



January 19, 2024

SENATE BILL No. 220

DIGEST OF SB 220 (Updated January 17, 2024 1:13 pm - DI 55)

Citations Affected: IC 24-4.4; IC 24-4.5; IC 28-7; IC 28-10.

Synopsis: Financial institutions and consumer credit. Provides that a reference to federal law in: (1) the first lien mortgage lending act; (2) the Uniform Consumer Credit Code; or (3) the Indiana Code title governing financial institutions; is a reference to the law as in effect December 31, 2023 (rather than December 31, 2022, under current law). Amends Indiana Code provisions concerning accounting practices for credit unions to reflect a new accounting standard that replaces the allowance for loan and lease losses accounting methodology with the allowance for credit losses methodology, as required by the Financial Accounting Standards Board. Establishes a new chapter in the Indiana Code article containing general provisions with respect to financial institutions to require corporations (defined as certain financial institutions organized or reorganized under Indiana law) to notify the director of the department of financial institutions of a reportable cyber incident or notification incident in accordance with the same procedures required by the corporation's federal supervisory authority or federal insurer.

Effective: July 1, 2024.

Bassler

January 9, 2024, read first time and referred to Committee on Insurance and Financial Institutions.

January 18, 2024, amended, reported favorably — Do Pass.

SB 220—LS 6371/DI 101



January 19, 2024

Second Regular Session of the 123rd General Assembly (2024)

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 2023 Regular Session of the General Assembly.

SENATE BILL No. 220

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.197-2023,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2024]: Sec. 102. (1) This article shall be liberally construed
4 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, ~~2022~~: **2023**.
15 SECTION 2. IC 24-4.5-1-102, AS AMENDED BY P.L.197-2023,
16 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 2024]: Sec. 102. (1) This article shall be liberally construed

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1 and applied to promote its underlying purposes and policies.

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

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

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

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

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

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

16 (f) to conform the regulation of consumer credit transactions to
17 the policies of the Consumer Credit Protection Act (15 U.S.C.
18 1601 et seq.) and to applicable state and federal laws, rules,
19 regulations, policies, and guidance; and

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

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

25 (4) A reference to a federal law in this article is a reference to the
26 law as in effect December 31, ~~2022~~. **2023**.

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

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

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

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

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

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

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



- 1 mortgage transactions.
- 2 SECTION 3. IC 28-7-1-0.5, AS AMENDED BY P.L.129-2020,
3 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2024]: Sec. 0.5. The following definitions apply throughout
5 this chapter:
- 6 (1) "Automated teller machine" (ATM) means a piece of
7 unmanned electronic or mechanical equipment that performs
8 routine financial transactions for authorized individuals.
- 9 (2) "Branch" office" means an office, agency, or other place of
10 business at which deposits are received, share drafts are paid, or
11 money is lent to members of a credit union. The term does not
12 include:
- 13 (A) the principal office of a credit union;
14 (B) the principal office of a credit union affiliate;
15 (C) a branch office of a credit union affiliate;
16 (D) an automated teller machine; or
17 (E) a night depository.
- 18 (3) "Credit union" is a cooperative, nonprofit association,
19 incorporated under this chapter, for the purposes of educating its
20 members in the concepts of thrift and to encourage savings among
21 its members. A credit union should provide a source of credit at
22 a fair and reasonable rate of interest and provide an opportunity
23 for its members to use and control their own money in order to
24 improve their economic and social condition.
- 25 (4) "Department" refers to the department of financial institutions.
- 26 (5) "Surplus" means the credit balance of undivided earnings after
27 losses. The term does not include statutory reserves.
- 28 (6) "Unimpaired shares" means paid in shares less any losses for
29 which no reserve exists and for which there is no charge against
30 undivided earnings.
- 31 (7) "Related credit union service organization" means, in
32 reference to a credit union, a credit union service organization (as
33 defined and formed under Part 712 of the regulations of the
34 National Credit Union Administration, 12 CFR 712) in which the
35 credit union has invested under section 9(a)(4) of this chapter.
- 36 (8) "Premises" means any office, branch, suboffice, service
37 center, parking lot, real estate, or other facility where the credit
38 union transacts or will transact business.
- 39 (9) "Furniture, fixtures, and equipment" means office furnishings,
40 office machines, computer hardware, computer software,
41 automated terminals, and heating and cooling equipment.
- 42 (10) "Fixed assets" means:



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



- 1 (D) The cashier.
 2 (E) The secretary.
 3 (F) The treasurer.
 4 (15) "Immediate family", for purposes of section 17.2 of this
 5 chapter, means the spouse of an individual, the individual's minor
 6 children, and any of the individual's children, including adults,
 7 residing in the individual's home.
 8 (16) "Officer" means any individual who is not solely a director
 9 or committee member and participates or has the authority to
 10 participate in major policymaking functions of a credit union,
 11 regardless of whether:
 12 (A) the individual has an official title;
 13 (B) the individual's title designates the individual as an
 14 assistant; or
 15 (C) the individual is serving without salary or other
 16 compensation.
 17 (17) "Related interest", with respect to an individual, means:
 18 (A) a partnership, a corporation, or another business
 19 organization that is controlled by the individual; or
 20 (B) a political campaign committee:
 21 (i) controlled by the individual; or
 22 (ii) the funds or services of which benefit the individual.
 23 (18) Except as provided in section 9(a)(4) of this chapter, "capital
 24 and surplus" means the sum of:
 25 (A) undivided profits;
 26 (B) reserve for contingencies;
 27 (C) regular reserve; and
 28 (D) allowance for ~~loan and lease~~ **credit losses, minus any**
 29 **adjustment for credit loss allowance for available for sale**
 30 **(AFS) securities.**
 31 SECTION 4. IC 28-7-1-24, AS AMENDED BY P.L.69-2018,
 32 SECTION 56, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2024]: Sec. 24. (a) All entrance charges shall, after payment
 34 of the organization expenses, be known as reserve income, and shall be
 35 added to the regular reserve of the credit union. At the close of the
 36 dividend period, there shall be set apart to the regular reserve ten
 37 percent (10%) of gross income until the regular reserve shall equal
 38 seven and one-half percent (7 1/2%) of the total of outstanding loans,
 39 then five percent (5%) of gross income until the regular reserve shall
 40 equal ten percent (10%) of the total of outstanding loans. Whenever the
 41 regular reserve falls below ten percent (10%) or seven and one-half
 42 percent (7 1/2%) of the total of outstanding loans, it shall be



1 replenished by regular contributions to maintain the reserve goals of
 2 seven and one-half percent (7 1/2%) or ten percent (10%). The regular
 3 reserve shall be held to meet contingencies and shall not be distributed
 4 to the members except upon dissolution of the credit union.

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

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

10 (d) Financial statements of credit unions must provide for full and
 11 fair disclosure of all assets, liabilities, and members' equity, including
 12 such allowance for ~~loan~~ **credit** loss accounts necessary to present fairly
 13 the financial position, and all income and expenses necessary to present
 14 fairly the results of operation for the period concerned.

15 (e) The maintenance of ~~an the~~ allowance for ~~loan~~ **credit** losses ~~and~~
 16 ~~investment~~ or other losses does not exempt a credit union from the
 17 requirement set forth in subsection (a). The totals of the regular reserve
 18 ~~and~~ the allowance for ~~loan~~ **credit** losses account ~~and the allowance for~~
 19 ~~investment losses~~ shall be combined for determining the percentage of
 20 gross income to be transferred to the regular reserve.

21 (f) Loan ~~and investment~~ losses of a credit union must be charged
 22 against the **corresponding loan or investment category of the**
 23 allowance for ~~loan loss: credit losses~~. Adjustments to the allowance for
 24 ~~loan~~ **credit** losses shall be made before the distribution of any dividend
 25 so that the allowance for ~~loan~~ **credit** loss represents the value of loans
 26 ~~and investments~~ and anticipated losses resulting from:

- 27 (1) uncollectible loans, **investments**, notes, and contracts
 28 receivable, including any uncollectible accrued interest receivable
 29 thereon;
 30 (2) assets acquired in liquidation of loans; and
 31 (3) loans purchased from other credit unions.

32 (g) Adjustments to the allowance for ~~loan~~ **credit** losses must be
 33 recorded in the ~~expense account "provision for loan losses":~~
 34 **appropriate allowance for credit loss subcategory corresponding**
 35 **to the asset type being reserved against.**

36 SECTION 5. IC 28-10-1-1, AS AMENDED BY P.L.197-2023,
 37 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 JULY 1, 2024]: Sec. 1. A reference to a federal law or federal
 39 regulation in this title is a reference to the law or regulation as in effect
 40 December 31, ~~2022~~. **2023**.

41 SECTION 6. IC 28-10-3 IS ADDED TO THE INDIANA CODE AS
 42 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY



1, 2024]:

Chapter 3. Reporting of Reportable Cyber Incidents

Sec. 1. As used in this chapter, "corporation" means any:

- (1) bank;**
- (2) trust company;**
- (3) corporate fiduciary;**
- (4) savings bank;**
- (5) savings association;**
- (6) industrial loan and investment company that maintains federal deposit insurance;**
- (7) credit union; or**
- (8) bank of discount and deposit;**

organized or reorganized under the laws of this state.

Sec. 2. Notwithstanding IC 24-4.9 or any other law, a corporation shall notify the director of the department of a reportable cyber incident or notification incident in accordance with the same procedures required by the corporation's federal supervisory authority or federal insurer. A corporation without a federal supervisory authority or federal insurer shall notify the director of the department of the reportable cyber incident in accordance with the same procedures set forth in 12 CFR 748.1(c) for federally insured credit unions, regardless of whether the corporation is a federally insured credit union.



COMMITTEE REPORT

Madam President: The Senate Committee on Insurance and Financial Institutions, to which was referred Senate Bill No. 220, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 7, delete lines 14 through 15.

Page 7, line 16, delete "3." and insert "2."

Page 7, line 18, after "incident" insert "**or notification incident**".

and when so amended that said bill do pass.

(Reference is to SB 220 as introduced.)

BALDWIN, Chairperson

Committee Vote: Yeas 9, Nays 0.

