



Reprinted
February 4, 2014

SENATE BILL No. 334

DIGEST OF SB 334 (Updated February 3, 2014 3:46 pm - 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 as independent agents 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 to examine 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.

Effective: July 1, 2014.

Walker

January 14, 2014, read first time and referred to Committee on Financial Institutions.
January 30, 2014, amended, reported favorably — Do Pass.
February 3, 2014, read second time, amended, ordered engrossed.

SB 334—LS 6661/DI 101



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February 4, 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

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

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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 as**
33 **independent agents under the federal savings bank's direct**
34 **supervision and control, and who hold a current, valid**
35 **insurance producer license under IC 27-1-15.6, if the**
36 **federal savings bank does the following:**

37 (i) **Assumes responsibility for and reasonably supervises**
38 **the activities of all licensed mortgage loan originators**
39 **sponsored by the federal savings bank under this clause.**

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



- 1 **IC 24-4.4-2-402.3, submits to the NMLSR reports of**
 2 **condition in accordance with IC 24-4.4-2-405(4) (subject**
 3 **to IC 24-4.4-2-402.4), and files financial statements with**
 4 **the department in accordance with IC 24-4.4-2-405(5).**
 5 **(iii) Cooperates with the department, and provides**
 6 **access to records and documents, as required by the**
 7 **department in carrying out examinations of the activities**
 8 **of the licensed mortgage loan originators sponsored by**
 9 **the federal savings bank under this clause, as described**
 10 **in IC 24-4.4-2-405(1).**
 11 **(iv) Agrees to comply with all law, rules, directives, and**
 12 **orders in connection with the activities of the licensed**
 13 **mortgage loan originators sponsored by the federal**
 14 **savings bank, as the director determines necessary to**
 15 **ensure compliance with the federal Secure and Fair**
 16 **Enforcement for Mortgage Licensing Act of 2008 (12**
 17 **U.S.C. 5101 et seq.) and with Indiana law.**
 18 (b) Subsidiaries that are:
 19 (i) owned and controlled by a depository institution; and
 20 (ii) regulated by a federal banking agency. **or**
 21 (c) An institution regulated by the Farm Credit Administration.
 22 (7) Except for IC 24-4.4-2-401(2), IC 24-4.4-2-402.3,
 23 IC 24-4.4-2-405(4), and IC 24-4.4-2-405(5), a credit union service
 24 organization that is majority owned, directly or indirectly, by one
 25 (1) or more credit unions.
 26 (8) A first lien mortgage transaction originated by a registered
 27 mortgage loan originator, when acting for an entity described in
 28 subsection (6). However, a privately insured state chartered credit
 29 union shall comply with the system of mortgage loan originator
 30 registration developed by the Federal Financial Institutions
 31 Examinations Council under Section 1507 of the federal Secure
 32 and Fair Enforcement for Mortgage Licensing Act of 2008
 33 (SAFE).
 34 (9) An individual who offers or negotiates terms of a mortgage
 35 transaction with or on behalf of an immediate family member of
 36 the individual.
 37 (10) An individual who offers or negotiates terms of a mortgage
 38 transaction secured by a dwelling that served as the individual's
 39 residence.
 40 (11) Unless the attorney is compensated by:
 41 (a) a lender;
 42 (b) a mortgage broker;



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



- 1 connection with the mortgage transactions described in clause
 2 (a).
- 3 (15) A bona fide nonprofit organization (as defined in section
 4 301(37) of this chapter) if the following criteria are satisfied:
- 5 (a) For each calendar year that the organization seeks the
 6 exemption provided by this subdivision, the organization
 7 certifies, not later than December 31 of the preceding calendar
 8 year and on a form prescribed by the director and accompanied
 9 by such documentation as required by the director, that the
 10 organization is a bona fide nonprofit organization (as defined
 11 in section 301(37) of this chapter).
- 12 (b) The director determines that the organization originates
 13 only mortgage transactions that are favorable to the debtor. For
 14 purposes of this clause, a mortgage transaction is favorable to
 15 the debtor if the director determines that the terms of the
 16 mortgage transaction are consistent with terms of mortgage
 17 transactions made in a public or charitable context, rather than
 18 in a commercial context.
- 19 SECTION 2. IC 24-4.4-2-401, AS AMENDED BY P.L.89-2011,
 20 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2014]: Sec. 401. (1) Unless a person subject to this article has
 22 first obtained a license under this article from the department and
 23 annually maintains the license, the person shall not engage in Indiana
 24 as a creditor in first lien mortgage transactions. A separate license
 25 under this article is required for each legal entity that engages in
 26 Indiana as a creditor in first lien mortgage transactions. However, a
 27 separate license under this article is not required for each branch of a
 28 legal entity licensed under this article.
- 29 (2) Each:
- 30 (a) creditor licensed under this article; and
 31 (b) entity exempt from licensing under this article that:
 32 (i) employs a **licensed mortgage loan originator; or**
 33 (ii) **sponsors under an exclusive written agreement, as**
 34 **permitted by IC 24-4.4-1-202(b)(6)(a), a licensed mortgage**
 35 **loan originator as an independent agent;**
 36 shall register with and maintain a valid unique identifier issued by the
 37 NMLSR. Each licensed mortgage loan originator must be employed by,
 38 **or sponsored under an exclusive written agreement (as permitted**
 39 **by IC 24-4.4-1-202(b)(6)(a)) and as an independent agent,** and
 40 associated with, a licensed creditor, or an entity exempt from licensing
 41 under this article, in the NMLSR in order to originate loans.
- 42 (3) An individual engaging solely in loan processor or underwriter



1 activities shall not represent to the public, through advertising or other
 2 means of communicating or providing information, including the use
 3 of business cards, stationery, brochures, signs, rate lists, or other
 4 promotional items, that the individual can or will perform any of the
 5 activities of a mortgage loan originator.

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

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

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

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

15 (a) collect and maintain records; and

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

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

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

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

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

27 (a) creditor; and

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

29 (i) employs **a licensed mortgage loan originator; or**

30 (ii) **sponsors under an exclusive written agreement, as**
 31 **permitted by IC 24-4.4-1-202(b)(6)(a), a licensed mortgage**
 32 **loan originator or as an independent agent;**

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

34 (2) A surety bond must:

35 (a) provide coverage for:

36 (i) a creditor; or

37 (ii) a person exempt from licensing under this article that
 38 employs **a licensed mortgage loan originator, or that**
 39 **sponsors under an exclusive written agreement (as**
 40 **permitted by IC 24-4.4-1-202(b)(6)(a)) a licensed mortgage**
 41 **loan originator as an independent agent;**

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



- 1 (b) be in a form prescribed by the director;
 2 (c) be in effect:
 3 (i) during the term of the creditor's license under this chapter;
 4 or
 5 (ii) at any time during which the person exempt from licensing
 6 under this article employs a **licensed mortgage loan**
 7 **originator, or that sponsors under an exclusive written**
 8 **agreement (as permitted by IC 24-4.4-1-202(b)(6)(a))** a
 9 licensed mortgage loan originator **as an independent agent;**
 10 as applicable;
 11 (d) remain in effect during the two (2) years after:
 12 (i) the creditor ceases offering financial services to individuals
 13 in Indiana; or
 14 (ii) the person exempt from licensing under this article ceases
 15 to employ a **licensed mortgage loan originator, or ceases to**
 16 **sponsor under an exclusive written agreement (as**
 17 **permitted by IC 24-4.4-1-202(b)(6)(a))** a licensed mortgage
 18 loan originator **as an independent agent,** or to offer financial
 19 services to individuals in Indiana, whichever is later;
 20 as applicable;
 21 (e) be payable to the department for the benefit of:
 22 (i) the state; and
 23 (ii) individuals who reside in Indiana when they agree to
 24 receive financial services from the creditor or the person
 25 exempt from licensing under this article, as applicable;
 26 (f) be issued by a bonding, surety, or insurance company
 27 authorized to do business in Indiana and rated at least "A-" by at
 28 least one (1) nationally recognized investment rating service; and
 29 (g) have payment conditioned upon:
 30 (i) the creditor's or any of the creditor's licensed mortgage loan
 31 originators'; or
 32 (ii) the exempt person's or any of the exempt person's licensed
 33 mortgage loan originators';
 34 noncompliance with or violation of this chapter, 750 IAC 9, or
 35 other federal or state laws or regulations applicable to mortgage
 36 lending.
 37 (3) The director may adopt rules or guidance documents with
 38 respect to the requirements for a surety bond as necessary to
 39 accomplish the purposes of this article.
 40 (4) The penal sum of the surety bond shall be maintained in an
 41 amount that reflects the dollar amount of mortgage transactions
 42 originated as determined by the director. If the principal amount of a



1 surety bond required under this section is reduced by payment of a
 2 claim or judgment, the creditor or exempt person for whom the bond
 3 is issued shall immediately notify the director of the reduction and, not
 4 later than thirty (30) days after notice by the director, file a new or an
 5 additional surety bond in an amount set by the director. The amount of
 6 the new or additional bond set by the director must be at least the
 7 amount of the bond before payment of the claim or judgment.

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

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

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

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

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

40 (a) cooperate with the department; and

41 (b) provide access to records and documents;

42 as required by the department in carrying out examinations of the



1 **activities of the licensed mortgage loan originators sponsored by**
 2 **the federal savings bank.**

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

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

10 (4) Each:

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

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

13 (i) employs **one (1) or more licensed mortgage loan**
 14 **originators; or**

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

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

20 (5) Each:

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

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

23 (i) employs **one (1) or more licensed mortgage loan**
 24 **originators; or**

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

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

32 (6) A licensed creditor shall file notification with the department if
 33 the licensee:

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

35 (b) opens a new branch, closes an existing branch, or relocates an
 36 existing branch;

37 (c) files for bankruptcy or reorganization; or

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

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



1 (7) A licensee shall file notification with the department if the
 2 licensee or any director, executive officer, or manager of the licensee
 3 has been convicted of a felony under the laws of Indiana or any other
 4 jurisdiction. The licensee shall file the notification required by this
 5 subsection not later than thirty (30) days after the date of the event
 6 described in this subsection.

7 (8) A licensee shall file notification with the department if the
 8 licensee or any director, executive officer, or manager of the licensee
 9 has had the person's authority to do business in the securities,
 10 commodities, banking, financial services, insurance, real estate, or real
 11 estate appraisal industry revoked or suspended by Indiana or by any
 12 other state, federal, or foreign governmental agency or self regulatory
 13 organization. The licensee shall file the notification required by this
 14 subsection not later than thirty (30) days after the date of the event
 15 described in this subsection.

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

- 19 (a) is a depository institution;
 20 (b) is a subsidiary that is owned and controlled by a depository
 21 institution and regulated by a federal banking agency;
 22 (c) is an institution regulated by the Farm Credit Administration;
 23 or
 24 (d) has first obtained, and subsequently retains, a license from the
 25 department under this article;

26 the person shall not regularly engage in Indiana as a creditor in
 27 subordinate lien mortgage transactions, take assignments in Indiana of
 28 subordinate lien mortgage transactions, or undertake in the direct
 29 collection of payments from or enforcement of rights against debtors
 30 in Indiana arising from subordinate lien mortgage transactions.

31 (2) Each:

- 32 (a) creditor licensed by the department under this article; and
 33 (b) entity **that is** exempt from licensing under this article **or**
 34 **under IC 24-4.4-1-202(b)(6)(a) and that:**
 35 **(i) employs a licensed mortgage loan originator; or**
 36 **(ii) sponsors under an exclusive written agreement, as**
 37 **permitted by IC 24-4.4-1-202(b)(6)(a), a licensed mortgage**
 38 **loan originator as an independent agent;**

39 shall register with and maintain a valid unique identifier issued by the
 40 NMLSR. Each licensed mortgage loan originator must be employed by,
 41 **or sponsored under an exclusive written agreement (as permitted**
 42 **by IC 24-4.4-1-202(b)(6)(a) and as an independent agent, and**



1 associated with, a licensed creditor or an exempt entity described under
2 subdivision (b) in the NMLSR in order to originate loans.

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

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

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

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

12 (a) collect and maintain records; and

13 (b) process transaction fees or other fees;
14 related to licensees or other persons subject to this article.

15 (5) For the purpose of participating in the NMLSR, the director or
16 the department may:

17 (a) waive or modify, in whole or in part, by rule, regulation, or
18 order, any or all of the requirements of this article; and

19 (b) establish new requirements as reasonably necessary to
20 participate in the NMLSR.

21 SECTION 6. IC 24-4.5-3-503.3, AS AMENDED BY P.L.216-2013,
22 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
23 JULY 1, 2014]: Sec. 503.3. (1) Each:

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

25 (b) person **that is** exempt from licensing under this article **or**
26 **under IC 24-4.4-1-202(b)(6)(a) and that:**

27 **(i) employs a licensed mortgage loan originator; or**

28 **(ii) sponsors under an exclusive written agreement, as**
29 **permitted by IC 24-4.4-1-202(b)(6)(a), a licensed mortgage**
30 **loan originator as an independent agent;**

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

32 (2) A surety bond must:

33 (a) provide coverage for:

34 (i) a creditor described in subsection (1)(a); and

35 (ii) an exempt person described in subsection (1)(b);

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

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

38 (c) be in effect:

39 (i) during the term of the creditor's license under this chapter;

40 or

41 (ii) at any time during which the person exempt from licensing
42 under this article **or under IC 24-4.4-1-202(b)(6)(a)** employs



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

40 (a) cooperate with the department; and

41 (b) provide access to records and documents;

42 as required by the department in carrying out examinations of the



1 **activities of the licensed mortgage loan originators sponsored by**
 2 **the federal savings bank.**

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

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

11 (4) Each:

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

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

16 (i) employs **one (1) or more licensed mortgage loan**
 17 **originators; or**

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

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

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

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

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

37 (b) opens a new branch, closes an existing branch, or relocates an
 38 existing branch;

39 (c) files for bankruptcy or reorganization; or

40 (d) is subject to revocation or suspension proceedings by a state
 41 or governmental authority with regard to the licensee's activities;

42 not later than thirty (30) days after the date of the event described in



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

SENATE MOTION

Madam President: I move that Senate Bill 334 be amended to read as follows:

Page 2, line 32, after "activities" insert "**as independent agents**".

Page 2, line 38, delete "depository institution" and insert "**federal savings bank**".

Page 5, line 31, delete ";" and insert "**a licensed mortgage loan originator**";".

Page 5, line 33, delete ";" and insert ",".

Page 5, line 34, delete ";" and insert "**as an independent agent**";".

Page 5, run in lines 33 through 34.

Page 5, line 38, 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 6, line 28, delete ";" and insert "**a licensed mortgage loan originator**";".

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Page 6, line 30, delete ";" and insert ",".

Page 6, line 31, delete ";" and insert "**as an independent agent;**".

Page 6, run in lines 30 through 31.

Page 6, line 37, delete ", or" and insert "**a licensed mortgage loan originator, or that**".

Page 6, line 38, delete ",".

Page 6, line 38, after "a" insert "**licensed**".

Page 6, line 39, delete ";" and insert "**as an independent agent;**".

Page 7, line 4, delete ", or" and insert "**a licensed mortgage loan originator, or that**".

Page 7, line 6, delete ",".

Page 7, line 7, delete ";" and insert "**as an independent agent;**".

Page 7, line 13, delete "," and insert "**a licensed mortgage loan originator,**".

Page 7, line 14, delete ",".

Page 7, line 15, after "originator" insert "**as an independent agent,**".

Page 8, line 35, after "originators" insert "**as independent agents**".

Page 9, line 10, delete ";" and insert "**one (1) or more licensed mortgage loan originators;**".

Page 9, line 12, delete ";" and insert ",".

Page 9, line 13, delete ";" and insert "**as independent agents;**".

Page 9, run in lines 12 through 13.

Page 9, line 19, delete ";" and insert "**one (1) or more licensed mortgage loan originators;**".

Page 9, line 21, delete ";" and insert ",".

Page 9, line 22, delete ";" and insert "**as independent agents;**".

Page 9, run in lines 21 through 22.

Page 11, line 37, after "article" insert "**or under IC 24-4.4-1-202(b)(6)(a)**".

(Reference is to SB 334 as printed January 31, 2014.)

WALKER

