

# SENATE BILL No. 334

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 24-4.4; IC 24-4.5-3.

**Synopsis:** Mortgage lending. Provides that a depository institution that is exempt from the Indiana statute concerning the licensing of creditors in first lien mortgage transactions may voluntarily register with the department of financial institutions (department) for the purpose of retaining and sponsoring, under an exclusive written contract, licensed mortgage loan originators if the depository institution does the following: (1) Assumes responsibility for and reasonably supervises the activities of the licensed loan originators. (2) Complies with certain requirements under the statute concerning: (A) registering with the Nationwide Mortgage Licensing System and Registry (NMLSR); (B) maintaining a surety bond; (C) submitting reports to the NMLSR; and (D) filing financial statements with the department. (3) Cooperates with the department, and provides access to records and documents, as required by the department in examining the activities of the licensed loan originators. Makes conforming amendments to similar provisions in the Uniform Consumer Credit Code concerning the licensing of creditors in subordinate lien mortgage transactions.

**Effective:** July 1, 2014.

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January 14, 2014, read first time and referred to Committee on Financial Institutions.

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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.

# SENATE BILL No. 334

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

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

1 SECTION 1. IC 24-4.4-1-202, AS AMENDED BY P.L.13-2013,  
2 SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2014]: Sec. 202. (a) As used in this section, "balloon  
4 payment", with respect to a mortgage transaction, means any payment:  
5 (1) that the creditor requires the debtor to make at any time during  
6 the term of the mortgage;  
7 (2) that represents the entire amount of the outstanding balance  
8 with respect to the mortgage; and  
9 (3) the entire amount of which is due as of a specified date or at  
10 the end of a specified period;  
11 if the aggregate amount of the minimum periodic payments required  
12 under the mortgage would not fully amortize the outstanding balance  
13 by the specified date or at the end of the specified period. The term  
14 does not include a payment required by a creditor under a due-on-sale  
15 clause (as defined in 12 U.S.C. 1701j-3(a)) or a payment required by  
16 a creditor under a provision in the mortgage that permits the creditor



1 to accelerate the debt upon the debtor's default or failure to abide by the  
2 material terms of the mortgage.

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

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

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

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

11 (4) Except for IC 24-4.4-2-401(2), IC 24-4.4-2-402.3,  
12 IC 24-4.4-2-405(4), and IC 24-4.4-2-405(5), a first lien mortgage  
13 transaction made:

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

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

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

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

26 (6) An extension of credit originated by **the following:**

27 (a) A depository institution. **However, a depository**  
28 **institution may voluntarily register with the department**  
29 **for the purpose of retaining and sponsoring, under an**  
30 **exclusive written contract, individuals who are licensed as**  
31 **mortgage loan originators under this article and 750**  
32 **IAC 9-3, and who perform mortgage loan origination**  
33 **activities under the depository institution's direct**  
34 **supervision and control, if the depository institution does**  
35 **the following:**

36 (i) **Assumes responsibility for and reasonably supervises**  
37 **the activities of all licensed loan originators retained and**  
38 **sponsored by the depository institution under this clause.**

39 (ii) **Registers with and maintains a valid unique identifier**  
40 **issued by the NMLSR as required by IC 24-4.4-2-401(2),**  
41 **maintains a surety bond in accordance with**  
42 **IC 24-4.4-2-402.3, submits to the NMLSR reports of**



1 **condition in accordance with IC 24-4.4-2-405(4) (subject**  
 2 **to IC 24-4.4-2-402.4), and files financial statements with**  
 3 **the department in accordance with IC 24-4.4-2-405(5).**

4 **(iii) Cooperates with the department, and provides**  
 5 **access to records and documents, as required by the**  
 6 **department in carrying out examinations of the activities**  
 7 **of the licensed loan originators retained and sponsored**  
 8 **by the depository institution under this clause, as**  
 9 **described in IC 24-4.4-2-405(1).**

10 (b) Subsidiaries that are:

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

12 (ii) regulated by a federal banking agency. ~~or~~

13 (c) An institution regulated by the Farm Credit Administration.

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

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

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

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

32 (11) Unless the attorney is compensated by:

33 (a) a lender;

34 (b) a mortgage broker;

35 (c) another mortgage loan originator; or

36 (d) any agent of the lender, mortgage broker, or other  
 37 mortgage loan originator described in clauses (a) through (c);  
 38 a licensed attorney who negotiates the terms of a mortgage  
 39 transaction on behalf of a client as an ancillary matter to the  
 40 attorney's representation of the client.

41 (12) The United States, any state or local government, or any  
 42 agency or instrumentality of any governmental entity, including



- 1 United States government sponsored enterprises.
- 2 (13) A person in whose name a tablefunded transaction is closed,
- 3 as described in section 301(34)(a) of this chapter. However, the
- 4 exemption provided by this subsection does not apply if:
- 5 (a) the transaction:
- 6 (i) is secured by a dwelling that is a mobile home, a
- 7 manufactured home, or a trailer; and
- 8 (ii) is not also secured by an interest in land; and
- 9 (b) the person in whose name the transaction is closed, as
- 10 described in section 301(34)(a) of this chapter, sells the
- 11 dwelling to the debtor through a retail installment contract or
- 12 other similar transaction.
- 13 (14) A bona fide nonprofit organization not operating in a
- 14 commercial context, as determined by the director, if the
- 15 following criteria are satisfied:
- 16 (a) Subject to clause (b), the organization originates only one
- 17 (1) or both of the following types of mortgage transactions:
- 18 (i) Zero (0) interest first lien mortgage transactions.
- 19 (ii) Zero (0) interest subordinate lien mortgage transactions.
- 20 (b) The organization does not require, under the terms of the
- 21 mortgage or otherwise, balloon payments with respect to the
- 22 mortgage transactions described in clause (a).
- 23 (c) The organization is exempt from federal income taxation
- 24 under Section 501(c)(3) of the Internal Revenue Code.
- 25 (d) The organization's primary purpose is to serve the public
- 26 by helping low income individuals and families build, repair,
- 27 and purchase housing.
- 28 (e) The organization uses only:
- 29 (i) unpaid volunteers; or
- 30 (ii) employees whose compensation is not based on the
- 31 number or size of any mortgage transactions that the
- 32 employees originate;
- 33 to originate the mortgage transactions described in clause (a).
- 34 (f) The organization does not charge loan origination fees in
- 35 connection with the mortgage transactions described in clause
- 36 (a).
- 37 (15) A bona fide nonprofit organization (as defined in section
- 38 301(37) of this chapter) if the following criteria are satisfied:
- 39 (a) For each calendar year that the organization seeks the
- 40 exemption provided by this subdivision, the organization
- 41 certifies, not later than December 31 of the preceding calendar
- 42 year and on a form prescribed by the director and accompanied



1 by such documentation as required by the director, that the  
 2 organization is a bona fide nonprofit organization (as defined  
 3 in section 301(37) of this chapter).

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

11 SECTION 2. IC 24-4.4-2-401, AS AMENDED BY P.L.89-2011,  
 12 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 13 JULY 1, 2014]: Sec. 401. (1) Unless a person subject to this article has  
 14 first obtained a license under this article from the department and  
 15 annually maintains the license, the person shall not engage in Indiana  
 16 as a creditor in first lien mortgage transactions. A separate license  
 17 under this article is required for each legal entity that engages in  
 18 Indiana as a creditor in first lien mortgage transactions. However, a  
 19 separate license under this article is not required for each branch of a  
 20 legal entity licensed under this article.

21 (2) Each:

22 (a) creditor licensed under this article; and

23 (b) entity exempt from licensing under this article that:

24 (i) employs; or

25 (ii) **retains and sponsors under an exclusive written**  
 26 **contract, as permitted by IC 24-4.4-1-202(b)(6)(a);**

27 a licensed mortgage loan originator;

28 shall register with and maintain a valid unique identifier issued by the  
 29 NMLSR. Each licensed mortgage loan originator must be employed by,  
 30 **or retained and sponsored under an exclusive written contract (as**  
 31 **permitted by IC 24-4.4-1-202(b)(6)(a)),** and associated with, a  
 32 licensed creditor, or an entity exempt from licensing under this article,  
 33 in the NMLSR in order to originate loans.

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

40 (4) Applicants for a license under this article must apply for the  
 41 license in the form prescribed by the director. Each form:

42 (a) must contain content as set forth by rule, instruction, or



- 1 procedure of the director; and  
 2 (b) may be changed or updated as necessary by the director to  
 3 carry out the purposes of this article.  
 4 (5) To fulfill the purposes of this article, the director may establish  
 5 relationships or contracts with the NMLSR or other entities designated  
 6 by the NMLSR to:  
 7 (a) collect and maintain records; and  
 8 (b) process transaction fees or other fees related to licensees or  
 9 other persons subject to this article.  
 10 (6) For the purpose of participating in the NMLSR, the director or  
 11 the department may:  
 12 (a) waive or modify, in whole or in part, by rule or order, any of  
 13 the requirements of this article; and  
 14 (b) establish new requirements as reasonably necessary to  
 15 participate in the NMLSR.  
 16 SECTION 3. IC 24-4.4-2-402.3, AS AMENDED BY P.L.216-2013,  
 17 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 18 JULY 1, 2014]: Sec. 402.3. (1) Each:  
 19 (a) creditor; and  
 20 (b) entity exempt from licensing under this article that:  
 21 (i) employs; or  
 22 (ii) **retains and sponsors under an exclusive written**  
 23 **contract, as permitted by IC 24-4.4-1-202(b)(6)(a);**  
 24 a licensed mortgage loan originator;  
 25 must be covered by a surety bond in accordance with this section.  
 26 (2) A surety bond must:  
 27 (a) provide coverage for:  
 28 (i) a creditor; or  
 29 (ii) a person exempt from licensing under this article that  
 30 employs, **or retains and sponsors under an exclusive**  
 31 **written contract (as permitted by IC 24-4.4-1-202(b)(6)(a)),**  
 32 a mortgage loan originator;  
 33 in an amount as prescribed in subsection (4);  
 34 (b) be in a form prescribed by the director;  
 35 (c) be in effect:  
 36 (i) during the term of the creditor's license under this chapter;  
 37 or  
 38 (ii) at any time during which the person exempt from licensing  
 39 under this article employs, **or retains and sponsors under an**  
 40 **exclusive written contract (as permitted by**  
 41 **IC 24-4.4-1-202(b)(6)(a)),** a licensed mortgage loan  
 42 originator;



- 1 as applicable;
- 2 (d) remain in effect during the two (2) years after:
- 3 (i) the creditor ceases offering financial services to individuals
- 4 in Indiana; or
- 5 (ii) the person exempt from licensing under this article ceases
- 6 to employ, **or ceases to retain and sponsor under an**
- 7 **exclusive written contract (as permitted by**
- 8 **IC 24-4.4-1-202(b)(6)(a))**, a licensed mortgage loan originator
- 9 or to offer financial services to individuals in Indiana,
- 10 whichever is later;
- 11 as applicable;
- 12 (e) be payable to the department for the benefit of:
- 13 (i) the state; and
- 14 (ii) individuals who reside in Indiana when they agree to
- 15 receive financial services from the creditor or the person
- 16 exempt from licensing under this article, as applicable;
- 17 (f) be issued by a bonding, surety, or insurance company
- 18 authorized to do business in Indiana and rated at least "A-" by at
- 19 least one (1) nationally recognized investment rating service; and
- 20 (g) have payment conditioned upon:
- 21 (i) the creditor's or any of the creditor's licensed mortgage loan
- 22 originators'; or
- 23 (ii) the exempt person's or any of the exempt person's licensed
- 24 mortgage loan originators';
- 25 noncompliance with or violation of this chapter, 750 IAC 9, or
- 26 other federal or state laws or regulations applicable to mortgage
- 27 lending.
- 28 (3) The director may adopt rules or guidance documents with
- 29 respect to the requirements for a surety bond as necessary to
- 30 accomplish the purposes of this article.
- 31 (4) The penal sum of the surety bond shall be maintained in an
- 32 amount that reflects the dollar amount of mortgage transactions
- 33 originated as determined by the director. If the principal amount of a
- 34 surety bond required under this section is reduced by payment of a
- 35 claim or judgment, the creditor or exempt person for whom the bond
- 36 is issued shall immediately notify the director of the reduction and, not
- 37 later than thirty (30) days after notice by the director, file a new or an
- 38 additional surety bond in an amount set by the director. The amount of
- 39 the new or additional bond set by the director must be at least the
- 40 amount of the bond before payment of the claim or judgment.
- 41 (5) If for any reason a surety terminates a bond issued under this
- 42 section, the creditor or the exempt person shall immediately notify the





1 department and file a new surety bond in an amount determined by the  
2 director.

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

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

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

12 SECTION 4. IC 24-4.4-2-405, AS AMENDED BY P.L.27-2012,  
13 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
14 JULY 1, 2014]: Sec. 405. (1) Every licensee shall maintain records in  
15 a manner that will enable the department to determine whether the  
16 licensee is complying with this article. The record keeping system of  
17 a licensee is sufficient if the licensee makes the required information  
18 reasonably available. The department shall determine the sufficiency  
19 of the records and whether the licensee has made the required  
20 information reasonably available. The department shall be given free  
21 access to the records wherever the records are located. Records  
22 concerning any first lien mortgage transaction shall be retained for two  
23 (2) years after the making of the final entry relating to the transaction,  
24 but in the case of a revolving first lien mortgage transaction, the two (2)  
25 years required under this subsection is measured from the date of each  
26 entry relating to the transaction. **A depository institution that  
27 voluntarily registers with the department under  
28 IC 24-4.4-1-202(b)(6)(a) for the purpose of retaining and  
29 sponsoring, under an exclusive written contract, licensed mortgage  
30 loan originators shall:**

31 **(a) cooperate with the department; and**

32 **(b) provide access to records and documents;**

33 **as required by the department in carrying out examinations of the**  
34 **activities of the licensed loan originators retained and sponsored by**  
35 **the depository institution.**

36 (2) The unique identifier of any person originating a mortgage  
37 transaction must be clearly shown on all mortgage transaction  
38 application forms and any other documents as required by the director.

39 (3) Every licensee shall use automated examination and regulatory  
40 software designated by the director, including third party software. Use  
41 of the software consistent with guidance and policies issued by the  
42 director is not a violation of IC 28-1-2-30.



- 1 (4) Each:  
 2 (a) creditor licensed by the department under this article; and  
 3 (b) entity that is exempt from licensing under this article and that:  
 4 (i) employs; or  
 5 (ii) **retains and sponsors under an exclusive written**  
 6 **contract, as permitted by IC 24-4.4-1-202(b)(6)(a);**  
 7 one (1) or more licensed mortgage originators;  
 8 shall submit to the NMLSR reports of condition, which must be in a  
 9 form and must contain information as required by the NMLSR.
- 10 (5) Each:  
 11 (a) creditor licensed by the department under this article; and  
 12 (b) entity exempt from licensing under this article that:  
 13 (i) employs; or  
 14 (ii) **retains and sponsors under an exclusive written**  
 15 **contract, as permitted by IC 24-4.4-1-202(b)(6)(a);**  
 16 **one (1) or more** licensed mortgage loan originators;  
 17 shall file with the department additional financial statements relating  
 18 to all first lien mortgage transactions originated by the licensed creditor  
 19 or the exempt entity as required by the department, but not more  
 20 frequently than annually, in the form prescribed by the department.
- 21 (6) A licensed creditor shall file notification with the department if  
 22 the licensee:  
 23 (a) has a change in name, address, or any of its principals;  
 24 (b) opens a new branch, closes an existing branch, or relocates an  
 25 existing branch;  
 26 (c) files for bankruptcy or reorganization; or  
 27 (d) is subject to revocation or suspension proceedings by a state  
 28 or governmental authority with regard to the licensed creditor's  
 29 activities;  
 30 not later than thirty (30) days after the date of the event described in  
 31 this subsection.
- 32 (7) A licensee shall file notification with the department if the  
 33 licensee or any director, executive officer, or manager of the licensee  
 34 has been convicted of a felony under the laws of Indiana or any other  
 35 jurisdiction. The licensee shall file the notification required by this  
 36 subsection not later than thirty (30) days after the date of the event  
 37 described in this subsection.
- 38 (8) A licensee shall file notification with the department if the  
 39 licensee or any director, executive officer, or manager of the licensee  
 40 has had the person's authority to do business in the securities,  
 41 commodities, banking, financial services, insurance, real estate, or real  
 42 estate appraisal industry revoked or suspended by Indiana or by any



1 other state, federal, or foreign governmental agency or self regulatory  
 2 organization. The licensee shall file the notification required by this  
 3 subsection not later than thirty (30) days after the date of the event  
 4 described in this subsection.

5 SECTION 5. IC 24-4.5-3-502.1, AS ADDED BY P.L.35-2010,  
 6 SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 7 JULY 1, 2014]: Sec. 502.1. (1) Unless a person:

- 8 (a) is a depository institution;  
 9 (b) is a subsidiary that is owned and controlled by a depository  
 10 institution and regulated by a federal banking agency;  
 11 (c) is an institution regulated by the Farm Credit Administration;  
 12 or  
 13 (d) has first obtained, and subsequently retains, a license from the  
 14 department under this article;

15 the person shall not regularly engage in Indiana as a creditor in  
 16 subordinate lien mortgage transactions, take assignments in Indiana of  
 17 subordinate lien mortgage transactions, or undertake in the direct  
 18 collection of payments from or enforcement of rights against debtors  
 19 in Indiana arising from subordinate lien mortgage transactions.

20 (2) Each:

- 21 (a) creditor licensed by the department under this article; and  
 22 (b) entity **that is** exempt from licensing under this article **or**  
 23 **under IC 24-4.4-1-202(b)(6)(a) and that:**

24 (i) employs; or

25 (ii) **retains and sponsors under an exclusive written**  
 26 **contract, as permitted by IC 24-4.4-1-202(b)(6)(a);**

27 a licensed mortgage loan originator;

28 shall register with and maintain a valid unique identifier issued by the  
 29 NMLSR. Each licensed mortgage loan originator must be employed by,  
 30 **or retained and sponsored under an exclusive written contract (as**  
 31 **permitted by IC 24-4.4-1-202(b)(6)(a)),** and associated with, a  
 32 licensed creditor or an exempt entity described under subdivision (b)  
 33 in the NMLSR in order to originate loans.

34 (3) Applicants for a license must apply for a license under this  
 35 chapter in a form prescribed by the director. Each form:

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

40 (4) To fulfill the purposes of this article, the director may establish  
 41 relationships or contracts with the NMLSR or other entities designated  
 42 by the NMLSR to:



- 1 (a) collect and maintain records; and  
 2 (b) process transaction fees or other fees;  
 3 related to licensees or other persons subject to this article.  
 4 (5) For the purpose of participating in the NMLSR, the director or  
 5 the department may:  
 6 (a) waive or modify, in whole or in part, by rule, regulation, or  
 7 order, any or all of the requirements of this article; and  
 8 (b) establish new requirements as reasonably necessary to  
 9 participate in the NMLSR.  
 10 SECTION 6. IC 24-4.5-3-503.3, AS AMENDED BY P.L.216-2013,  
 11 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 12 JULY 1, 2014]: Sec. 503.3. (1) Each:  
 13 (a) creditor licensed by the department under this article; and  
 14 (b) person **that is exempt from licensing under this article or**  
 15 **under IC 24-4.4-1-202(b)(6)(a) and that:**  
 16 (i) employs; or  
 17 (ii) **retains and sponsors under an exclusive written**  
 18 **contract, as permitted by IC 24-4.4-1-202(b)(6)(a);**  
 19 a licensed mortgage loan originator;  
 20 must be covered by a surety bond in accordance with this section.  
 21 (2) A surety bond must:  
 22 (a) provide coverage for:  
 23 (i) a creditor described in subsection (1)(a); and  
 24 (ii) an exempt person described in subsection (1)(b);  
 25 in an amount as prescribed in subsection (4);  
 26 (b) be in a form as prescribed by the director;  
 27 (c) be in effect:  
 28 (i) during the term of the creditor's license under this chapter;  
 29 or  
 30 (ii) at any time during which the person exempt from licensing  
 31 under this article employs, **or retains and sponsors under an**  
 32 **exclusive written contract (as permitted by**  
 33 **IC 24-4.4-1-202(b)(6)(a)),** a licensed mortgage loan  
 34 originator;  
 35 as applicable;  
 36 (d) remain in effect during the two (2) years after:  
 37 (i) the creditor ceases offering financial services to individuals  
 38 in Indiana; or  
 39 (ii) the person exempt from licensing under this article **or**  
 40 **under IC 24-4.4-1-202(b)(6)(a) ceases to employ, or ceases**  
 41 **to retain and sponsor under an exclusive written contract**  
 42 **(as permitted by IC 24-4.4-1-202(b)(6)(a)),** a licensed



- 1 mortgage loan originator or to offer financial services to  
 2 individuals in Indiana, whichever is later;  
 3 as applicable;
- 4 (e) be payable to the department for the benefit of:  
 5 (i) the state; and  
 6 (ii) individuals who reside in Indiana when they agree to  
 7 receive financial services from the creditor or the person  
 8 exempt from licensing under this article **or under**  
 9 **IC 24-4.4-1-202(b)(6)(a)**, as applicable;
- 10 (f) be issued by a bonding, surety, or insurance company  
 11 authorized to do business in Indiana and rated at least "A-" by at  
 12 least one (1) nationally recognized investment rating service; and
- 13 (g) have payment conditioned upon:  
 14 (i) the creditor's or any of the creditor's licensed mortgage loan  
 15 originators'; or  
 16 (ii) the exempt person's or any of the exempt person's licensed  
 17 mortgage loan originators';  
 18 noncompliance with or violation of this chapter, 750 IAC 9, or  
 19 other federal or state laws or regulations applicable to mortgage  
 20 lending.
- 21 (3) The director may adopt rules or guidance documents with  
 22 respect to the requirements for surety bonds as necessary to accomplish  
 23 the purposes of this article.
- 24 (4) The penal sum of the surety bond shall be maintained in an  
 25 amount that reflects the dollar amount of mortgage transactions  
 26 originated as determined by the director. If the principal amount of a  
 27 surety bond required under this section is reduced by payment of a  
 28 claim or judgment, the creditor or exempt person for whom the bond  
 29 is issued shall immediately notify the director of the reduction and, not  
 30 later than thirty (30) days after notice by the director, file a new or an  
 31 additional surety bond in an amount set by the director. The amount of  
 32 the new or additional bond set by the director must be at least the  
 33 amount of the bond before payment of the claim or judgment.
- 34 (5) If for any reason a surety terminates a bond issued under this  
 35 section, the creditor or the exempt person shall immediately notify the  
 36 department and file a new surety bond in an amount determined by the  
 37 director.
- 38 (6) Cancellation of a surety bond issued under this section does not  
 39 affect any liability incurred or accrued during the period when the  
 40 surety bond was in effect.
- 41 (7) The director may obtain satisfaction from a surety bond issued  
 42 under this section if the director incurs expenses, issues a final order,



1 or recovers a final judgment under this chapter.

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

5 SECTION 7. IC 24-4.5-3-505, AS AMENDED BY P.L.27-2012,  
6 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
7 JULY 1, 2014]: Sec. 505. (1) Every creditor required to be licensed  
8 under this article shall maintain records in conformity with generally  
9 accepted accounting principles and practices in a manner that will  
10 enable the department to determine whether the licensee is complying  
11 with the provisions of this article. The record keeping system of a  
12 licensee shall be sufficient if the licensee makes the required  
13 information reasonably available. The department shall determine the  
14 sufficiency of the records and whether the licensee has made the  
15 required information reasonably available. The department shall be  
16 given free access to the records wherever located. The records  
17 pertaining to any loan shall be retained for two (2) years after making  
18 the final entry relating to the loan, but in the case of a revolving loan  
19 account the two (2) years is measured from the date of each entry. A  
20 person licensed or required to be licensed under this chapter is subject  
21 to IC 28-1-2-30.5 with respect to any records maintained by the person.  
22 **A person that is exempt from licensing under this article or under**  
23 **IC 24-4.4-1-202(b)(6)(a) and that retains and sponsors one (1) or**  
24 **more licensed mortgage loan originators under an exclusive**  
25 **written contract, as permitted by IC 24-4.4-1-202(b)(6)(a), shall:**

26 (a) cooperate with the department; and

27 (b) provide access to records and documents;

28 **as required by the department in carrying out examinations of the**  
29 **activities of the licensed loan originators retained and sponsored by**  
30 **the depository institution.**

31 (2) The unique identifier of any person originating a mortgage  
32 transaction must be clearly shown on all mortgage transaction  
33 application forms and any other documents as required by the director.

34 (3) Every licensee that engages in mortgage transactions shall use  
35 automated examination and regulatory software designated by the  
36 director, including third party software. Use of the software consistent  
37 with guidance documents and policies issued by the director is not a  
38 violation of IC 28-1-2-30.

39 (4) Each:

40 (a) creditor that is licensed by the department under this article  
41 and that engages in mortgage transactions; and

42 (b) entity that is exempt from licensing under this article **or under**



1           **IC 24-4.4-1-202(b)(6)(a)** and that:

2           **(i)** employs; or

3           **(ii) retains and sponsors under an exclusive written**  
 4           **contract, as permitted by IC 24-4.4-1-202(b)(6)(a);**

5           one (1) or more licensed mortgage loan originators;

6 shall submit to the NMLSR a call report, which must be in the form  
 7 and contain information the NMLSR requires.

8           (5) Every creditor required to be licensed under this article shall file  
 9 with the department a composite report as required by the department,  
 10 but not more frequently than annually, in the form prescribed by the  
 11 department relating to all consumer loans made by the licensee. The  
 12 department shall consult with comparable officials in other states for  
 13 the purpose of making the kinds of information required in the reports  
 14 uniform among the states. Information contained in the reports shall be  
 15 confidential and may be published only in composite form. The  
 16 department may impose a fee in an amount fixed by the department  
 17 under IC 28-11-3-5 for each day that a creditor fails to file the report  
 18 required by this subsection.

19           (6) A creditor required to be licensed under this article shall file  
 20 notification with the department if the licensee:

21           (a) has a change in name, address, or principals;

22           (b) opens a new branch, closes an existing branch, or relocates an  
 23 existing branch;

24           (c) files for bankruptcy or reorganization; or

25           (d) is subject to revocation or suspension proceedings by a state  
 26 or governmental authority with regard to the licensee's activities;  
 27 not later than thirty (30) days after the date of the event described in  
 28 this subsection.

29           (7) Every licensee shall file notification with the department if the  
 30 licensee or any director, executive officer, or manager of the licensee  
 31 has been convicted of a felony under the laws of Indiana or any other  
 32 jurisdiction. The licensee shall file the notification required by this  
 33 subsection not later than thirty (30) days after the date of the event  
 34 described in this subsection.

