

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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**FISCAL IMPACT STATEMENT**

**LS 7232**

**BILL NUMBER: SB 452**

**NOTE PREPARED: Apr 6, 2023**

**BILL AMENDED: Apr 3, 2023**

**SUBJECT:** Consumer Credit and Financial Institutions.

**FIRST AUTHOR:** Sen. Bassler

**FIRST SPONSOR:** Rep. Speedy

**BILL STATUS:** 2<sup>nd</sup> Reading - 2<sup>nd</sup> House

**FUNDS AFFECTED:**  GENERAL  
 DEDICATED  
 FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** The bill provides that a reference to federal law in: (1) the first lien mortgage lending act (act); (2) the Uniform Consumer Credit Code (UCCC); or (3) the Indiana Code title governing financial institutions; is a reference to the law as in effect December 31, 2022 (rather than December 31, 2021, under current law).

It amends as follows a provision in the act that authorizes a federal savings bank to voluntarily register with the Department of Financial Institutions (DFI) for the purpose of sponsoring licensed mortgage loan originators under certain circumstances:

- (1) Authorizes any person (rather than just a federal savings bank) that meets the requirements set forth in the provision to sponsor one or more licensed mortgage loan originators.
- (2) Eliminates a requirement that a sponsored individual must sell, solicit, or negotiate insurance under an exclusive written agreement for a licensed insurance company that is a subsidiary of a company that also owns or controls the federal savings bank.
- (3) Provides that a sponsored individual must be engaged solely as a third party loan processor or underwriter. It specifies certain requirements that a person must comply with in order to sponsor an individual under these provisions.

It makes conforming amendments to: (1) the act; and (2) related provisions in the UCCC concerning subordinate lien mortgage transactions.

It provides that a depository financial institution may change, amend, alter, add, or remove any term in a contract or agreement with a depositor at any time, subject to any limitations imposed in the contract or agreement itself. It sets forth principles with respect to contract interpretation in connection with the authority of a depository financial institution to take these actions with respect to a contract or agreement.

It requires a state chartered credit union (credit union) to maintain capital consistent with the safety and soundness necessary to support the risk in the credit union's activities.

It provides that the National Credit Union Administration's: (1) prompt corrective action; and (2) risk based net worth; regulations apply to all credit unions.

It requires a credit union that is classified as adequately capitalized or lower to increase the dollar amount of its net worth on a quarterly basis by an amount equal to at least 0.1% of the credit union's total assets until the credit union is classified as well capitalized.

It sets forth different: (1) mandatory supervisory requirements or restrictions; and (2) discretionary supervisory requirements or restrictions (to be imposed by the director of the DFI); with respect to a credit union, depending on the credit union's classification as undercapitalized, significantly undercapitalized, or critically undercapitalized.

It directs the DFI to use specified statutory authority to adopt emergency rules not later than June 30, 2024, to amend the DFI rule concerning mortgage lenders and originators in order to:

- (1) conform the rule to the bill's provisions concerning the sponsorship of licensed mortgage loan originators to engage solely as a third party loan processor or underwriter; and
- (2) establish a rule to allow certain persons to sponsor one or more mortgage loan originators, who are not employees of the sponsoring person, to perform mortgage loan originator activities exclusively for the sponsoring person under certain prescribed conditions.

**Effective Date:** July 1, 2023.

**Explanation of State Expenditures:** *Department of Financial Institutions (DFI):* The provisions of this bill will require the DFI to amend some internal regulatory processes and adopt emergency rules. The DFI is funded through money deposited into the Financial Institutions Fund, which is a dedicated fund that receives fees and penalties collected under IC 28-1. The money from the fund is appropriated to the DFI. The FY 2023 appropriation to the DFI is about \$9.3 M in each year.

**Explanation of State Revenues:** The bill makes changes to rules related to registration, supervision, sponsorship, maintaining capital, and federal conformity for certain financial institutions including licensed mortgage loan originators and credit unions. The bill could impact the revenues from the financial institutions tax (FIT) to the extent that these provisions impact the income of financial institutions covered under the bill.

**Additional Information - Financial Institutions Tax:** FIT is assessed on apportioned adjusted gross income of a financial institution. It applies to any business which is primarily engaged in the business of extending credit, engaged in leasing that is the economic equivalent of extending credit, or credit card operations. Insurance companies, international banking facilities, federally chartered credit unions, and S corporations are exempt. Local units of government are guaranteed distributions of FIT up to a certain amount, and the remaining revenue collected is deposited in the state General Fund.

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:** Any change in FIT revenue could potentially affect the local distribution.

**State Agencies Affected:** Department of Financial Institutions (DFI).

**Local Agencies Affected:** Local units.

**Information Sources:**

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