



January 31, 2014

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## SENATE BILL No. 334

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DIGEST OF SB 334 (Updated January 30, 2014 10:10 am - DI 101)

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

**Synopsis:** Mortgage lending. Provides that a federal savings bank 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 sponsoring, under an exclusive written agreement, licensed mortgage loan originators if the federal savings bank does the following: (1) Assumes responsibility for and reasonably supervises the activities of the licensed mortgage 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 mortgage loan originators. (4) Agrees to comply as the director of the department determines necessary to ensure that the activities of the licensed mortgage loan originators comply with specified federal law and with Indiana law. Makes conforming amendments to similar provisions in the Uniform Consumer Credit Code concerning the licensing of creditors in subordinate lien mortgage transactions. Specifies that for purposes of subordinate lien mortgage transactions, a sponsored licensed mortgage loan originator acts as an independent agent under the agreement with the sponsoring federal savings bank.

**Effective:** July 1, 2014.

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## Walker

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January 14, 2014, read first time and referred to Committee on Financial Institutions.  
January 30, 2014, amended, reported favorably — Do Pass.

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SB 334—LS 6661/DI 101





January 31, 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.

## SENATE BILL No. 334

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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

SB 334—LS 6661/DI 101



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 federal savings bank**  
28 **may voluntarily register with the department for the**  
29 **purpose of sponsoring, under an exclusive written**  
30 **agreement, individuals who are licensed as mortgage loan**  
31 **originators under this article and 750 IAC 9-3, who**  
32 **perform mortgage loan origination activities under the**  
33 **federal savings bank's direct supervision and control, and**  
34 **who hold a current, valid insurance producer license under**  
35 **IC 27-1-15.6, if the federal savings bank does the following:**

36 (i) Assumes responsibility for and reasonably supervises  
37 the activities of all licensed mortgage loan originators  
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 mortgage loan originators sponsored by**  
 8 **the federal savings bank under this clause, as described**  
 9 **in IC 24-4.4-2-405(1).**

10 **(iv) Agrees to comply with all law, rules, directives, and**  
 11 **orders in connection with the activities of the licensed**  
 12 **mortgage loan originators sponsored by the federal**  
 13 **savings bank, as the director determines necessary to**  
 14 **ensure compliance with the federal Secure and Fair**  
 15 **Enforcement for Mortgage Licensing Act of 2008 (12**  
 16 **U.S.C. 5101 et seq.) and with Indiana law.**

17 (b) Subsidiaries that are:

- 18 (i) owned and controlled by a depository institution; and  
 19 (ii) regulated by a federal banking agency. ~~or~~

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

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

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

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

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

39 (11) Unless the attorney is compensated by:

- 40 (a) a lender;  
 41 (b) a mortgage broker;  
 42 (c) another mortgage loan originator; or



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

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

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

12 (a) the transaction:

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

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

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

20 (14) A bona fide nonprofit organization not operating in a  
 21 commercial context, as determined by the director, if the  
 22 following criteria are satisfied:

23 (a) Subject to clause (b), the organization originates only one

24 (1) or both of the following types of mortgage transactions:

25 (i) Zero (0) interest first lien mortgage transactions.

26 (ii) Zero (0) interest subordinate lien mortgage transactions.

27 (b) The organization does not require, under the terms of the  
 28 mortgage or otherwise, balloon payments with respect to the  
 29 mortgage transactions described in clause (a).

30 (c) The organization is exempt from federal income taxation  
 31 under Section 501(c)(3) of the Internal Revenue Code.

32 (d) The organization's primary purpose is to serve the public  
 33 by helping low income individuals and families build, repair,  
 34 and purchase housing.

35 (e) The organization uses only:

36 (i) unpaid volunteers; or

37 (ii) employees whose compensation is not based on the  
 38 number or size of any mortgage transactions that the  
 39 employees originate;

40 to originate the mortgage transactions described in clause (a).

41 (f) The organization does not charge loan origination fees in  
 42 connection with the mortgage transactions described in clause



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(a).  
(15) A bona fide nonprofit organization (as defined in section 301(37) of this chapter) if the following criteria are satisfied:

(a) For each calendar year that the organization seeks the exemption provided by this subdivision, the organization certifies, not later than December 31 of the preceding calendar year and on a form prescribed by the director and accompanied by such documentation as required by the director, that the organization is a bona fide nonprofit organization (as defined in section 301(37) of this chapter).

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

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

(2) Each:

- (a) creditor licensed under this article; and
- (b) entity exempt from licensing under this article that:
  - (i) employs; or
  - (ii) **sponsors under an exclusive written agreement, as permitted by IC 24-4.4-1-202(b)(6)(a);**  
a licensed mortgage loan originator;

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

(3) An individual engaging solely in loan processor or underwriter activities shall not represent to the public, through advertising or other



1 means of communicating or providing information, including the use  
 2 of business cards, stationery, brochures, signs, rate lists, or other  
 3 promotional items, that the individual can or will perform any of the  
 4 activities of a mortgage loan originator.

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

7 (a) must contain content as set forth by rule, instruction, or  
 8 procedure of the director; and

9 (b) may be changed or updated as necessary by the director to  
 10 carry out the purposes of this article.

11 (5) To fulfill the purposes of this article, the director may establish  
 12 relationships or contracts with the NMLSR or other entities designated  
 13 by the NMLSR to:

14 (a) collect and maintain records; and

15 (b) process transaction fees or other fees related to licensees or  
 16 other persons subject to this article.

17 (6) For the purpose of participating in the NMLSR, the director or  
 18 the department may:

19 (a) waive or modify, in whole or in part, by rule or order, any of  
 20 the requirements of this article; and

21 (b) establish new requirements as reasonably necessary to  
 22 participate in the NMLSR.

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

26 (a) creditor; and

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

28 (i) employs; or

29 (ii) **sponsors under an exclusive written agreement, as  
 30 permitted by IC 24-4.4-1-202(b)(6)(a);**

31 a licensed mortgage loan originator;

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

33 (2) A surety bond must:

34 (a) provide coverage for:

35 (i) a creditor; or

36 (ii) a person exempt from licensing under this article that  
 37 employs, or **sponsors under an exclusive written agreement**

38 **(as permitted by IC 24-4.4-1-202(b)(6)(a)),** a mortgage loan  
 39 originator;

40 in an amount as prescribed in subsection (4);

41 (b) be in a form prescribed by the director;

42 (c) be in effect:





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



1 later than thirty (30) days after notice by the director, file a new or an  
 2 additional surety bond in an amount set by the director. The amount of  
 3 the new or additional bond set by the director must be at least the  
 4 amount of the bond before payment of the claim or judgment.

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

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

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

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

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

37 (a) cooperate with the department; and  
 38 (b) provide access to records and documents;  
 39 as required by the department in carrying out examinations of the  
 40 activities of the licensed mortgage loan originators sponsored by  
 41 the federal savings bank.

42 (2) The unique identifier of any person originating a mortgage



1 transaction must be clearly shown on all mortgage transaction  
2 application forms and any other documents as required by the director.

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

7 (4) Each:

8 (a) creditor licensed by the department under this article; and

9 (b) entity that is exempt from licensing under this article and that:

10 (i) employs; or

11 (ii) **sponsors under an exclusive written agreement, as**  
12 **permitted by IC 24-4.4-1-202(b)(6)(a);**

13 one (1) or more licensed mortgage originators;

14 shall submit to the NMLSR reports of condition, which must be in a  
15 form and must contain information as required by the NMLSR.

16 (5) Each:

17 (a) creditor licensed by the department under this article; and

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

19 (i) employs; or

20 (ii) **sponsors under an exclusive written agreement, as**  
21 **permitted by IC 24-4.4-1-202(b)(6)(a);**

22 **one (1) or more** licensed mortgage loan originators;

23 shall file with the department additional financial statements relating  
24 to all first lien mortgage transactions originated by the licensed creditor  
25 or the exempt entity as required by the department, but not more  
26 frequently than annually, in the form prescribed by the department.

27 (6) A licensed creditor shall file notification with the department if  
28 the licensee:

29 (a) has a change in name, address, or any of its principals;

30 (b) opens a new branch, closes an existing branch, or relocates an  
31 existing branch;

32 (c) files for bankruptcy or reorganization; or

33 (d) is subject to revocation or suspension proceedings by a state  
34 or governmental authority with regard to the licensed creditor's  
35 activities;

36 not later than thirty (30) days after the date of the event described in  
37 this subsection.

38 (7) A licensee shall file notification with the department if the  
39 licensee or any director, executive officer, or manager of the licensee  
40 has been convicted of a felony under the laws of Indiana or any other  
41 jurisdiction. The licensee shall file the notification required by this  
42 subsection not later than thirty (30) days after the date of the event



1 described in this subsection.  
 2 (8) A licensee shall file notification with the department if the  
 3 licensee or any director, executive officer, or manager of the licensee  
 4 has had the person's authority to do business in the securities,  
 5 commodities, banking, financial services, insurance, real estate, or real  
 6 estate appraisal industry revoked or suspended by Indiana or by any  
 7 other state, federal, or foreign governmental agency or self regulatory  
 8 organization. The licensee shall file the notification required by this  
 9 subsection not later than thirty (30) days after the date of the event  
 10 described in this subsection.  
 11 SECTION 5. IC 24-4.5-3-502.1, AS ADDED BY P.L.35-2010,  
 12 SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 13 JULY 1, 2014]: Sec. 502.1. (1) Unless a person:  
 14 (a) is a depository institution;  
 15 (b) is a subsidiary that is owned and controlled by a depository  
 16 institution and regulated by a federal banking agency;  
 17 (c) is an institution regulated by the Farm Credit Administration;  
 18 or  
 19 (d) has first obtained, and subsequently retains, a license from the  
 20 department under this article;  
 21 the person shall not regularly engage in Indiana as a creditor in  
 22 subordinate lien mortgage transactions, take assignments in Indiana of  
 23 subordinate lien mortgage transactions, or undertake in the direct  
 24 collection of payments from or enforcement of rights against debtors  
 25 in Indiana arising from subordinate lien mortgage transactions.  
 26 (2) Each:  
 27 (a) creditor licensed by the department under this article; and  
 28 (b) entity **that is exempt from licensing under this article or**  
 29 **under IC 24-4.4-1-202(b)(6)(a) and that:**  
 30 **(i) employs a licensed mortgage loan originator; or**  
 31 **(ii) sponsors under an exclusive written agreement, as**  
 32 **permitted by IC 24-4.4-1-202(b)(6)(a), a licensed mortgage**  
 33 **loan originator as an independent agent;**  
 34 shall register with and maintain a valid unique identifier issued by the  
 35 NMLSR. Each licensed mortgage loan originator must be employed by,  
 36 **or sponsored under an exclusive written agreement (as permitted**  
 37 **by IC 24-4.4-1-202(b)(6)(a) and as an independent agent,** and  
 38 associated with, a licensed creditor or an exempt entity described under  
 39 subdivision (b) in the NMLSR in order to originate loans.  
 40 (3) Applicants for a license must apply for a license under this  
 41 chapter in a 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 (4) 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;  
 9 related to licensees or other persons subject to this article.  
 10 (5) 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, regulation, or  
 13 order, any or all of the requirements of this article; and  
 14 (b) establish new requirements as reasonably necessary to  
 15 participate in the NMLSR.  
 16 SECTION 6. IC 24-4.5-3-503.3, AS AMENDED BY P.L.216-2013,  
 17 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 18 JULY 1, 2014]: Sec. 503.3. (1) Each:  
 19 (a) creditor licensed by the department under this article; and  
 20 (b) person **that is** exempt from licensing under this article **or**  
 21 **under IC 24-4.4-1-202(b)(6)(a) and that:**  
 22 **(i) employs a licensed mortgage loan originator; or**  
 23 **(ii) sponsors under an exclusive written agreement, as**  
 24 **permitted by IC 24-4.4-1-202(b)(6)(a), a licensed mortgage**  
 25 **loan originator as an independent agent;**  
 26 must be covered by a surety bond in accordance with this section.  
 27 (2) A surety bond must:  
 28 (a) provide coverage for:  
 29 (i) a creditor described in subsection (1)(a); and  
 30 (ii) an exempt person described in subsection (1)(b);  
 31 in an amount as prescribed in subsection (4);  
 32 (b) be in a form as prescribed by the director;  
 33 (c) be in effect:  
 34 (i) during the term of the creditor's license under this chapter;  
 35 or  
 36 (ii) at any time during which the person exempt from licensing  
 37 under this article employs **a licensed mortgage loan**  
 38 **originator, or sponsors under an exclusive written**  
 39 **agreement (as permitted by IC 24-4.4-1-202(b)(6)(a)) a**  
 40 **licensed mortgage loan originator as an independent agent;**  
 41 as applicable;  
 42 (d) remain in effect during the two (2) years after:



- 1 (i) the creditor ceases offering financial services to individuals  
 2 in Indiana; or  
 3 (ii) the person exempt from licensing under this article **or**  
 4 **under IC 24-4.4-1-202(b)(6)(a)** ceases to employ a **licensed**  
 5 **mortgage loan originator, or ceases to sponsor under an**  
 6 **exclusive written agreement (as permitted by**  
 7 **IC 24-4.4-1-202(b)(6)(a))** a licensed mortgage loan originator  
 8 **as an independent agent,** or to offer financial services to  
 9 individuals in Indiana, whichever is later;  
 10 as applicable;  
 11 (e) be payable to the department for the benefit of:  
 12 (i) the state; and  
 13 (ii) individuals who reside in Indiana when they agree to  
 14 receive financial services from the creditor or the person  
 15 exempt from licensing under this article **or under**  
 16 **IC 24-4.4-1-202(b)(6)(a)**, 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 surety bonds as necessary to accomplish  
 30 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 7. IC 24-4.5-3-505, AS AMENDED BY P.L.27-2012,  
13 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
14 JULY 1, 2014]: Sec. 505. (1) Every creditor required to be licensed  
15 under this article shall maintain records in conformity with generally  
16 accepted accounting principles and practices in a manner that will  
17 enable the department to determine whether the licensee is complying  
18 with the provisions of this article. The record keeping system of a  
19 licensee shall be sufficient if the licensee makes the required  
20 information reasonably available. The department shall determine the  
21 sufficiency of the records and whether the licensee has made the  
22 required information reasonably available. The department shall be  
23 given free access to the records wherever located. The records  
24 pertaining to any loan shall be retained for two (2) years after making  
25 the final entry relating to the loan, but in the case of a revolving loan  
26 account the two (2) years is measured from the date of each entry. A  
27 person licensed or required to be licensed under this chapter is subject  
28 to IC 28-1-2-30.5 with respect to any records maintained by the person.  
29 **A person that is exempt from licensing under this article or under**  
30 **IC 24-4.4-1-202(b)(6)(a) and that sponsors one (1) or more licensed**  
31 **mortgage loan originators as independent agents under an**  
32 **exclusive written agreement, as permitted by**  
33 **IC 24-4.4-1-202(b)(6)(a), shall:**

34 (a) cooperate with the department; and

35 (b) provide access to records and documents;

36 **as required by the department in carrying out examinations of the**  
37 **activities of the licensed mortgage loan originators sponsored by**  
38 **the federal savings bank.**

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

42 (3) Every licensee that engages in mortgage transactions shall use



1 automated examination and regulatory software designated by the  
 2 director, including third party software. Use of the software consistent  
 3 with guidance documents and policies issued by the director is not a  
 4 violation of IC 28-1-2-30.

5 (4) Each:

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

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

10 (i) employs **one (1) or more licensed mortgage loan**  
 11 **originators; or**

12 (ii) **sponsors under an exclusive written agreement, as**  
 13 **permitted by IC 24-4.4-1-202(b)(6)(a), one (1) or more**  
 14 **licensed mortgage loan originators as independent agents;**

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

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

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

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

31 (b) opens a new branch, closes an existing branch, or relocates an  
 32 existing branch;

33 (c) files for bankruptcy or reorganization; or

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

38 (7) Every licensee shall file notification with the department if the  
 39 licensee or any director, executive officer, or manager of the licensee  
 40 has been convicted of a felony under the laws of Indiana or any other  
 41 jurisdiction. The licensee shall file the notification required by this  
 42 subsection not later than thirty (30) days after the date of the event





1 described in this subsection.



## COMMITTEE REPORT

Madam President: The Senate Committee on Financial Institutions, to which was referred Senate Bill No. 334, 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 2, line 27, after "However, a" delete "depository" and insert "**federal savings bank**".

Page 2, line 28, delete "institution".

Page 2, line 29, delete "retaining and".

Page 2, line 30, delete "contract," and insert "**agreement**".

Page 2, line 32, delete "and".

Page 2, line 33, delete "depository institution's" and insert "**federal savings bank's**".

Page 2, line 34, after "control," insert "**and who hold a current, valid insurance producer license under IC 27-1-15.6**".

Page 2, line 34, delete "depository institution" and insert "**federal savings bank**".

Page 2, line 37, after "licensed" insert "**mortgage**".

Page 2, line 37, delete "retained and".

Page 3, line 7, after "licensed" insert "**mortgage**".

Page 3, line 7, delete "retained and".

Page 3, line 8, delete "depository institution" and insert "**federal savings bank**".

Page 3, between lines 9 and 10, begin a new line triple block indented and insert:

**"(iv) Agrees to comply with all law, rules, directives, and orders in connection with the activities of the licensed mortgage loan originators sponsored by the federal savings bank, as the director determines necessary to ensure compliance with the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (12 U.S.C. 5101 et seq.) and with Indiana law."**

Page 5, line 25, delete "retains and".

Page 5, line 26, delete "contract," and insert "**agreement**".

Page 5, line 30, delete "retained and".

Page 5, line 30, delete "contract" and insert "**agreement**".

Page 6, line 22, delete "retains and".

Page 6, line 23, delete "contract," and insert "**agreement**".

Page 6, line 30, delete "retains and".

Page 6, line 31, delete "contract" and insert "**agreement**".

Page 6, line 39, delete "retains and".



- Page 6, line 40, delete "contract" and insert "**agreement**".
- Page 7, line 6, delete "retain and".
- Page 7, line 7, delete "contract" and insert "**agreement**".
- Page 8, line 26, delete "depository institution" and insert "**federal savings bank**".
- Page 8, line 28, delete "retaining and".
- Page 8, line 29, delete "contract," and insert "**agreement,**".
- Page 8, line 34, delete "loan originators retained and" and insert "**mortgage loan originators**".
- Page 8, line 35, delete "depository institution." and insert "**federal savings bank.**".
- Page 9, line 5, delete "retains and".
- Page 9, line 6, delete "contract," and insert "**agreement,**".
- Page 9, line 14, delete "retains and".
- Page 9, line 15, delete "contract," and insert "**agreement,**".
- Page 10, line 24, delete ";" and insert "**a licensed mortgage loan originator;**".
- Page 10, line 25, delete "retains and".
- Page 10, line 26, delete "contract," and insert "**agreement,**".
- Page 10, line 26, delete ";" and insert ",".
- Page 10, line 27, delete ";" and insert "**as an independent agent;**".
- Page 10, run in lines 26 through 27.
- Page 10, line 30, delete "retained and".
- Page 10, line 30, delete "contract" and insert "**agreement**".
- Page 10, line 31, delete "IC 24-4.4-1-202(b)(6)(a)," and insert "**IC 24-4.4-1-202(b)(6)(a) and as an independent agent,**".
- Page 11, line 16, delete ";" and insert "**a licensed mortgage loan originator;**".
- Page 11, line 17, delete "retains and".
- Page 11, line 18, delete "contract," and insert "**agreement,**".
- Page 11, line 18, delete ";" and insert ",".
- Page 11, line 19, delete ";" and insert "**as an independent agent;**".
- Page 11, run in lines 18 through 19.
- Page 11, line 31, delete ", or retains and" and insert "**a licensed mortgage loan originator, or**".
- Page 11, line 32, delete "contract" and insert "**agreement**".
- Page 11, line 33, delete ",".
- Page 11, line 34, delete ";" and insert "**as an independent agent;**".
- Page 11, line 40, delete "," and insert "**a licensed mortgage loan originator,**".
- Page 11, line 41, delete "retain and".
- Page 11, line 41, delete "contract" and insert "**agreement**".



Page 11, line 42, delete ",".

Page 12, line 1, after "originator" insert "**as an independent agent**".

Page 13, line 23, delete "retains and".

Page 13, line 24, after "originators" insert "**as independent agents**".

Page 13, line 25, delete "contract," and insert "**agreement**".

Page 13, line 29, after "licensed" insert "mortgage".

Page 13, line 29, delete "retained and".

Page 13, line 30, delete "depository institution." and insert "**federal savings bank**".

Page 14, line 2, delete ";" and insert "**one (1) or more licensed mortgage loan originators**";".

Page 14, line 3, delete "**retains and**".

Page 14, line 4, delete "contract," and insert "**agreement**".

Page 14, line 4, delete ";" and insert ",".

Page 14, line 5, delete ";" and insert "**as independent agents**";".

Page 14, run in lines 4 through 5.

and when so amended that said bill do pass.

(Reference is to SB 334 as introduced.)

HOLDMAN, Chairperson

Committee Vote: Yeas 7, Nays 0.

