restrictions and with the relative rights as may be
25 stated in the bylaws of the credit union, but no stock may have
26 preference or priority over the other to share in the assets of the
27 credit union upon liquidation or dissolution or for the payment of
28 dividends except as to the amount of the dividends and the time
29 for the payment of the dividends as provided in the bylaws.
- 30 (9) To charge the member's share account for the actual cost of a
31 necessary locator service when the member has failed to keep the
32 credit union informed about the member's current address. The
33 charge shall be made only for amounts paid to a person or concern
34 normally engaged in providing such service, and shall be made
35 against the account or accounts of any one (1) member not more
36 than once in any twelve (12) month period.
- 37 (10) To transfer to an accounts payable account, a dormant
38 account, or a special account share accounts which have been
39 inactive, except for dividend credits, for a period of at least two
40 (2) years. The credit union shall not consider the payment of
41 dividends on the transferred account.
- 42 (11) To invest in fixed assets with the funds of the credit union.



- 1 An investment in fixed assets in excess of five percent (5%) of its
 2 assets is subject to the approval of the department. A credit union
 3 may rent excess space at the credit union's main office or branch
 4 as a source of income.
- 5 (12) To establish branch offices, upon approval of the department,
 6 provided that all books of account shall be maintained at the
 7 principal office.
- 8 (13) To pay an interest refund on loans proportionate to the
 9 interest paid during the dividend period by borrowers who are
 10 members at the end of the dividend period.
- 11 (14) To purchase life savings and loan protection insurance for
 12 the benefit of the credit union and its members, if:
- 13 (A) the coverage is placed with an insurance company licensed
 14 to do business in Indiana; and
- 15 (B) no officer, director, or employee of the credit union
 16 personally benefits, directly or indirectly, from the sale or
 17 purchase of the coverage.
- 18 (15) To sell and cash negotiable checks, travelers checks, and
 19 money orders for members.
- 20 (16) To purchase members' notes from any liquidating credit
 21 union, with written approval from the department, at prices agreed
 22 upon by the boards of directors of both the liquidating and the
 23 purchasing credit unions. However, the aggregate of the unpaid
 24 balances of all notes of liquidating credit unions purchased by any
 25 one (1) credit union shall not exceed ten percent (10%) of the
 26 purchasing credit union's capital and surplus unless special
 27 written authorization has been granted by the department.
- 28 (17) To exercise such incidental powers necessary or requisite to
 29 enable it to carry on effectively the business for which it is
 30 incorporated.
- 31 (18) To act as a custodian or trustee of any trust created or
 32 organized in the United States and forming part of a tax
 33 advantaged savings plan which qualifies or qualified for specific
 34 tax treatment under Section 223, 401(d), 408, 408A, or 530 of the
 35 Internal Revenue Code, if the funds of the trust are invested only
 36 in share accounts or insured certificates of the credit union.
- 37 (19) To issue shares or insured certificates to a trustee or
 38 custodian of a pension plan, profit sharing plan, or stock bonus
 39 plan which qualifies for specific tax treatment under Sections
 40 401(d) or 408(a) of the Internal Revenue Code.
- 41 (20) To exercise any rights and privileges that are:
- 42 (A) granted to federal credit unions; but



- 1 (B) not authorized for credit unions under the Indiana Code
 2 (except for this section) or any rule adopted under the Indiana
 3 Code;
 4 if the credit union complies with section 9.2 of this chapter.
 5 (21) To sell, pledge, or discount any of its assets. However, a
 6 credit union may not pledge any of its assets as security for the
 7 safekeeping and prompt payment of any money deposited, except
 8 that a credit union may, for the safekeeping and prompt payment
 9 of money deposited, give security as authorized by federal law.
 10 (22) To purchase assets of another credit union and to assume the
 11 liabilities of the selling credit union.
 12 (23) To act as a fiscal agent of the United States and to receive
 13 deposits from nonmember units of the federal, state, or county
 14 governments, from political subdivisions, and from other credit
 15 unions upon which the credit union may pay varying interest rates
 16 at varying maturities subject to terms, rates, and conditions that
 17 are established by the board of directors. However, the total
 18 amount of public funds received from units of state and county
 19 governments and political subdivisions that a credit union may
 20 have on deposit may not exceed twenty percent (20%) of the total
 21 assets of that credit union, excluding those public funds.
 22 (24) To join the National Credit Union Administration Central
 23 Liquidity Facility.
 24 (25) To participate in community investment initiatives under the
 25 administration of organizations:
 26 (A) exempt from taxation under Section 501(c)(3) of the
 27 Internal Revenue Code; and
 28 (B) located or conducting activities in communities in which
 29 the credit union does business.
 30 Participation may be in the form of either charitable contributions
 31 or participation loans. In either case, disbursement of funds
 32 through the administering organization is not required to be
 33 limited to members of the credit union. Total contributions or
 34 participation loans may not exceed one-tenth of one percent
 35 (0.1%) of total assets of the credit union. A recipient of a
 36 contribution or loan is not considered qualified for credit union
 37 membership. A contribution or participation loan made under this
 38 subdivision must be approved by the board of directors.
 39 (26) To establish and operate an automated teller machine
 40 (ATM):
 41 (A) at any location within Indiana; or
 42 (B) as permitted by the laws of the state in which the



- 1 automated teller machine is to be located.
- 2 (27) To demand and receive, for the faithful performance and
3 discharge of services performed under the powers vested in the
4 credit union by this article:
- 5 (A) reasonable compensation, or compensation as fixed by
6 agreement of the parties;
- 7 (B) all advances necessarily paid out and expended in the
8 discharge and performance of its duties; and
- 9 (C) unless otherwise agreed upon, interest at the legal rate on
10 the advances referred to in clause (B).
- 11 (28) Subject to any restrictions the department may impose, to
12 become the owner or lessor of personal property acquired upon
13 the request and for the use of a member and to incur additional
14 obligations as may be incident to becoming an owner or lessor of
15 such property.
- 16 (b) A credit union shall maintain files containing credit and other
17 information adequate to demonstrate evidence of prudent business
18 judgment in exercising the investment powers granted under this
19 chapter or by rule, order, or declaratory ruling of the department.
- 20 (c) Subject to any limitations or restrictions that the department or
21 a federal regulator may impose by regulation, rule, policy, or guidance,
22 a credit union may purchase and hold life insurance as follows:
- 23 (1) Life insurance purchased or held in connection with employee
24 compensation or benefit plans approved by the credit union's
25 board of directors.
- 26 (2) Life insurance purchased or held to recover the cost of
27 providing preretirement or postretirement employee benefits
28 approved by the credit union's board of directors.
- 29 (3) Life insurance on the lives of borrowers.
- 30 (4) Life insurance held as security for a loan.
- 31 (5) Life insurance that a federal credit union may purchase or
32 hold under 12 CFR 701.19(c).
- 33 SECTION 27. IC 28-7-1-18, AS AMENDED BY P.L.35-2010,
34 SECTION 159, IS AMENDED TO READ AS FOLLOWS
35 [EFFECTIVE JULY 1, 2014]: Sec. 18. (a) The supervisory committee
36 shall cause the share and loan accounts of the members to be verified
37 with the records of the treasurer at least each biennium.
- 38 (b) The supervisory committee shall supervise the acts of the board
39 of directors, credit committee, and officers.
- 40 (c) By a majority vote, the supervisory committee may call a
41 meeting of the shareholders to consider any violation of this chapter,
42 or of the bylaws, or any practice of the credit union which, in the



1 opinion of the committee is unsafe and unauthorized.

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

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

13 (f) A credit union with assets of at least five million dollars
14 (\$5,000,000) shall have an annual audit performed by an outside
15 professional accounting firm. The department may require a
16 professional outside audit to be performed upon any credit union ~~when~~
17 **if** the department questions the safety and soundness of the credit
18 union.

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

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

25 "Director" refers to the director of the department.

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

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



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

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

9 "Department" means the department of financial institutions.

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

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

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

- 30 (1) the nature of the other business;
31 (2) the name under which the other business operates;
32 (3) the address of the principal office of the other business;
33 (4) the name and address of the business's resident agent in
34 Indiana; and
35 (5) any other information the director may require.

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

- 39 (1) is under indictment for a felony under the laws of Indiana or
40 any other jurisdiction; or
41 (2) has been convicted of ~~or pleaded guilty or nolo contendere to~~
42 a felony under the laws of Indiana or any other jurisdiction.



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

- 3 (1) the time of application;
4 (2) the time of renewal of a license; or
5 (3) any other time considered necessary by the director.

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

- 8 (1) criminal background checks, including a national criminal
9 history background check (as defined in IC 10-13-3-12) by the
10 Federal Bureau of Investigation for any individual described in
11 subsection (b);
12 (2) credit histories; and
13 (3) other background checks considered necessary by the director.

14 If the director requests a national criminal history background check
15 under subdivision (1) for an individual described in that subdivision,
16 the director shall require the individual to submit fingerprints to the
17 department or to the state police department, as appropriate, at the time
18 evidence of compliance is requested under subsection (c). The
19 individual to whom the request is made shall pay any fees or costs
20 associated with the fingerprints and the national criminal history
21 background check. The national criminal history background check
22 may be used by the director to determine the individual's compliance
23 with this section. The director or the department may not release the
24 results of the national criminal history background check to any private
25 entity.

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



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

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

10 (1) Date of bill of sale.

11 (2) Amount of consideration.

12 (3) Name of pawnbroker.

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

22 (5) Signature of seller.

23 (6) Address of seller.

24 (7) Date of birth of the seller.

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

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

35 ~~(1) Date of resale.~~

36 ~~(2) Amount of resale.~~

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

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



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

- 3 (1) at the pawnbroker's permanent place of business where the
- 4 pawnbroker purchased the precious metal; and
- 5 (2) separate from other precious metal.

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

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

- 21 (1) discontinue receiving one (1) or more services from the
- 22 person; or
- 23 (2) otherwise cease conducting business with the person.

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

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

34 (A) Either:

- 35 (i) a copy of the licensee's most recent audited consolidated
- 36 annual financial statements, including a balance sheet, a
- 37 statement of income or loss, a statement of changes in
- 38 shareholder's equity, and a statement of changes in financial
- 39 position; or
- 40 (ii) if the licensee is a wholly owned subsidiary, the parent
- 41 corporation's or parent organization's most recent
- 42 consolidated audited annual financial statements or the



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

6 The **audited** financial statements required to be submitted
 7 under this clause must be prepared by an independent certified
 8 public accountant authorized to do business in the United
 9 States in accordance with AICPA Statements on Standards for
 10 Accounting and Review Services (SSARS) and must be filed
 11 with the director or the director's designee not later than ~~April~~
 12 ~~30 of the year that immediately follows~~ **one hundred twenty**
 13 **(120) days after the close of** the calendar or fiscal year
 14 covered by the statements.

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

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

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

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

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

36 (b) A licensee that:

37 (1) does not:

38 (A) file:

39 (i) a renewal; or

40 (ii) any financial statements required by subsection

41 (a)(1)(A);

42 by the renewal filing deadline set by the director; or



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

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

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

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

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

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

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

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

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



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

3 **(1) licensee; or**

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

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

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

8 **The department has all investigatory and enforcement authority**
 9 **under this chapter that the department has under IC 28-11 with**
 10 **respect to financial institutions. If the department conducts an**
 11 **investigation under this section, the licensee or other person**
 12 **investigated shall pay all reasonably incurred costs of the**
 13 **investigation in accordance with the fee schedule adopted under**
 14 **IC 28-11-3-5.**

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

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

28 **(2) otherwise cease conducting business with the person.**

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

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

36 **(1) The following information pertaining to the applicant:**

37 **(A) Name.**

38 **(B) Residence address.**

39 **(C) Business address.**

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

42 **(A) Name.**



- 1 (B) Residence address.
 2 (C) Business address.
 3 (D) Whether the person:
 4 (i) is, at the time of the application, under indictment for a
 5 felony under the laws of Indiana or any other jurisdiction; or
 6 (ii) has been convicted of ~~or pleaded guilty or not~~
 7 ~~contendere to~~ a felony under the laws of Indiana or any other
 8 jurisdiction.
 9 (3) The address where the applicant's office or offices will be
 10 located. If any business, other than the business of cashing checks
 11 under this chapter, will be conducted by the applicant or another
 12 person at any of the locations identified under this subdivision,
 13 the applicant shall indicate for each location at which another
 14 business will be conducted:
 15 (A) the nature of the other business;
 16 (B) the name under which the other business operates;
 17 (C) the address of the principal office of the other business;
 18 (D) the name and address of the business's resident agent in
 19 Indiana; and
 20 (E) any other information that the director may require.
 21 (4) If the department of state revenue notifies the department that
 22 a person is on the most recent tax warrant list, the department
 23 shall not issue or renew the person's license until:
 24 (A) the person provides to the department a statement from the
 25 department of state revenue that the person's tax warrant has
 26 been satisfied; or
 27 (B) the department receives a notice from the commissioner of
 28 the department of state revenue under IC 6-8.1-8-2(k).
 29 (5) Such other data, financial statements, and pertinent
 30 information as the director may require.
 31 (c) The application shall be filed with a nonrefundable fee fixed by
 32 the department under IC 28-11-3-5.

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

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



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

- 6 (1) the license renewal fee described in subsection (b); and
- 7 (2) all information and documents requested by the director of the
 8 department.

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

- 13 (1) renewal license application; or
- 14 (2) renewal fee;

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

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

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

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

- 29 (1) licensee; or
- 30 (2) person that the department suspects to be operating:
 - 31 (A) without a license, when a license is required under this
 - 32 chapter; or
 - 33 (B) otherwise in violation of chapter.

34 **The department has all investigatory and enforcement authority**
 35 **under this chapter that the department has under IC 28-11 with**
 36 **respect to financial institutions. If the department conducts an**
 37 **investigation under this section, the licensee or other person**
 38 **investigated shall pay all reasonably incurred costs of the**
 39 **investigation in accordance with the fee schedule adopted under**
 40 **IC 28-11-3-5.**

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



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

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

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

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

- 23 (1) committed a violation of a statute, a rule, a final cease and
 24 desist order, any condition imposed in writing by the director in
 25 connection with the grant of any application or other request by
 26 the financial institution, or any written agreement between the
 27 financial institution and the director or the department;
 28 (2) engaged or participated in an unsafe or unsound practice in
 29 connection with the financial institution;
 30 (3) committed or engaged in an act, an omission, or a practice that
 31 constitutes a breach of fiduciary duty as director, officer, or
 32 employee; or
 33 (4) been convicted of, ~~has pleaded guilty or nolo contendere to,~~ or
 34 is under indictment for, a felony involving fraud, deceit, or
 35 misrepresentation under the laws of Indiana or any other
 36 jurisdiction;

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



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

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

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

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

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

15 (c) A person who:

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

17 (2) has been convicted of; **or**

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

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

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

28 SECTION 39. IC 28-13-4-6 IS REPEALED [EFFECTIVE JULY 1,
 29 2014]. ~~Sec. 6. All debts due to a corporation on which interest is past
 30 due for a period of six (6) months are bad debts unless, in the opinion
 31 of the department, the debts are well secured.~~

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

35 (1) any condition or occurrence that:

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

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

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

41 (2) any condition or occurrence that:

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



- 1 under IC 10-14-3-12; and
 2 (B) applies to an area that includes one (1) or more of the
 3 offices of a corporation; or
 4 (3) the death of or funeral services for an employee, officer, or
 5 director of a corporation or for a former employee, officer, or
 6 director of a corporation.
- 7 (b) A corporation may be closed on any part of a legal holiday by
 8 giving reasonable notice to its customers of its intention to be closed in
 9 observance of the holiday.
- 10 (c) Whenever a corporation is to be closed on a day or part of a day
 11 other than a legal holiday, the board of directors shall pass a resolution
 12 concerning the closing, and give reasonable notice of the closing to the
 13 customers of the corporation.
- 14 (d) The board of directors of a corporation may establish and
 15 observe different banking hours and designate different fixed days, if
 16 any, for closing the principal office and each separate branch office of
 17 the corporation.
- 18 (e) Any day designated by the President of the United States or by
 19 the governor as a day of mourning, celebration, or other special
 20 observance is a legal holiday for corporations.
- 21 (f) Whenever the officers of a corporation believe that an emergency
 22 exists or is impending, which affects or may affect one (1) or more of
 23 a corporation's offices, the officers have the authority, in the reasonable
 24 and proper exercise of their discretion, to determine not to open any
 25 one (1) or more of such offices or, if having opened, to close any one
 26 (1) or more of such offices during the continuation of the emergency.
 27 The office or offices so closed shall remain closed until the time the
 28 officers determine that the emergency has ended. However, such office
 29 or offices may not remain closed for more than forty-eight (48)
 30 consecutive hours on business days, excluding other legal holidays,
 31 without ~~requesting the approval of~~ **providing prior notice to** the
 32 director of the department of financial institutions.
- 33 (g) A corporation closing an office or offices under subsection (f)
 34 shall give prompt notice of its action to the director of the department
 35 of financial institutions.
- 36 (h) Any date on which a corporation is closed under this section is
 37 a legal holiday with respect to the business affairs of the corporation.
 38 No liability or loss of rights of any kind, on the part of any corporation,
 39 director, officer, or employee, accrues or results by virtue of any
 40 closing authorized by this section.
- 41 SECTION 41. IC 28-13-13-8 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 8. (a) A corporation



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

- 4 (1) the individual's conduct was in good faith; and
 5 (2) the individual reasonably believed:
 6 (A) in the case of conduct in the individual's official capacity
 7 with the corporation, that the individual's conduct was in the
 8 corporation's best interests; and
 9 (B) in all other cases, that the individual's conduct was at least
 10 not opposed to the corporation's best interests; and
 11 (3) in the case of any criminal proceeding, the individual either:
 12 (A) had reasonable cause to believe the individual's conduct
 13 was lawful; or
 14 (B) had no reasonable cause to believe the individual's conduct
 15 was unlawful.

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

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

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

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

- 32 (1) all receipts and disbursements since the last statement; and
 33 (2) all items of trust property held by the trustee on the date of the
 34 statement at their inventory value.

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



1 provision in a will, trust agreement, indenture, or other governing
 2 instrument. This subsection does not prevent a trustee from docketing
 3 a charitable trust to finalize a written statement of account or any other
 4 lawful purpose in the manner provided in this article. However, this
 5 subsection does not apply to an organization that is not required to file
 6 a federal information return under Section ~~6033(a)(2)(A)(i) or Section~~
 7 ~~6033(a)(2)(A)(ii)~~ **6033(a)(3)(A)(1)** of the Internal Revenue Code.

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

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

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



COMMITTEE REPORT

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

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



Page 29, line 23, reset in roman "\$300".

Page 29, line 24, delete "\$2,000".

and when so amended that said bill do pass.

(Reference is to HB 1245 as introduced.)

BURTON, Chair

Committee Vote: yeas 12, nays 0.

