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**SENATE BILL No. 452**

**AM045202 has been incorporated into February 3, 2023 printing.**

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**Synopsis:** Consumer credit and financial institutions.

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SB 452—LS 7232/DI 101



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February 3, 2023

First Regular Session of the 123rd General Assembly (2023)

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 *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2022 Regular Session of the General Assembly.

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## SENATE BILL No. 452

A BILL FOR AN ACT to amend the Indiana Code concerning financial institutions.

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

- 1 SECTION 1. IC 24-4.4-1-102, AS AMENDED BY P.L.29-2022,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2023]: Sec. 102. (1) This article shall be liberally construed  
4 and applied to promote its underlying purposes and policies.  
5 (2) The underlying purposes and policies of this article are:  
6 (a) to permit and encourage the development of fair and  
7 economically sound first lien mortgage lending practices; and  
8 (b) to conform the regulation of first lien mortgage lending  
9 practices to applicable state and federal laws, rules, regulations,  
10 policies, and guidance.  
11 (3) A reference to a requirement imposed by this article includes  
12 reference to a related rule of the department adopted under this article.  
13 (4) A reference to a federal law in this article is a reference to the  
14 law as in effect December 31, ~~2021~~ **2022**.  
15 SECTION 2. IC 24-4.4-1-202, AS AMENDED BY P.L.103-2014,

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1 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
2 JULY 1, 2023]: Sec. 202. (a) As used in this section, "balloon  
3 payment", with respect to a mortgage transaction, means any payment:

- 4 (1) that the creditor requires the debtor to make at any time  
5 during the term of the mortgage;  
6 (2) that represents the entire amount of the outstanding balance  
7 with respect to the mortgage; and  
8 (3) the entire amount of which is due as of a specified date or at  
9 the end of a specified period;

10 if the aggregate amount of the minimum periodic payments required  
11 under the mortgage would not fully amortize the outstanding balance  
12 by the specified date or at the end of the specified period. The term  
13 does not include a payment required by a creditor under a due-on-sale  
14 clause (as defined in 12 U.S.C. 1701j-3(a)) or a payment required by  
15 a creditor under a provision in the mortgage that permits the creditor  
16 to accelerate the debt upon the debtor's default or failure to abide by the  
17 material terms of the mortgage.

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

- 19 (1) Extensions of credit to government or governmental agencies  
20 or instrumentalities.  
21 (2) A first lien mortgage transaction in which the debt is incurred  
22 primarily for a purpose other than a personal, family, or  
23 household purpose.  
24 (3) An extension of credit primarily for a business, a  
25 commercial, or an agricultural purpose.  
26 (4) Except for IC 24-4.4-2-401(2), IC 24-4.4-2-402.3,  
27 IC 24-4.4-2-405(4), and IC 24-4.4-2-405(5), a first lien mortgage  
28 transaction made:

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

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

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

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

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

42 (a) A depository institution. ~~However, a federal savings~~

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1 bank may voluntarily register with the department for the  
 2 purpose of sponsoring, under an exclusive written  
 3 agreement, individuals who are licensed as mortgage loan  
 4 originators under this article and 750 IAC 9-3, who perform  
 5 mortgage loan origination activities as independent agents  
 6 under the federal savings bank's direct supervision and  
 7 control, who hold a current, valid insurance producer  
 8 license under IC 27-1-15.6, and who sell, solicit, or  
 9 negotiate insurance under an exclusive written agreement  
 10 for a licensed insurance company that is a subsidiary of a  
 11 company that also owns or controls the federal savings  
 12 bank, if the federal savings bank does the following:

13 (i) Assumes responsibility for and reasonably  
 14 supervises the activities of all licensed mortgage loan  
 15 originators sponsored by the federal savings bank  
 16 under this clause.

17 (ii) Registers with and maintains a valid unique  
 18 identifier issued by the NMLSR as required by  
 19 IC 24-4.4-2-401(2), maintains a surety bond in  
 20 accordance with IC 24-4.4-2-402.3, submits to the  
 21 NMLSR reports of condition in accordance with  
 22 IC 24-4.4-2-405(4) (subject to IC 24-4.4-2-402.4), and  
 23 files financial statements with the department in  
 24 accordance with IC 24-4.4-2-405(5).

25 (iii) Cooperates with the department, and provides  
 26 access to records and documents, as required by the  
 27 department in carrying out examinations of the  
 28 activities of the licensed mortgage loan originators  
 29 sponsored by the federal savings bank under this  
 30 clause, as described in IC 24-4.4-2-405(1).

31 (iv) Agrees to comply with all law, rules, directives,  
 32 and orders in connection with the activities of the  
 33 licensed mortgage loan originators sponsored by the  
 34 federal savings bank, as the director determines  
 35 necessary to ensure compliance with the federal Secure  
 36 and Fair Enforcement for Mortgage Licensing Act of  
 37 2008 (12 U.S.C. 5101 et seq.) and with Indiana law.

38 (b) Subsidiaries that are not licensed under this article and  
 39 that are:

- 40 (i) owned and controlled by a depository institution;  
 41 and  
 42 (ii) regulated by a federal banking agency.

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- 1 (c) An institution regulated by the Farm Credit  
2 Administration.
- 3 (7) Except for IC 24-4.4-2-401(2), IC 24-4.4-2-402.3,  
4 IC 24-4.4-2-405(4), and IC 24-4.4-2-405(5), a credit union  
5 service organization that is majority owned, directly or  
6 indirectly, by one (1) or more credit unions.
- 7 **(8) A person that does not engage as a creditor in first lien  
8 mortgage transactions in Indiana. However, a person may  
9 voluntarily register with the department for the purpose of  
10 sponsoring employees who are licensed as mortgage loan  
11 originators under this article and 750 IAC 9-3, and who are  
12 engaged solely as third party loan processors or  
13 underwriters, if the person does the following:**
- 14 **(a) Assumes responsibility for and reasonably supervises  
15 the activities of all licensed mortgage loan originators  
16 sponsored by the person.**
- 17 **(b) Registers with and maintains a valid unique  
18 identifier issued by the NMLSR as required by  
19 IC 24-4.4-2-401(2), maintains a surety bond in  
20 accordance with IC 24-4.4-2-402.3, submits to the  
21 NMLSR reports of condition in accordance with  
22 IC 24-4.4-2-405(4) (subject to IC 24-4.4-2-402.4), and  
23 files financial statements with the department in  
24 accordance with IC 24-4.4-2-405(5).**
- 25 **(c) Cooperates with the department, and provides access  
26 to records and documents, as required by the  
27 department in carrying out examinations of the  
28 activities of the licensed mortgage loan originators  
29 sponsored by the person, as described in  
30 IC 24-4.4-2-405(1).**
- 31 **(d) Agrees to comply with all law, rules, directives, and  
32 orders in connection with the activities of the licensed  
33 mortgage loan originators sponsored by the person, as  
34 the director determines necessary to ensure compliance  
35 with the federal Secure and Fair Enforcement for  
36 Mortgage Licensing Act of 2008 (12 U.S.C. 5101 et seq.)  
37 and with Indiana law.**
- 38 ~~(8)~~ **(9) A first lien mortgage transaction originated by a  
39 registered mortgage loan originator, when acting for an entity  
40 described in subsection (6). However, a privately insured state  
41 chartered credit union shall comply with the system of mortgage  
42 loan originator registration developed by the Federal Financial**

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1 Institutions Examinations Council under Section 1507 of the  
 2 federal Secure and Fair Enforcement for Mortgage Licensing Act  
 3 of 2008 (SAFE).

4 ~~(9)~~ **(10)** An individual who offers or negotiates terms of a  
 5 mortgage transaction with or on behalf of an immediate family  
 6 member of the individual.

7 ~~(10)~~ **(11)** An individual who offers or negotiates terms of a  
 8 mortgage transaction secured by a dwelling that served as the  
 9 individual's residence.

10 ~~(11)~~ **(12)** Unless the attorney is compensated by:

- 11 (a) a lender;
- 12 (b) a mortgage broker;
- 13 (c) another mortgage loan originator; or
- 14 (d) any agent of the lender, mortgage broker, or other
- 15 mortgage loan originator described in clauses (a) through
- 16 (c);

17 a licensed attorney who negotiates the terms of a mortgage  
 18 transaction on behalf of a client as an ancillary matter to the  
 19 attorney's representation of the client.

20 ~~(12)~~ **(13)** The United States, any state or local government, or  
 21 any agency or instrumentality of any governmental entity,  
 22 including United States government sponsored enterprises.

23 ~~(13)~~ **(14)** A person in whose name a tablefunded transaction is  
 24 closed, as described in section 301(34)(a) of this chapter.  
 25 However, the exemption provided by this subsection does not  
 26 apply if:

- 27 (a) the transaction:
  - 28 (i) is secured by a dwelling that is a mobile home, a
  - 29 manufactured home, or a trailer; and
  - 30 (ii) is not also secured by an interest in land; and
- 31 (b) the person in whose name the transaction is closed, as
- 32 described in section 301(34)(a) of this chapter, sells the
- 33 dwelling to the debtor through a retail installment contract
- 34 or other similar transaction.

35 ~~(14)~~ **(15)** A bona fide nonprofit organization not operating in a  
 36 commercial context, as determined by the director, if the  
 37 following criteria are satisfied:

- 38 (a) Subject to clause (b), the organization originates only
- 39 one (1) or both of the following types of mortgage
- 40 transactions:
  - 41 (i) Zero (0) interest first lien mortgage transactions.
  - 42 (ii) Zero (0) interest subordinate lien mortgage

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transactions.

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

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

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

(e) The organization uses only:

(i) unpaid volunteers; or

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

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

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

~~(15)~~ **(16)** 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 3. IC 24-4.4-1-301, AS AMENDED BY P.L.69-2018, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 301. In addition to definitions appearing in subsequent chapters of this article, the following definitions apply throughout this article:

(1) "Affiliate", with respect to any person subject to this article,

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- 1 means a person that, directly or indirectly, through one (1) or  
 2 more intermediaries:
- 3 (a) controls;  
 4 (b) is controlled by; or  
 5 (c) is under common control with;  
 6 the person subject to this article.
- 7 (2) "Agreement" means the bargain of the parties in fact as found  
 8 in the parties' language or by implication from other  
 9 circumstances, including course of dealing or usage of trade or  
 10 course of performance.
- 11 (3) "Agricultural products" includes agricultural products,  
 12 horticultural products, viticultural products, dairy products,  
 13 livestock, wildlife, poultry, bees, forest products, fish and  
 14 shellfish, any products raised or produced on farms, and any  
 15 products processed or manufactured from products raised or  
 16 produced on farms.
- 17 (4) "Agricultural purpose" means a purpose related to the  
 18 production, harvest, exhibition, marketing, transportation,  
 19 processing, or manufacture of agricultural products by a natural  
 20 person who cultivates, plants, propagates, or nurtures the  
 21 agricultural products.
- 22 (5) "Consumer credit sale" is a sale of goods, services, or an  
 23 interest in land in which:
- 24 (a) credit is granted by a person who engages as a seller in  
 25 credit transactions of the same kind;  
 26 (b) the buyer is a person other than an organization;  
 27 (c) the goods, services, or interest in land are purchased  
 28 primarily for a personal, family, or household purpose;  
 29 (d) either the debt is payable in installments or a credit  
 30 service charge is made; and  
 31 (e) with respect to a sale of goods or services, either:  
 32 (i) the amount of credit extended, the written credit  
 33 limit, or the initial advance does not exceed the exempt  
 34 threshold amount, as adjusted in accordance with the  
 35 annual adjustment of the exempt threshold amount,  
 36 specified in Regulation Z (12 CFR 226.3 or 12 CFR  
 37 1026.3(b), as applicable); or  
 38 (ii) the debt is secured by personal property used or  
 39 expected to be used as the principal dwelling of the  
 40 buyer.
- 41 (6) "Credit" means the right granted by a creditor to a debtor to  
 42 defer payment of debt or to incur debt and defer its payment.

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- 1 (7) "Creditor" means a person:
- 2 (a) that regularly engages in the extension of first lien
- 3 mortgage transactions that are subject to a credit service
- 4 charge or loan finance charge, as applicable, or are payable
- 5 by written agreement in more than four (4) installments (not
- 6 including a down payment); and
- 7 (b) to which the obligation is initially payable, either on the
- 8 face of the note or contract, or by agreement if there is not
- 9 a note or contract.
- 10 The term does not include a person described in subsection
- 11 (34)(a) in a tablefunded transaction. A creditor may be an
- 12 individual, a limited liability company, a sole proprietorship, a
- 13 partnership, a trust, a joint venture, a corporation, an
- 14 unincorporated organization, or other form of entity, however
- 15 organized.
- 16 (8) "Department" refers to the members of the department of
- 17 financial institutions.
- 18 (9) "Depository institution" has the meaning set forth in the
- 19 Federal Deposit Insurance Act (12 U.S.C. 1813(c)) and includes
- 20 any credit union.
- 21 (10) "Director" refers to the director of the department of
- 22 financial institutions or the director's designee.
- 23 (11) "Dwelling" means a residential structure that contains one
- 24 (1) to four (4) units, regardless of whether the structure is
- 25 attached to real property. The term includes an individual:
- 26 (a) condominium unit;
- 27 (b) cooperative unit;
- 28 (c) mobile home; or
- 29 (d) trailer;
- 30 that is used as a residence.
- 31 (12) "Employee" means an individual who is paid wages or other
- 32 compensation by an employer required under federal income tax
- 33 law to file Form W-2 on behalf of the individual.
- 34 (13) "Federal banking agencies" means the Board of Governors
- 35 of the Federal Reserve System, the Office of the Comptroller of
- 36 the Currency, the Office of Thrift Supervision, the National
- 37 Credit Union Administration, and the Federal Deposit Insurance
- 38 Corporation.
- 39 (14) "First lien mortgage transaction" means:
- 40 (a) a consumer loan; or
- 41 (b) a consumer credit sale;
- 42 that is or will be used by the debtor primarily for personal,

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1 family, or household purposes and that is secured by a mortgage  
 2 or a land contract (or another consensual security interest  
 3 equivalent to a mortgage or a land contract) that constitutes a  
 4 first lien on a dwelling or on residential real estate upon which  
 5 a dwelling is constructed or intended to be constructed.

6 (15) "Immediate family member" means a spouse, child, sibling,  
 7 parent, grandparent, or grandchild. The term includes  
 8 stepparents, stepchildren, stepsiblings, and adoptive  
 9 relationships.

10 (16) "Individual" means a natural person.

11 (17) "Licensee" means a person licensed to engage in mortgage  
 12 transactions as a creditor.

13 (18) "Loan" includes:

14 (a) the creation of debt by:

15 (i) the creditor's payment of or agreement to pay money  
 16 to the debtor or to a third party for the account of the  
 17 debtor; or

18 (ii) the extension of credit by a person who engages as  
 19 a seller in credit transactions primarily secured by an  
 20 interest in land;

21 (b) the creation of debt by a credit to an account with the  
 22 creditor upon which the debtor is entitled to draw  
 23 immediately; and

24 (c) the forbearance of debt arising from a loan.

25 (19) "Loan brokerage business" means any activity in which a  
 26 person, in return for any consideration from any source,  
 27 procures, attempts to procure, or assists in procuring, a mortgage  
 28 transaction from a third party or any other person, whether or not  
 29 the person seeking the mortgage transaction actually obtains the  
 30 mortgage transaction.

31 (20) "Loan processor or underwriter" means an individual who  
 32 performs clerical or support duties as an employee at the  
 33 direction of, and subject to the supervision and instruction of, a  
 34 person licensed to engage in mortgage transactions or a person  
 35 exempt from licensing. For purposes of this subsection, the term  
 36 "clerical or support duties" may include, after the receipt of an  
 37 application, the following:

38 (a) The receipt, collection, distribution, and analysis of  
 39 information common for the processing or underwriting of  
 40 a mortgage transaction.

41 (b) The communication with a consumer to obtain the  
 42 information necessary for the processing or underwriting of

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- 1 a loan, to the extent that the communication does not
- 2 include:
- 3 (i) offering or negotiating loan rates or terms; or
- 4 (ii) counseling consumers about mortgage transaction
- 5 rates or terms.

6 **The term does not include an individual who is an employee**  
 7 **of a person that is not engaged in mortgage transactions as**  
 8 **a creditor if that person is permitted to voluntarily register**  
 9 **with the department to sponsor the individual under section**  
 10 **202(b)(8) of this chapter to engage solely in the activities**  
 11 **described in this subdivision.**

12 (21) "Mortgage loan originator" means an individual who, for  
 13 compensation or gain, or in the expectation of compensation or  
 14 gain, regularly engages in taking a mortgage transaction  
 15 application or in offering or negotiating the terms of a mortgage  
 16 transaction that either is made under this article or under  
 17 IC 24-4.5 or is made by an employee of a person licensed to  
 18 engage in mortgage transactions or by an employee of a person  
 19 that is exempt from licensing, while the employee is engaging in  
 20 the loan brokerage business. The term does not include the  
 21 following:

- 22 (a) An individual engaged solely as a loan processor or
- 23 underwriter as long as the individual works exclusively as
- 24 an employee of a person licensed to engage in mortgage
- 25 transactions or as an employee of a person exempt from
- 26 licensing. **However, the term includes an individual who**  
 27 **is licensed as a mortgage loan originator under this**  
 28 **article and 750 IAC 9-3 and who is an employee of a**  
 29 **person that is not engaged in mortgage transactions as**  
 30 **a creditor if that person voluntarily registers with the**  
 31 **department to sponsor the individual under section**  
 32 **202(b)(8) of this chapter to engage solely as a third party**  
 33 **processor or underwriter.**
- 34 (b) Unless the person or entity is compensated by:
  - 35 (i) a creditor;
  - 36 (ii) a loan broker;
  - 37 (iii) another mortgage loan originator; or
  - 38 (iv) any agent of a creditor, a loan broker, or another
  - 39 mortgage loan originator described in items (i) through
  - 40 (iii);
- 41 a person or entity that performs only real estate brokerage
- 42 activities and is licensed or registered in accordance with

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- 1 applicable state law.
- 2 (c) A person solely involved in extensions of credit relating
- 3 to timeshare plans (as defined in 11 U.S.C. 101(53D)).
- 4 (22) "Mortgage servicer" means the last person to whom a
- 5 mortgagor or the mortgagor's successor in interest has been
- 6 instructed by a mortgagee to send payments on a loan secured by
- 7 a mortgage.
- 8 (23) "Mortgage transaction" means:
- 9 (a) a consumer loan; or
- 10 (b) a consumer credit sale;
- 11 that is or will be used by the debtor primarily for personal,
- 12 family, or household purposes and that is secured by a mortgage
- 13 or a land contract (or another consensual security interest
- 14 equivalent to a mortgage or a land contract) on a dwelling or on
- 15 residential real estate upon which a dwelling is constructed or
- 16 intended to be constructed.
- 17 (24) "Nationwide Multistate Licensing System and Registry" (or
- 18 "Nationwide Mortgage Licensing System and Registry" or
- 19 "NMLSR") means a multistate licensing system owned and
- 20 operated by the State Regulatory Registry, LLC, or by any
- 21 successor or affiliated entity, for the licensing and registration of
- 22 creditors, mortgage loan originators, and other persons in the
- 23 mortgage or financial services industries. The term includes any
- 24 other name or acronym that may be assigned to the system by the
- 25 State Regulatory Registry, LLC, or by any successor or affiliated
- 26 entity.
- 27 (25) "Nontraditional mortgage product" means any mortgage
- 28 product other than a thirty (30) year fixed rate mortgage.
- 29 (26) "Organization" means a corporation, a government or
- 30 government subdivision, an agency, a trust, an estate, a
- 31 partnership, a limited liability company, a cooperative, an
- 32 association, a joint venture, an unincorporated organization, or
- 33 any other entity, however organized.
- 34 (27) "Payable in installments", with respect to a debt or an
- 35 obligation, means that payment is required or permitted by
- 36 written agreement to be made in more than four (4) installments
- 37 not including a down payment.
- 38 (28) "Person" includes an individual or an organization.
- 39 (29) "Principal" of a mortgage transaction means the total of:
- 40 (a) the net amount paid to, receivable by, or paid or payable
- 41 for the account of the debtor; and
- 42 (b) to the extent that payment is deferred, amounts actually

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- 1           paid or to be paid by the creditor for registration, certificate
- 2           of title, or license fees if not included in clause (a).
- 3       (30) "Real estate brokerage activity" means any activity that
- 4       involves offering or providing real estate brokerage services to
- 5       the public, including the following:
- 6           (a) Acting as a real estate agent or real estate broker for a
- 7           buyer, seller, lessor, or lessee of real property.
- 8           (b) Bringing together parties interested in the sale,
- 9           purchase, lease, rental, or exchange of real property.
- 10          (c) Negotiating, on behalf of any party, any part of a
- 11          contract relating to the sale, purchase, lease, rental, or
- 12          exchange of real property (other than in connection with
- 13          providing financing with respect to the sale, purchase, lease,
- 14          rental, or exchange of real property).
- 15          (d) Engaging in any activity for which a person engaged in
- 16          the activity is required to be registered or licensed as a real
- 17          estate agent or real estate broker under any applicable law.
- 18          (e) Offering to engage in any activity, or act in any capacity,
- 19          described in this subsection.
- 20       (31) "Registered mortgage loan originator" means any individual
- 21       who:
- 22           (a) meets the definition of mortgage loan originator and is
- 23           an employee of:
- 24               (i) a depository institution;
- 25               (ii) a subsidiary that is owned and controlled by a
- 26               depository institution and regulated by a federal
- 27               banking agency; or
- 28               (iii) an institution regulated by the Farm Credit
- 29               Administration; and
- 30           (b) is registered with, and maintains a unique identifier
- 31           through, the NMLSR.
- 32       (32) "Residential real estate" means any real property that is
- 33       located in Indiana and on which there is located or intended to
- 34       be constructed a dwelling.
- 35       (33) "Revolving first lien mortgage transaction" means a first
- 36       lien mortgage transaction in which:
- 37           (a) the creditor permits the debtor to obtain advances from
- 38           time to time;
- 39           (b) the unpaid balances of principal, finance charges, and
- 40           other appropriate charges are debited to an account; and
- 41           (c) the debtor has the privilege of paying the balances in
- 42           installments.

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- 1 (34) "Tablefunded" means a transaction in which:
- 2 (a) a person closes a first lien mortgage transaction in the
- 3 person's own name as a mortgagee with funds provided by
- 4 one (1) or more other persons; and
- 5 (b) the transaction is assigned, not later than one (1)
- 6 business day after the funding of the transaction, to the
- 7 mortgage creditor providing the funding.
- 8 (35) "Unique identifier" means a number or other identifier
- 9 assigned by protocols established by the NMLSR.
- 10 (36) "Land contract" means a contract for the sale of real estate
- 11 in which the seller of the real estate retains legal title to the real
- 12 estate until the total contract price is paid by the buyer.
- 13 (37) "Bona fide nonprofit organization" means an organization
- 14 that does the following, as determined by the director, under
- 15 criteria established by the director:
- 16 (a) Maintains tax exempt status under Section 501(c)(3) of
- 17 the Internal Revenue Code.
- 18 (b) Promotes affordable housing or provides home
- 19 ownership education or similar services.
- 20 (c) Conducts the organization's activities in a manner that
- 21 serves public or charitable purposes.
- 22 (d) Receives funding and revenue and charges fees in a
- 23 manner that does not encourage the organization or the
- 24 organization's employees to act other than in the best
- 25 interests of the organization's clients.
- 26 (e) Compensates the organization's employees in a manner
- 27 that does not encourage employees to act other than in the
- 28 best interests of the organization's clients.
- 29 (f) Provides to, or identifies for, debtors mortgage
- 30 transactions with terms that are favorable to the debtor (as
- 31 described in section ~~202(b)(15)~~ **202(b)(16)** of this chapter)
- 32 and comparable to mortgage transactions and housing
- 33 assistance provided under government housing assistance
- 34 programs.
- 35 (g) Maintains certification by the United States Department
- 36 of Housing and Urban Development or employs counselors
- 37 who are certified by the Indiana housing and community
- 38 development authority.
- 39 (38) "Regularly engaged", with respect to a person who extends
- 40 or originates first lien mortgage transactions, refers to a person
- 41 who:
- 42 (a) extended or originated more than five (5) first lien

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1 mortgage transactions in the preceding calendar year; or  
 2 (b) extends or originates, or will extend or originate, more  
 3 than five (5) first lien mortgage transactions in the current  
 4 calendar year if the person did not extend or originate more  
 5 than five (5) first lien mortgage transactions in the  
 6 preceding calendar year.

7 SECTION 4. IC 24-4.4-2-401, AS AMENDED BY P.L.69-2018,  
 8 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 9 JULY 1, 2023]: Sec. 401. (1) Unless a person subject to this article has  
 10 first obtained a mortgage license from the department and annually  
 11 maintains the license, the person shall not engage in Indiana as a  
 12 creditor in first lien mortgage transactions. A separate mortgage license  
 13 is required for each legal entity that engages in Indiana as a creditor in  
 14 first lien mortgage transactions. However, a separate mortgage license  
 15 is not required for each branch of a legal entity licensed by the  
 16 department.

- 17 (2) Each:
- 18 (a) creditor licensed by the department to engage in mortgage
  - 19 transactions; and
  - 20 (b) **entity person** exempt from licensing that:
    - 21 (i) employs a licensed mortgage loan originator; or
    - 22 (ii) sponsors ~~under an exclusive written agreement, as~~
    - 23 ~~permitted by IC 24-4.4-1-202(b)(6)(a)~~; a licensed mortgage
    - 24 loan originator as an ~~independent agent~~; **permitted by**
    - 25 **IC 24-4.4-1-202(b)(8) or by 750 IAC 9**;

26 shall register with and maintain a valid unique identifier issued by the  
 27 NMLSR. Each licensed mortgage loan originator must be employed by,  
 28 or sponsored ~~under an exclusive written agreement (as permitted by~~  
 29 ~~IC 24-4.4-1-202(b)(6)(a)) and as an independent agent~~; **permitted by**  
 30 **IC 24-4.4-1-202(b)(8) or by 750 IAC 9**, and associated with, a  
 31 licensed creditor (or an **entity a person** exempt from licensing) that is  
 32 registered with the NMLSR. ~~in order to originate loans.~~

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

- 39 (a) **is licensed as a mortgage loan originator under this**
- 40 **article and 750 IAC 9-3; and**
- 41 (b) **is sponsored by a person, as permitted by**
- 42 **IC 24-4.4-1-202(b)(8), to engage solely as a third party loan**

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1 **processor or underwriter;**  
2 **is subject to the prohibition set forth in this subsection with respect**  
3 **to the individual's engagement under the sponsorship.**

4 (4) Applicants for a mortgage license must apply for the license in  
5 the form prescribed by the director. Each form:

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

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

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

13 (a) collect and maintain records; and

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

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

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

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

22 SECTION 5. IC 24-4.4-2-402.3, AS AMENDED BY  
23 P.L.129-2020, SECTION 3, IS AMENDED TO READ AS FOLLOWS  
24 [EFFECTIVE JULY 1, 2023]: Sec. 402.3. (1) Each:

25 (a) creditor; and

26 (b) person that is exempt (either under this article or under  
27 IC 24-4.5) from licensing to engage in mortgage loans and that:

28 (i) employs a licensed mortgage loan originator; or

29 (ii) sponsors ~~under an exclusive written agreement, as~~  
30 ~~permitted by IC 24-4.4-1-202(b)(6)(a);~~ a licensed mortgage  
31 loan originator as ~~an independent agent; permitted by~~  
32 **IC 24-4.4-1-202(b)(8) or by 750 IAC 9;**

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 that is exempt from licensing and that employs  
38 a licensed mortgage loan originator, or that sponsors ~~under~~  
39 ~~an exclusive written agreement (as permitted by~~  
40 ~~IC 24-4.4-1-202(b)(6)(a))~~ a licensed mortgage loan  
41 originator as ~~an independent agent; permitted by~~  
42 **IC 24-4.4-1-202(b)(8) or by 750 IAC 9;**

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

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1 accomplish the purposes of this article. Upon written request from:  
 2 (a) a creditor described in subsection (1)(a); or  
 3 (b) an exempt person described in subsection (1)(b);  
 4 the director may, at the discretion of the director, waive or shorten the  
 5 two (2) year period set forth in subsection (2)(d) during which a surety  
 6 bond required by this section must remain in effect after the occurrence  
 7 of an event described in subsection (2)(d)(i) or (2)(d)(ii), as applicable.  
 8 (4) The penal sum of the surety bond shall be maintained in an  
 9 amount that reflects the dollar amount of mortgage transactions  
 10 originated as determined by the director. If the principal amount of a  
 11 surety bond required under this section is reduced by payment of a  
 12 claim or judgment, the creditor or exempt person for whom the bond  
 13 is issued shall immediately notify the director of the reduction and, not  
 14 later than thirty (30) days after notice by the director, file a new or an  
 15 additional surety bond in an amount set by the director. The amount of  
 16 the new or additional bond set by the director must be at least the  
 17 amount of the bond before payment of the claim or judgment.  
 18 (5) If for any reason a surety terminates a bond issued under this  
 19 section, the creditor or the exempt person shall immediately notify the  
 20 department and file a new surety bond in an amount determined by the  
 21 director.  
 22 (6) Cancellation of a surety bond issued under this section does  
 23 not affect any liability incurred or accrued during the period when the  
 24 surety bond was in effect.  
 25 (7) The director may obtain satisfaction from a surety bond issued  
 26 under this section if the director incurs expenses, issues a final order,  
 27 or recovers a final judgment under this chapter.  
 28 (8) Notices required under this section must be made in writing  
 29 and submitted through the NMLSR or any other electronic registration  
 30 system that may be approved by the director.  
 31 SECTION 6. IC 24-4.4-2-402.4, AS AMENDED BY  
 32 P.L.176-2019, SECTION 4, IS AMENDED TO READ AS FOLLOWS  
 33 [EFFECTIVE JULY 1, 2023]: Sec. 402.4. (1) Subject to subsection (6),  
 34 the director shall designate the NMLSR to serve as the sole entity  
 35 responsible for:  
 36 (a) processing applications and renewals for mortgage licenses;  
 37 (b) issuing unique identifiers for licensees and **entities persons**  
 38 exempt from licensing that employ **or sponsor** a licensed  
 39 mortgage loan originator under this article; and  
 40 (c) performing other services that the director determines are  
 41 necessary for the orderly administration of the department's  
 42 mortgage licensing system.

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1 (2) Subject to the confidentiality provisions contained in  
 2 IC 5-14-3, this section, and IC 28-1-2-30, the director may regularly  
 3 report significant or recurring violations of this article to the NMLSR.

4 (3) Subject to the confidentiality provisions contained in  
 5 IC 5-14-3, this section, and IC 28-1-2-30, the director may report  
 6 complaints received regarding mortgage licensees to the NMLSR.

7 (4) The director may report publicly adjudicated licensure actions  
 8 against a licensee to the NMLSR.

9 (5) The director shall establish a process in which licensees may  
 10 challenge information reported to the NMLSR by the department.

11 (6) The director's authority to designate the NMLSR under  
 12 subsection (1) is subject to the following:

13 (a) Information stored in the NMLSR is subject to the  
 14 confidentiality provisions of IC 5-14-3 and IC 28-1-2-30. A  
 15 person may not:

16 (i) obtain information from the NMLSR, unless the person  
 17 is authorized to do so by statute;

18 (ii) initiate any civil action based on information obtained  
 19 from the NMLSR if the information is not otherwise  
 20 available to the person under any other state law; or

21 (iii) initiate any civil action based on information obtained  
 22 from the NMLSR if the person could not have initiated the  
 23 action based on information otherwise available to the  
 24 person under any other state law.

25 (b) Documents, materials, and other forms of information in the  
 26 control or possession of the NMLSR that are confidential under  
 27 IC 28-1-2-30 and that are:

28 (i) furnished by the director, the director's designee, or a  
 29 licensee; or

30 (ii) otherwise obtained by the NMLSR;

31 are confidential and privileged by law and are not subject to  
 32 inspection under IC 5-14-3, subject to subpoena, subject to  
 33 discovery, or admissible in evidence in any civil action.

34 However, the director may use the documents, materials, or other  
 35 information available to the director in furtherance of any action  
 36 brought in connection with the director's duties under this article.

37 (c) Disclosure of documents, materials, and information:

38 (i) to the director; or

39 (ii) by the director;

40 under this subsection does not result in a waiver of any  
 41 applicable privilege or claim of confidentiality with respect to  
 42 the documents, materials, or information.

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- 1 (d) Information provided to the NMLSR is subject to IC 4-1-11.  
 2 (e) This subsection does not limit or impair a person's right to:  
 3 (i) obtain information;  
 4 (ii) use information as evidence in a civil action or  
 5 proceeding; or  
 6 (iii) use information to initiate a civil action or proceeding;  
 7 if the information may be obtained from the director or the  
 8 director's designee under any law.  
 9 (f) Except as otherwise provided in the federal Housing and  
 10 Economic Recovery Act of 2008 (Public Law 110-289, Section  
 11 1512), the requirements under any federal law or IC 5-14-3  
 12 regarding the privacy or confidentiality of any information or  
 13 material provided to the NMLSR, and any privilege arising  
 14 under federal or state law, including the rules of any federal or  
 15 state court, with respect to the information or material, continue  
 16 to apply to the information or material after the information or  
 17 material has been disclosed to the NMLSR. The information and  
 18 material may be shared with all state and federal regulatory  
 19 officials with mortgage industry oversight authority without the  
 20 loss of privilege or the loss of confidentiality protections  
 21 provided by federal law or IC 5-14-3.  
 22 (g) For purposes of this section, the director may enter  
 23 agreements or sharing arrangements with other governmental  
 24 agencies, the Conference of State Bank Supervisors, the  
 25 American Association of Residential Mortgage Regulators, or  
 26 other associations representing governmental agencies, as  
 27 established by rule or order of the director.  
 28 (h) Information or material that is subject to a privilege or  
 29 confidentiality under subdivision (f) is not subject to:  
 30 (i) disclosure under any federal or state law governing the  
 31 disclosure to the public of information held by an officer or  
 32 an agency of the federal government or the respective state;  
 33 or  
 34 (ii) subpoena, discovery, or admission into evidence in any  
 35 private civil action or administrative process, unless with  
 36 respect to any privilege held by the NMLSR with respect to  
 37 the information or material, the person to whom the  
 38 information or material pertains waives, in whole or in part,  
 39 in the discretion of the person, that privilege.  
 40 (i) Any provision of IC 5-14-3 that concerns the disclosure of:  
 41 (i) confidential supervisory information; or  
 42 (ii) any information or material described in subdivision (f);

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1 and that is inconsistent with subdivision (f) is superseded by this  
 2 section.  
 3 (j) This section does not apply with respect to information or  
 4 material that concerns the employment history of, and publicly  
 5 adjudicated disciplinary and enforcement actions against, a  
 6 person described in section 402(2) of this chapter and that is  
 7 included in the NMLSR for access by the public.  
 8 (k) The director may require a licensee required to submit  
 9 information to the NMLSR to pay a processing fee considered  
 10 reasonable by the director. In determining whether an NMLSR  
 11 processing fee is reasonable, the director shall:  
 12 (i) require review of; and  
 13 (ii) make available;  
 14 the audited financial statements of the NMLSR.  
 15 (7) Notwithstanding any other provision of law, any:  
 16 (a) application, renewal, or other form or document that:  
 17 (i) relates to mortgage licenses issued by the department;  
 18 and  
 19 (ii) is made or produced in an electronic format;  
 20 (b) document filed as an electronic record in a multistate  
 21 automated repository established and operated for the licensing  
 22 or registration of mortgage lenders, brokers, or loan originators;  
 23 or  
 24 (c) electronic record filed through the NMLSR;  
 25 is considered a valid original document when reproduced in paper form  
 26 by the department.  
 27 SECTION 7. IC 24-4.4-2-405, AS AMENDED BY P.L.69-2018,  
 28 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 29 JULY 1, 2023]: Sec. 405. (1) Every licensee shall maintain records in  
 30 a manner that will enable the department to determine whether the  
 31 licensee is complying with this article. The record keeping system of  
 32 a licensee is sufficient if the licensee makes the required information  
 33 reasonably available. The department shall determine the sufficiency  
 34 of the records and whether the licensee has made the required  
 35 information reasonably available. The department shall be given free  
 36 access to the records wherever the records are located. Records  
 37 concerning any first lien mortgage transaction shall be retained for two  
 38 (2) years after the making of the final entry relating to the transaction,  
 39 but in the case of a revolving first lien mortgage transaction, the two (2)  
 40 years required under this subsection is measured from the date of each  
 41 entry relating to the transaction. A ~~federal savings bank~~ person that  
 42 voluntarily registers with the department under

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1 ~~IC 24-4.4-1-202(b)(6)(a)~~ **IC 24-4.4-1-202(b)(8)** for the purpose of  
 2 sponsoring ~~under an exclusive written agreement~~, licensed mortgage  
 3 loan originators ~~as independent agents~~ shall:

- 4 (a) cooperate with the department; and  
 5 (b) provide access to records and documents;

6 as required by the department in carrying out examinations of the  
 7 activities of the licensed mortgage loan originators sponsored by the  
 8 ~~federal savings bank~~. **person.**

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

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

16 (4) Each:

- 17 (a) creditor licensed to engage in mortgage transactions by the  
 18 department; and

19 (b) **entity person** that is exempt from licensing and that:

- 20 (i) employs one (1) or more licensed mortgage loan  
 21 originators; or  
 22 (ii) sponsors ~~under an exclusive written agreement~~, as  
 23 ~~permitted by IC 24-4.4-1-202(b)(6)(a)~~; one (1) or more  
 24 licensed mortgage originators as ~~independent agents~~;  
 25 **permitted by IC 24-4.4-1-202(b)(8) or by 750 IAC 9;**

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

28 (5) Each:

- 29 (a) creditor licensed by the department to engage in mortgage  
 30 transactions; and

31 (b) **entity person** that is exempt from licensing ~~by the~~  
 32 ~~department to engage in mortgage transactions~~ and that:

- 33 (i) employs one (1) or more licensed mortgage loan  
 34 originators; or  
 35 (ii) sponsors ~~under an exclusive written agreement~~, as  
 36 ~~permitted by IC 24-4.4-1-202(b)(6)(a)~~; one (1) or more  
 37 licensed mortgage loan originators as ~~independent agents~~;  
 38 **permitted by IC 24-4.4-1-202(b)(8) or by 750 IAC 9;**

39 shall file with the department additional financial statements relating  
 40 to all first lien mortgage transactions originated by the licensed creditor  
 41 or the exempt **entity person** as required by the department, but not  
 42 more frequently than annually, in the form prescribed by the

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1 department.

2 (6) A licensed creditor shall file notification with the department

3 if the licensee:

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

5 (b) opens a new branch, closes an existing branch, or relocates

6 an existing branch;

7 (c) files for bankruptcy or reorganization; or

8 (d) is subject to revocation or suspension proceedings by a state

9 or governmental authority with regard to the licensed creditor's

10 activities;

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

12 this subsection.

13 (7) A licensee shall file notification with the department if the

14 licensee or any director, executive officer, or manager of the licensee

15 has been convicted of a felony under the laws of Indiana or any other

16 jurisdiction. The licensee shall file the notification required by this

17 subsection not later than thirty (30) days after the date of the event

18 described in this subsection.

19 (8) A licensee shall file notification with the department if the

20 licensee or any director, executive officer, or manager of the licensee

21 has had the person's authority to do business in the securities,

22 commodities, banking, financial services, insurance, real estate, or real

23 estate appraisal industry revoked or suspended by Indiana or by any

24 other state, federal, or foreign governmental agency or self regulatory

25 organization. The licensee shall file the notification required by this

26 subsection not later than thirty (30) days after the date of the event

27 described in this subsection.

28 SECTION 8. IC 24-4.5-1-102, AS AMENDED BY P.L.29-2022,

29 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

30 JULY 1, 2023]: Sec. 102. (1) This article shall be liberally construed

31 and applied to promote its underlying purposes and policies.

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

33 (a) to simplify, clarify, and modernize the law governing retail

34 installment sales, consumer credit, small loans, and usury;

35 (b) to provide rate ceilings to assure an adequate supply of credit

36 to consumers;

37 (c) to further consumer understanding of the terms of credit

38 transactions and to foster competition among suppliers of

39 consumer credit so that consumers may obtain credit at

40 reasonable cost;

41 (d) to protect consumer buyers, lessees, and borrowers against

42 unfair practices by some suppliers of consumer credit, having

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- 1 due regard for the interests of legitimate and scrupulous
- 2 creditors;
- 3 (e) to permit and encourage the development of fair and
- 4 economically sound consumer credit practices;
- 5 (f) to conform the regulation of consumer credit transactions to
- 6 the policies of the Consumer Credit Protection Act (15 U.S.C.
- 7 1601 et seq.) and to applicable state and federal laws, rules,
- 8 regulations, policies, and guidance; and
- 9 (g) to make uniform the law, including administrative rules
- 10 among the various jurisdictions.

11 (3) A reference to a requirement imposed by this article includes  
 12 reference to a related rule or guidance of the department adopted  
 13 pursuant to this article.

14 (4) A reference to a federal law in this article is a reference to the  
 15 law as in effect December 31, ~~2021~~. **2022**.

16 (5) This article applies to a transaction if the director determines  
 17 that the transaction:

- 18 (a) is in substance a disguised consumer credit transaction; or
- 19 (b) involves the application of subterfuge for the purpose of
- 20 avoiding this article.

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

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

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

30 (8) The department may enforce penalty provisions set forth in 15  
 31 U.S.C. 1640 for violations of disclosure requirements applicable to  
 32 mortgage transactions.

33 SECTION 9. IC 24-4.5-1-301.5, AS AMENDED BY  
 34 P.L.176-2019, SECTION 12, IS AMENDED TO READ AS  
 35 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 301.5. In addition to  
 36 definitions appearing in subsequent chapters in this article, the  
 37 following definitions apply throughout this article:

38 (1) "Affiliate", with respect to any person subject to this article,  
 39 means a person that, directly or indirectly, through one (1) or more  
 40 intermediaries:

- 41 (a) controls;
- 42 (b) is controlled by; or

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- 1 (c) is under common control with;
- 2 the person subject to this article.
- 3 (2) "Agreement" means the bargain of the parties in fact as found
- 4 in their language or by implication from other circumstances, including
- 5 course of dealing or usage of trade or course of performance.
- 6 (3) "Agricultural purpose" means a purpose related to the
- 7 production, harvest, exhibition, marketing, transportation, processing,
- 8 or manufacture of agricultural products by a natural person who
- 9 cultivates, plants, propagates, or nurtures the agricultural products.
- 10 "Agricultural products" includes agricultural, horticultural, viticultural,
- 11 and dairy products, livestock, wildlife, poultry, bees, forest products,
- 12 fish and shellfish, and any and all products raised or produced on farms
- 13 and any processed or manufactured products thereof.
- 14 (4) "Average daily balance" means the sum of each of the daily
- 15 balances in a billing cycle divided by the number of days in the billing
- 16 cycle, and if the billing cycle is a month, the creditor may elect to treat
- 17 the number of days in each billing cycle as thirty (30).
- 18 (5) "Closing costs" with respect to a subordinate lien mortgage
- 19 transaction includes:
- 20 (a) fees or premiums for title examination, title insurance, or
- 21 similar purposes, including surveys;
- 22 (b) fees for preparation of a deed, settlement statement, or other
- 23 documents;
- 24 (c) escrows for future payments of taxes and insurance;
- 25 (d) fees for notarizing deeds and other documents;
- 26 (e) appraisal fees; and
- 27 (f) fees for credit reports.
- 28 (6) "Conspicuous" refers to a term or clause when it is so written
- 29 that a reasonable person against whom it is to operate ought to have
- 30 noticed it.
- 31 (7) "Consumer credit" means credit offered or extended to a
- 32 consumer primarily for a personal, family, or household purpose.
- 33 (8) "Consumer credit sale" is a sale of goods, services, or an
- 34 interest in land in which:
- 35 (a) credit is granted by a person who regularly engages as a seller
- 36 in credit transactions of the same kind;
- 37 (b) the buyer is a person other than an organization;
- 38 (c) the goods, services, or interest in land are purchased
- 39 primarily for a personal, family, or household purpose;
- 40 (d) either the debt is payable in installments or a credit service
- 41 charge is made; and
- 42 (e) with respect to a sale of goods or services, either:

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1 (i) the amount of credit extended, the written credit limit, or  
 2 the initial advance does not exceed the exempt threshold  
 3 amount, as adjusted in accordance with the annual  
 4 adjustment of the exempt threshold amount, specified in  
 5 Regulation Z (12 CFR 226.3 or 12 CFR 1026.3(b), as  
 6 applicable); or

7 (ii) the debt is secured by personal property used or  
 8 expected to be used as the principal dwelling of the buyer.

9 Unless the sale is made subject to this article by agreement  
 10 (IC 24-4.5-2-601), "consumer credit sale" does not include a sale  
 11 in which the seller allows the buyer to purchase goods or  
 12 services pursuant to a lender credit card or similar arrangement  
 13 or, except as provided with respect to disclosure  
 14 (IC 24-4.5-2-301), debtors' remedies (IC 24-4.5-5-201),  
 15 providing payoff amounts (IC 24-4.5-2-209), and powers and  
 16 functions of the department (IC 24-4.5-6), a sale of an interest in  
 17 land which is a first lien mortgage transaction.

18 (9) "Consumer loan" means a loan made by a person regularly  
 19 engaged in the business of making loans in which:

20 (a) the debtor is a person other than an organization;

21 (b) the debt is primarily for a personal, family, or household  
 22 purpose;

23 (c) either the debt is payable in installments or a loan finance  
 24 charge is made; and

25 (d) either:

26 (i) the amount of credit extended, the written credit limit, or  
 27 the initial advance does not exceed the exempt threshold  
 28 amount, as adjusted in accordance with the annual  
 29 adjustment of the exempt threshold amount, specified in  
 30 Regulation Z (12 CFR 226.3 or 12 CFR 1026.3(b), as  
 31 applicable); or

32 (ii) the debt is secured by an interest in land or by personal  
 33 property used or expected to be used as the principal  
 34 dwelling of the debtor.

35 Except as described in IC 24-4.5-3-105, the term does not include a  
 36 first lien mortgage transaction.

37 (10) "Credit" means the right granted by a creditor to a debtor to  
 38 defer payment of debt or to incur debt and defer its payment.

39 (11) "Creditor" means a person:

40 (a) who regularly engages in the extension of consumer credit  
 41 that is subject to a credit service charge or loan finance charge,  
 42 as applicable, or is payable by written agreement in more than

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- 1 four (4) installments (not including a down payment); and
- 2 (b) to whom the obligation is initially payable, either on the face
- 3 of the note or contract, or by agreement when there is not a note
- 4 or contract.
- 5 (12) "Depository institution" has the meaning set forth in the
- 6 Federal Deposit Insurance Act (12 U.S.C. 1813(c)) and includes any
- 7 credit union.
- 8 (13) "Director" means the director of the department of financial
- 9 institutions or the director's designee.
- 10 (14) "Dwelling" means a residential structure that contains one (1)
- 11 to four (4) units, regardless of whether the structure is attached to real
- 12 property. The term includes an individual:
- 13 (a) condominium unit;
- 14 (b) cooperative unit;
- 15 (c) mobile home; or
- 16 (d) trailer;
- 17 that is used as a residence.
- 18 (15) "Earnings" means compensation paid or payable for personal
- 19 services, whether denominated as wages, salary, commission, bonus,
- 20 or otherwise, and includes periodic payments under a pension or
- 21 retirement program.
- 22 (16) "Employee" means an individual who is paid wages or other
- 23 compensation by an employer required under federal income tax law
- 24 to file Form W-2 on behalf of the individual.
- 25 (17) "Federal banking agencies" means the Board of Governors of
- 26 the Federal Reserve System, the Office of the Comptroller of the
- 27 Currency, the National Credit Union Administration, and the Federal
- 28 Deposit Insurance Corporation.
- 29 (18) "First lien mortgage transaction" means:
- 30 (a) a consumer loan; or
- 31 (b) a consumer credit sale;
- 32 that is or will be used by the debtor primarily for personal, family, or
- 33 household purposes and that is secured by a mortgage or a land
- 34 contract (or another consensual security interest equivalent to a
- 35 mortgage or a land contract) that constitutes a first lien on a dwelling
- 36 or on residential real estate upon which a dwelling is constructed or
- 37 intended to be constructed.
- 38 (19) "Immediate family member" means a spouse, child, sibling,
- 39 parent, grandparent, or grandchild. The term includes stepparents,
- 40 stepchildren, stepsiblings, and adoptive relationships.
- 41 (20) "Individual" means a natural person.
- 42 (21) "Lender credit card or similar arrangement" means an

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1 arrangement or loan agreement, other than a seller credit card, pursuant  
 2 to which a lender gives a debtor the privilege of using a credit card,  
 3 letter of credit, or other credit confirmation or identification in  
 4 transactions out of which debt arises:

5 (a) by the lender's honoring a draft or similar order for the  
 6 payment of money drawn or accepted by the debtor;

7 (b) by the lender's payment or agreement to pay the debtor's  
 8 obligations; or

9 (c) by the lender's purchase from the obligee of the debtor's  
 10 obligations.

11 (22) "Licensee" means a person licensed as a creditor under this  
 12 article.

13 (23) "Loan brokerage business" means any activity in which a  
 14 person, in return for any consideration from any source, procures,  
 15 attempts to procure, or assists in procuring, a mortgage transaction  
 16 from a third party or any other person, whether or not the person  
 17 seeking the mortgage transaction actually obtains the mortgage  
 18 transaction.

19 (24) "Loan processor or underwriter" means an individual who  
 20 performs clerical or support duties as an employee at the direction of,  
 21 and subject to the supervision and instruction of, a person licensed to  
 22 engage in mortgage transactions or a person exempt from licensing. For  
 23 purposes of this subsection, the term "clerical or support duties" may  
 24 include, after the receipt of an application, the following:

25 (a) The receipt, collection, distribution, and analysis of  
 26 information common for the processing or underwriting of a  
 27 mortgage transaction.

28 (b) The communication with a consumer to obtain the  
 29 information necessary for the processing or underwriting of a  
 30 loan, to the extent that the communication does not include:

31 (i) offering or negotiating loan rates or terms; or

32 (ii) counseling consumers about mortgage transaction rates  
 33 or terms.

34 **The term does not include an individual who is an employee of a**  
 35 **person that is not engaged in mortgage transactions as a creditor**  
 36 **if that person is permitted to voluntarily register with the**  
 37 **department to sponsor the individual under IC 24-4.4-1-202(b)(8)**  
 38 **to engage solely in the activities described in this subdivision.** An  
 39 individual engaging solely in loan processor or underwriter activities  
 40 shall not represent to the public through advertising or other means of  
 41 communicating or providing information, including the use of business  
 42 cards, stationery, brochures, signs, rate lists, or other promotional

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1 items, that the individual can or will perform any of the activities of a  
 2 mortgage loan originator. **However, an individual who is licensed as**  
 3 **a mortgage loan originator under IC 24-4.4 and 750 IAC 9-3, and**  
 4 **who is sponsored by a person, as permitted by**  
 5 **IC 24-4.4-1-202(b)(8), to engage solely as a third party loan**  
 6 **processor or underwriter, is subject to the prohibition set forth in**  
 7 **this subdivision with respect to the individual's engagement under**  
 8 **the sponsorship.**

9 (25) "Mortgage loan originator" means an individual who, for  
 10 compensation or gain, or in the expectation of compensation or gain,  
 11 regularly engages in taking a mortgage transaction application or in  
 12 offering or negotiating the terms of a mortgage transaction that either  
 13 is made under this article or under IC 24-4.4 or is made by an employee  
 14 of a person licensed to engage in mortgage transactions or by an  
 15 employee of a person that is exempt from licensing, while the employee  
 16 is engaging in the loan brokerage business. The term does not include  
 17 the following:

18 (a) An individual engaged solely as a loan processor or  
 19 underwriter as long as the individual works exclusively as an  
 20 employee of a person licensed to engage in mortgage  
 21 transactions or as an employee of a person exempt from  
 22 licensing. **However, the term includes an individual who is**  
 23 **licensed as a mortgage loan originator under IC 24-4.4 and**  
 24 **750 IAC 9-3 and who is an employee of a person that is not**  
 25 **engaged in mortgage transactions as a creditor if that person**  
 26 **voluntarily registers with the department to sponsor the**  
 27 **individual under IC 24-4.4-1-202(b)(8), to engage solely as a**  
 28 **third party processor or underwriter.**

29 (b) Unless the person or entity is compensated by:

- 30 (i) a creditor;  
 31 (ii) a loan broker;  
 32 (iii) another mortgage loan originator; or  
 33 (iv) any agent of the creditor, loan broker, or other mortgage  
 34 loan originator described in items (i) through (iii);

35 a person or entity that only performs real estate brokerage  
 36 activities and is licensed or registered in accordance with  
 37 applicable state law.

38 (c) A person solely involved in extensions of credit relating to  
 39 timeshare plans (as defined in 11 U.S.C. 101(53D)).

40 (26) "Mortgage servicer" means the last person to whom a  
 41 mortgagor or the mortgagor's successor in interest has been instructed  
 42 by a mortgagee to send payments on a loan secured by a mortgage.

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- 1 (27) "Mortgage transaction" means:  
 2 (a) a consumer loan; or  
 3 (b) a consumer credit sale;  
 4 that is or will be used by the debtor primarily for personal, family, or  
 5 household purposes and that is secured by a mortgage or a land  
 6 contract (or another consensual security interest equivalent to a  
 7 mortgage or a land contract) on a dwelling or on residential real estate  
 8 upon which a dwelling is constructed or intended to be constructed.  
 9 (28) "Nationwide Multistate Licensing System and Registry" (or  
 10 "Nationwide Mortgage Licensing System and Registry" or "NMLSR")  
 11 means a multistate licensing system owned and operated by the State  
 12 Regulatory Registry, LLC, or by any successor or affiliated entity, for  
 13 the licensing and registration of creditors, mortgage loan originators,  
 14 and other persons in the mortgage or financial services industries. The  
 15 term includes any other name or acronym that may be assigned to the  
 16 system by the State Regulatory Registry, LLC, or by any successor or  
 17 affiliated entity.  
 18 (29) "Nontraditional mortgage product" means any mortgage  
 19 product other than a thirty (30) year fixed rate mortgage.  
 20 (30) "Official fees" means:  
 21 (a) fees and charges prescribed by law which actually are or will  
 22 be paid to public officials for determining the existence of or for  
 23 perfecting, releasing, or satisfying a security interest related to  
 24 a consumer credit sale, consumer lease, or consumer loan; or  
 25 (b) premiums payable for insurance in lieu of perfecting a  
 26 security interest otherwise required by the creditor in connection  
 27 with the sale, lease, or loan, if the premium does not exceed the  
 28 fees and charges described in subdivision (a) that would  
 29 otherwise be payable.  
 30 (31) "Organization" means a corporation, a government or  
 31 governmental subdivision, an agency, a trust, an estate, a partnership,  
 32 a limited liability company, a cooperative, an association, a joint  
 33 venture, an unincorporated organization, or any other entity, however  
 34 organized.  
 35 (32) "Payable in installments" means that payment is required or  
 36 permitted by written agreement to be made in more than four (4)  
 37 installments not including a down payment.  
 38 (33) "Person" includes an individual or an organization.  
 39 (34) "Person related to" with respect to an individual means:  
 40 (a) the spouse of the individual;  
 41 (b) a brother, brother-in-law, sister, or sister-in-law of the  
 42 individual;

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- 1 (c) an ancestor or lineal descendants of the individual or the
- 2 individual's spouse; and
- 3 (d) any other relative, by blood or marriage, of the individual or
- 4 the individual's spouse who shares the same home with the
- 5 individual.
- 6 (35) "Person related to" with respect to an organization means:
- 7 (a) a person directly or indirectly controlling, controlled by, or
- 8 under common control with the organization;
- 9 (b) a director, an executive officer, or a manager of the
- 10 organization or a person performing similar functions with
- 11 respect to the organization or to a person related to the
- 12 organization;
- 13 (c) the spouse of a person related to the organization; and
- 14 (d) a relative by blood or marriage of a person related to the
- 15 organization who shares the same home with the person.
- 16 (36) "Presumed" or "presumption" means that the trier of fact must
- 17 find the existence of the fact presumed, unless and until evidence is
- 18 introduced that would support a finding of its nonexistence.
- 19 (37) "Real estate brokerage activity" means any activity that
- 20 involves offering or providing real estate brokerage services to the
- 21 public, including the following:
- 22 (a) Acting as a real estate agent or real estate broker for a buyer,
- 23 seller, lessor, or lessee of real property.
- 24 (b) Bringing together parties interested in the sale, purchase,
- 25 lease, rental, or exchange of real property.
- 26 (c) Negotiating, on behalf of any party, any part of a contract
- 27 relating to the sale, purchase, lease, rental, or exchange of real
- 28 property (other than in connection with providing financing with
- 29 respect to the sale, purchase, lease, rental, or exchange of real
- 30 property).
- 31 (d) Engaging in any activity for which a person is required to be
- 32 registered or licensed as a real estate agent or real estate broker
- 33 under any applicable law.
- 34 (e) Offering to engage in any activity, or act in any capacity,
- 35 described in this subsection.
- 36 (38) "Registered mortgage loan originator" means any individual
- 37 who:
- 38 (a) meets the definition of mortgage loan originator and is an
- 39 employee of:
- 40 (i) a depository institution;
- 41 (ii) a subsidiary that is owned and controlled by a
- 42 depository institution and regulated by a federal banking

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- 1 agency; or
- 2 (iii) an institution regulated by the Farm Credit
- 3 Administration; and
- 4 (b) is registered with, and maintains a unique identifier through,
- 5 the NMLSR.
- 6 (39) "Regularly engaged", with respect to a person who extends
- 7 consumer credit, refers to a person who:
- 8 (a) extended consumer credit:
- 9 (i) more than twenty-five (25) times; or
- 10 (ii) more than five (5) times for a mortgage transaction
- 11 secured by a dwelling;
- 12 in the preceding calendar year; or
- 13 (b) extends or will extend consumer credit:
- 14 (i) more than twenty-five (25) times; or
- 15 (ii) more than five (5) times for a mortgage transaction
- 16 secured by a dwelling;
- 17 in the current calendar year, if the person did not meet the
- 18 numerical standards described in subdivision (a) in the
- 19 preceding calendar year.
- 20 (40) "Residential real estate" means any real property that is
- 21 located in Indiana and on which there is located or intended to be
- 22 constructed a dwelling.
- 23 (41) "Seller credit card" means an arrangement that gives to a
- 24 buyer or lessee the privilege of using a credit card, letter of credit, or
- 25 other credit confirmation or identification for the purpose of purchasing
- 26 or leasing goods or services from that person, a person related to that
- 27 person, or from that person and any other person. The term includes a
- 28 card that is issued by a person, that is in the name of the seller, and that
- 29 can be used by the buyer or lessee only for purchases or leases at
- 30 locations of the named seller.
- 31 (42) "Subordinate lien mortgage transaction" means:
- 32 (a) a consumer loan; or
- 33 (b) a consumer credit sale;
- 34 that is or will be used by the debtor primarily for personal, family, or
- 35 household purposes and that is secured by a mortgage or a land
- 36 contract (or another consensual security interest equivalent to a
- 37 mortgage or a land contract) that constitutes a subordinate lien on a
- 38 dwelling or on residential real estate upon which a dwelling is
- 39 constructed or intended to be constructed.
- 40 (43) "Unique identifier" means a number or other identifier
- 41 assigned by protocols established by the NMLSR.
- 42 (44) "Land contract" means a contract for the sale of real estate in

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1 which the seller of the real estate retains legal title to the real estate  
2 until the total contract price is paid by the buyer.

3 (45) "Bona fide nonprofit organization" means an organization that  
4 does the following, as determined by the director under criteria  
5 established by the director:

6 (a) Maintains tax exempt status under Section 501(c)(3) of the  
7 Internal Revenue Code.

8 (b) Promotes affordable housing or provides home ownership  
9 education or similar services.

10 (c) Conducts the organization's activities in a manner that serves  
11 public or charitable purposes.

12 (d) Receives funding and revenue and charges fees in a manner  
13 that does not encourage the organization or the organization's  
14 employees to act other than in the best interests of the  
15 organization's clients.

16 (e) Compensates the organization's employees in a manner that  
17 does not encourage employees to act other than in the best  
18 interests of the organization's clients.

19 (f) Provides to, or identifies for, debtors mortgage transactions  
20 with terms that are favorable to the debtor (as described in  
21 section 202(b)(15) of this chapter) and comparable to mortgage  
22 transactions and housing assistance provided under government  
23 housing assistance programs.

24 (g) Maintains certification by the United States Department of  
25 Housing and Urban Development or employs counselors who are  
26 certified by the Indiana housing and community development  
27 authority.

28 SECTION 10. IC 24-4.5-3-502.1, AS AMENDED BY  
29 P.L.69-2018, SECTION 19, IS AMENDED TO READ AS FOLLOWS  
30 [EFFECTIVE JULY 1, 2023]: Sec. 502.1. (1) A person that is a:

31 (a) depository institution;

32 (b) subsidiary that is owned and controlled by a depository  
33 institution and regulated by a federal banking agency; or

34 (c) credit union service organization;

35 may engage in Indiana in the making of subordinate lien mortgage  
36 transactions without obtaining a mortgage license issued by the  
37 department.

38 (2) A collection agency licensed under IC 25-11-1 or an institution  
39 regulated by the Farm Credit Administration may engage in:

40 (a) taking assignments of subordinate lien mortgage transactions;  
41 and

42 (b) undertaking the direct collection of payments from or the

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1 enforcement of rights against debtors arising from subordinate  
 2 lien mortgage transactions;  
 3 in Indiana without obtaining a mortgage license issued by the  
 4 department.

5 (3) A person that is not otherwise exempt under subsection (1) or  
 6 (2) shall acquire and retain a mortgage license issued by the  
 7 department in order to regularly engage in Indiana in the following  
 8 actions with respect to subordinate lien mortgage transactions:

9 (a) The making of subordinate lien mortgage loans.

10 (b) Taking assignments of subordinate lien mortgage loans.

11 (c) Undertaking the direct collection of payments from or the  
 12 enforcement of rights against debtors arising from subordinate  
 13 lien mortgage loans.

14 (4) Each:

15 (a) creditor licensed by the department to engage in subordinate  
 16 lien mortgage transactions; and

17 (b) **entity person** that is exempt (either under this article or  
 18 under ~~IC 24-4.4-1-202(b)(6)(a)~~ **IC 24-4.4-1-202(b)(8)**) from  
 19 licensing and that:

20 (i) employs a licensed mortgage loan originator; or

21 (ii) sponsors ~~under an exclusive written agreement, as~~  
 22 ~~permitted by IC 24-4.4-1-202(b)(6)(a);~~ a licensed mortgage  
 23 loan originator as an **independent agent, permitted by**  
 24 **IC 24-4.4-1-202(b)(8) or by 750 IAC 9;**

25 shall register with and maintain a valid unique identifier issued by the  
 26 NMLSR. Each licensed mortgage loan originator must be employed by,  
 27 or sponsored ~~under an exclusive written agreement (as permitted by~~  
 28 ~~IC 24-4.4-1-202(b)(6)(a)) and as an independent agent, permitted by~~  
 29 **IC 24-4.4-1-202(b)(8) or by 750 IAC 9**, and associated with, a  
 30 licensed creditor (or an exempt **entity person** described under  
 31 subdivision (b)) that is registered with the NMLSR. ~~in order to~~  
 32 ~~originate loans:~~

33 (5) Applicants for a mortgage license must apply to the department  
 34 for the license in a form prescribed by the director. Each form:

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

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

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

42 (a) collect and maintain records; and

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

3 (7) For the purpose of participating in the NMLSR, the director or  
 4 the department may:

- 5 (a) waive or modify, in whole or in part, by rule, regulation, or  
 6 order, any or all of the requirements of this article; and
- 7 (b) establish new requirements as reasonably necessary to  
 8 participate in the NMLSR.

9 SECTION 11. IC 24-4.5-3-503.3, AS AMENDED BY  
 10 P.L.129-2020, SECTION 7, IS AMENDED TO READ AS FOLLOWS  
 11 [EFFECTIVE JULY 1, 2023]: Sec. 503.3. (1) Each:

- 12 (a) creditor licensed by the department to engage in mortgage  
 13 transactions; and
- 14 (b) person that is exempt (either under this article or under  
 15 ~~IC 24-4.4-1-202(b)(6)(a)~~ or **IC 24-4.4-1-202(b)(8)**) from  
 16 licensing and that:

- 17 (i) employs a licensed mortgage loan originator; or
- 18 (ii) sponsors ~~under an exclusive written agreement, as~~  
 19 ~~permitted by IC 24-4.4-1-202(b)(6)(a);~~ a licensed mortgage  
 20 loan originator as ~~an independent agent;~~ **permitted by**  
 21 **IC 24-4.4-1-202(b)(8) or by 750 IAC 9;**

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

23 (2) A surety bond must:

- 24 (a) provide coverage for:
  - 25 (i) a creditor described in subsection (1)(a); and
  - 26 (ii) an exempt person described in subsection (1)(b);
- 27 in an amount as prescribed in subsection (4);
- 28 (b) be in a form as prescribed by the director;
- 29 (c) be in effect:
  - 30 (i) during the term of the creditor's license; or
  - 31 (ii) at any time during which the person exempt from  
 32 licensing employs a licensed mortgage loan originator, or  
 33 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;~~ **permitted by**  
 36 **IC 24-4.4-1-202(b)(8) or by 750 IAC 9;**

37 as applicable;

38 (d) subject to subsection (3), remain in effect during the two (2)  
 39 years after:

- 40 (i) the license of the creditor is surrendered or terminated;
- 41 or
- 42 (ii) the person exempt from licensing ceases to employ a

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1 licensed mortgage loan originator, or ceases to sponsor  
 2 ~~under an exclusive written agreement (as permitted by~~  
 3 ~~IC 24-4.4-1-202(b)(6)(a))~~ a licensed mortgage loan  
 4 originator as an independent agent, **permitted by**  
 5 **IC 24-4.4-1-202(b)(8) or by 750 IAC 9**, or to offer  
 6 financial services to individuals in Indiana, whichever is  
 7 later;

8 as applicable;

9 (e) be payable to the department for the benefit of:

10 (i) the state; and

11 (ii) individuals who reside in Indiana when they agree to  
 12 receive financial services from the creditor or the person  
 13 exempt from licensing, as applicable;

14 (f) be issued by a bonding, surety, or insurance company  
 15 authorized to do business in Indiana and rated at least "A-" by at  
 16 least one (1) nationally recognized investment rating service; and  
 17 (g) have payment conditioned upon:

18 (i) the creditor's or any of the creditor's licensed mortgage  
 19 loan originators'; or

20 (ii) the exempt person's or any of the exempt person's  
 21 licensed mortgage loan originators';

22 noncompliance with or violation of this chapter, 750 IAC 9, or  
 23 other federal or state laws or regulations applicable to mortgage  
 24 lending.

25 (3) The director may adopt rules or guidance documents with  
 26 respect to the requirements for surety bonds as necessary to accomplish  
 27 the purposes of this article. Upon written request from:

28 (a) a creditor described in subsection (1)(a); or

29 (b) an exempt person described in subsection (1)(b);

30 the director may, at the discretion of the director, waive or shorten the  
 31 two (2) year period set forth in subsection (2)(d) during which a surety  
 32 bond required by this section must remain in effect after the occurrence  
 33 of an event described in subsection (2)(d)(i) or (2)(d)(ii), as applicable.

34 (4) The penal sum of the surety bond shall be maintained in an  
 35 amount that reflects the dollar amount of mortgage transactions  
 36 originated as determined by the director. If the principal amount of a  
 37 surety bond required under this section is reduced by payment of a  
 38 claim or judgment, the creditor or exempt person for whom the bond  
 39 is issued shall immediately notify the director of the reduction and, not  
 40 later than thirty (30) days after notice by the director, file a new or an  
 41 additional surety bond in an amount set by the director. The amount of  
 42 the new or additional bond set by the director must be at least the

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1 amount of the bond before payment of the claim or judgment.

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

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

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

12 (8) Notices required under this section must be made in writing  
13 and submitted through the NMLSR or any other electronic registration  
14 system that may be approved by the director.

15 SECTION 12. IC 24-4.5-3-503.4, AS AMENDED BY  
16 P.L.176-2019, SECTION 21, IS AMENDED TO READ AS  
17 FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 503.4. (1) Subject to  
18 subsection (6), the director shall designate the NMLSR to serve as the  
19 sole entity responsible for:

20 (a) processing applications and renewals for licenses under  
21 section 502.1 of this chapter;

22 (b) issuing unique identifiers for licensees under section 502.1  
23 of this chapter and for **entities persons** exempt from licensing  
24 **(either under this article or under IC 24-4.4-1-202(b)(8))** that  
25 employ licensed mortgage loan originators **or that sponsor**  
26 **licensed loan originators as permitted by**  
27 **IC 24-4.4-1-202(b)(8) or by 750 IAC 9;** and

28 (c) performing other services that the director determines  
29 necessary for the orderly administration of the department's  
30 licensing system under section 502.1 of this chapter.

31 (2) Subject to the confidentiality provisions contained in  
32 IC 5-14-3, this section, and IC 28-1-2-30, the director may regularly  
33 report significant or recurring violations of this article related to  
34 subordinate lien mortgage transactions to the NMLSR.

35 (3) Subject to the confidentiality provisions contained in  
36 IC 5-14-3, this section, and IC 28-1-2-30, the director may report  
37 complaints received regarding licensees and relating to subordinate lien  
38 mortgage transactions to the NMLSR.

39 (4) The director may report publicly adjudicated licensure actions  
40 against licensees under section 502.1 of this chapter to the NMLSR.

41 (5) The director shall establish a process in which persons licensed  
42 in accordance with section 502.1 of this chapter may challenge

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- 1 information reported to the NMLSR by the department.
- 2 (6) The director's authority to designate the NMLSR under
- 3 subsection (1) is subject to the following:
- 4 (a) Information stored in the NMLSR is subject to the
- 5 confidentiality provisions of IC 28-1-2-30 and IC 5-14-3. A
- 6 person may not:
- 7 (i) obtain information from the NMLSR unless the person
- 8 is authorized to do so by statute;
- 9 (ii) initiate any civil action based on information obtained
- 10 from the NMLSR if the information is not otherwise
- 11 available to the person under any other state law; or
- 12 (iii) initiate any civil action based on information obtained
- 13 from the NMLSR if the person could not have initiated the
- 14 action based on information otherwise available to the
- 15 person under any other state law.
- 16 (b) Documents, materials, and other forms of information in the
- 17 control or possession of the NMLSR that are confidential under
- 18 IC 28-1-2-30 and that are:
- 19 (i) furnished by the director, the director's designee, or a
- 20 licensee; or
- 21 (ii) otherwise obtained by the NMLSR;
- 22 are confidential and privileged by law and are not subject to
- 23 inspection under IC 5-14-3, subject to subpoena, subject to
- 24 discovery, or admissible in evidence in any civil action.
- 25 However, the director may use the documents, materials, or other
- 26 information available to the director in furtherance of any action
- 27 brought in connection with the director's duties under this article.
- 28 (c) Disclosure of documents, materials, and information:
- 29 (i) to the director; or
- 30 (ii) by the director;
- 31 under this subsection does not result in a waiver of any
- 32 applicable privilege or claim of confidentiality with respect to
- 33 the documents, materials, or information.
- 34 (d) Information provided to the NMLSR is subject to IC 4-1-11.
- 35 (e) This subsection does not limit or impair a person's right to:
- 36 (i) obtain information;
- 37 (ii) use information as evidence in a civil action or
- 38 proceeding; or
- 39 (iii) use information to initiate a civil action or proceeding;
- 40 if the information may be obtained from the director or the
- 41 director's designee under any law.
- 42 (f) Except as otherwise provided in the federal Housing and

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1 Economic Recovery Act of 2008, Public Law 110-289, Section  
 2 1512, the requirements under any federal law or IC 5-14-3  
 3 regarding the privacy or confidentiality of any information or  
 4 material provided to the NMLSR, and any privilege arising  
 5 under federal or state law, including the rules of any federal or  
 6 state court, with respect to the information or material, continue  
 7 to apply to the information or material after the information or  
 8 material has been disclosed to the NMLSR. The information and  
 9 material may be shared with all state and federal regulatory  
 10 officials with mortgage industry oversight authority without the  
 11 loss of privilege or the loss of confidentiality protections  
 12 provided by federal law or IC 5-14-3.

13 (g) For purposes of this section, the director may enter  
 14 agreements or sharing arrangements with other governmental  
 15 agencies, the Conference of State Bank Supervisors, the  
 16 American Association of Residential Mortgage Regulators, or  
 17 other associations representing governmental agencies as  
 18 established by rule or order of the director.

19 (h) Information or material that is subject to a privilege or  
 20 confidentiality under subdivision (f) is not subject to:

21 (i) disclosure under any federal or state law governing the  
 22 disclosure to the public of information held by an officer or  
 23 an agency of the federal government or the respective state;  
 24 or

25 (ii) subpoena, discovery, or admission into evidence, in any  
 26 private civil action or administrative process, unless with  
 27 respect to any privilege held by the NMLSR with respect to  
 28 the information or material, the person to whom the  
 29 information or material pertains waives, in whole or in part,  
 30 in the discretion of the person, that privilege.

31 (i) Any provision of IC 5-14-3 that concerns the disclosure of:

32 (i) confidential supervisory information; or  
 33 (ii) any information or material described in subdivision (f);  
 34 and that is inconsistent with subdivision (f) is superseded by this  
 35 section.

36 (j) This section does not apply with respect to information or  
 37 material that concerns the employment history of, and publicly  
 38 adjudicated disciplinary and enforcement actions against, a  
 39 person licensed in accordance with section 502.1 of this chapter  
 40 and described in section 503(2) of this chapter and that is  
 41 included in the NMLSR for access by the public.

42 (k) The director may require a licensee required to submit

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1 information to the NMLSR to pay a processing fee considered  
 2 reasonable by the director. In determining whether an NMLSR  
 3 processing fee is reasonable, the director shall:  
 4 (i) require review of; and  
 5 (ii) make available;  
 6 the audited financial statements of the NMLSR.  
 7 (7) Notwithstanding any other provision of law, any:  
 8 (a) application, renewal, or other form or document that:  
 9 (i) relates to mortgage licenses issued by the department;  
 10 and  
 11 (ii) is made or produced in an electronic format;  
 12 (b) document filed as an electronic record in a multistate  
 13 automated repository established and operated for the licensing  
 14 or registration of mortgage lenders, brokers, or loan originators;  
 15 or  
 16 (c) electronic record filed through the NMLSR;  
 17 is considered a valid original document when reproduced in paper form  
 18 by the department.

19 SECTION 13. IC 24-4.5-3-505, AS AMENDED BY P.L.69-2018,  
 20 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 21 JULY 1, 2023]: Sec. 505. (1) Every creditor required to be licensed  
 22 under this article shall maintain records in conformity with United  
 23 States generally accepted accounting principles and practices, or in any  
 24 other form that may be preapproved at the discretion of the director, in  
 25 a manner that will enable the department to determine whether the  
 26 licensee is complying with the provisions of this article. The record  
 27 keeping system of a licensee shall be sufficient if the licensee makes  
 28 the required information reasonably available. The department shall  
 29 determine the sufficiency of the records and whether the licensee has  
 30 made the required information reasonably available. The department  
 31 shall be given free access to the records wherever located. The records  
 32 pertaining to any loan shall be retained for two (2) years after making  
 33 the final entry relating to the loan, but in the case of a revolving loan  
 34 account the two (2) years is measured from the date of each entry. A  
 35 person licensed or required to be licensed under this chapter is subject  
 36 to IC 28-1-2-30.5 with respect to any records maintained by the person.  
 37 A person that is exempt (either under this article or under  
 38 ~~IC 24-4.4-1-202(b)(6)(a)~~ **IC 24-4.4-1-202(b)(8)**) from licensing and  
 39 that sponsors one (1) or more licensed mortgage loan originators ~~as~~  
 40 ~~independent agents under an exclusive written agreement~~, as permitted  
 41 by ~~IC 24-4.4-1-202(b)(6)(a)~~, **IC 24-4.4-1-202(b)(8)** or by **750 IAC 9**,  
 42 shall:

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- 1 (a) cooperate with the department; and  
 2 (b) provide access to records and documents;  
 3 as required by the department in carrying out examinations of the  
 4 activities of the licensed mortgage loan originators sponsored by the  
 5 ~~federal savings bank~~ **person**.
- 6 (2) The unique identifier of any person originating a mortgage  
 7 transaction must be clearly shown on all mortgage transaction  
 8 application forms and any other documents as required by the director.
- 9 (3) Every licensee that engages in mortgage transactions shall use  
 10 automated examination and regulatory software designated by the  
 11 director, including third party software. Use of the software consistent  
 12 with guidance documents and policies issued by the director is not a  
 13 violation of IC 28-1-2-30.
- 14 (4) Each:  
 15 (a) creditor that is licensed by the department to engage in  
 16 mortgage transactions; and  
 17 (b) **entity person** that is exempt (either under this article or  
 18 under ~~IC 24-4.4-1-202(b)(6)(a)~~ **IC 24-4.4-1-202(b)(8)**) from  
 19 licensing and that:  
 20 (i) employs one (1) or more licensed mortgage loan  
 21 originators; or  
 22 (ii) sponsors ~~under an exclusive written agreement, as~~  
 23 ~~permitted by IC 24-4.4-1-202(b)(6)(a);~~ one (1) or more  
 24 licensed mortgage loan originators as ~~independent agents;~~  
 25 **permitted by IC 24-4.4-1-202(b)(8) or by 750 IAC 9;**  
 26 shall submit to the NMLSR a call report, which must be in the form  
 27 and contain information the NMLSR requires.
- 28 (5) Every creditor required to be licensed under this article shall  
 29 file with the department a composite report as required by the  
 30 department, but not more frequently than annually, in the form  
 31 prescribed by the department relating to all consumer loans made by  
 32 the licensee. The department shall consult with comparable officials in  
 33 other states for the purpose of making the kinds of information required  
 34 in the reports uniform among the states. Information contained in the  
 35 reports shall be confidential and may be published only in composite  
 36 form. The department may impose a fee in an amount fixed by the  
 37 department under IC 28-11-3-5 for each day that a creditor fails to file  
 38 the report required by this subsection.
- 39 (6) A creditor required to be licensed under this article shall file  
 40 notification with the department if the licensee:  
 41 (a) has a change in name, address, or principals;  
 42 (b) opens a new branch, closes an existing branch, or relocates

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1 an existing branch;  
 2 (c) files for bankruptcy or reorganization; or  
 3 (d) is subject to revocation or suspension proceedings by a state  
 4 or governmental authority with regard to the licensee's activities;  
 5 not later than thirty (30) days after the date of the event described in  
 6 this subsection.

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

13 SECTION 14. IC 28-1-20-1.2 IS ADDED TO THE INDIANA  
 14 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 15 [EFFECTIVE JULY 1, 2023]: **Sec. 1.2. (a) As used in this section,**  
 16 **"depository financial institution" has the meaning set forth in**  
 17 **IC 28-1-1-6.**

18 (b) A depository financial institution may change, amend,  
 19 alter, add, or remove any term in a contract or agreement with a  
 20 depositor at any time, subject to any limitations imposed in the  
 21 contract or agreement itself.

22 (c) For purposes of contract interpretation in connection with  
 23 the permissibility under this section of a depository financial  
 24 institution to change, amend, alter, add, or remove any term in a  
 25 contract or agreement with a depositor, the words "any term of  
 26 this agreement", or any similar language, in the contract or  
 27 agreement shall be liberally interpreted to mean:

- 28 (1) any part of the contract or agreement that relates to a  
 29 particular matter;
  - 30 (2) the entire contract or agreement; or
  - 31 (3) any new provision to the contract or agreement;
- 32 as appropriate.

33 SECTION 15. IC 28-7-1-19, AS AMENDED BY P.L.35-2010,  
 34 SECTION 160, IS AMENDED TO READ AS FOLLOWS  
 35 [EFFECTIVE JULY 1, 2023]: **Sec. 19. (a)** The capital of a credit union  
 36 shall consist of the payments on shares which have been made to it by  
 37 members. A credit union may attach a lien on the shares of any member  
 38 with outstanding obligations to the credit union. A credit union may,  
 39 upon the resignation of a member, cancel the shares of such member,  
 40 and apply the withdrawal value of such shares towards the liquidation  
 41 of the member's obligations. Fully paid up shares of a credit union may  
 42 be transferred to any qualified member upon such terms as the bylaws

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1 provide. If a federal credit union is authorized by the federal regulatory  
 2 authority with jurisdiction or by federal law to use one (1) or more  
 3 forms of secondary capital, the department may by rule, order, or  
 4 declaratory ruling allow a credit union to use one (1) or more forms of  
 5 secondary capital. The rule, order, or declaratory ruling must include  
 6 disclosure requirements concerning the conditions for return of the  
 7 secondary capital and the liquidation priority of the secondary capital.

8 **(b) A credit union shall maintain capital consistent with the**  
 9 **safety and soundness necessary to support the risk in the credit**  
 10 **union's activities, as determined appropriate by the director. The**  
 11 **National Credit Union Administration's:**

12 **(1) prompt corrective action; and**

13 **(2) risk based net worth;**

14 **regulations set forth in 12 CFR 702.101, 12 CFR 702.102, 12 CFR**  
 15 **702.103, 12 CFR 702.104, and 12 CFR 702.105 apply to all credit**  
 16 **unions.**

17 SECTION 16. IC 28-7-1-19.1 IS ADDED TO THE INDIANA  
 18 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 19 [EFFECTIVE JULY 1, 2023]: **Sec. 19.1. (a) Beginning on the**  
 20 **effective date of a credit union's classification as adequately**  
 21 **capitalized or lower, the credit union must increase the dollar**  
 22 **amount of the credit union's net worth on a quarterly basis, either:**

23 **(1) in the current quarter; or**

24 **(2) on average over the current quarter and the preceding**  
 25 **three (3) quarters;**

26 **by an amount equal to at least one-tenth of one percent (0.1%) of**  
 27 **the credit union's total assets (or by a greater amount at the**  
 28 **election of the credit union) until the credit union is classified as**  
 29 **well capitalized.**

30 **(b) Upon written application:**

31 **(1) made by a credit union described in subsection (a); and**

32 **(2) received by the director and the credit union's share**  
 33 **insurer not later than fourteen (14) days before the end of**  
 34 **the applicable quarter;**

35 **the director and the credit union's share insurer may permit the**  
 36 **credit union to increase the dollar amount of the credit union's net**  
 37 **worth by an amount that is less than the amount set forth in**  
 38 **subsection (a), to the extent the director and the credit union's**  
 39 **share insurer determine that the lesser amount is necessary to**  
 40 **avoid a significant redemption of the credit union's shares, and**  
 41 **would further the purposes of section 19(b) of this chapter.**

42 **(c) A decision under subsection (b) is subject to quarterly**

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1 review and revocation unless the credit union is operating under an  
 2 approved net worth restoration plan that is in accordance with the  
 3 decision under subsection (b).

4 SECTION 17. IC 28-7-1-19.2 IS ADDED TO THE INDIANA  
 5 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 6 [EFFECTIVE JULY 1, 2023]: Sec. 19.2. (a) A credit union that is  
 7 classified as undercapitalized or lower must do the following:

8 (1) Increase the credit union's net worth in accordance with  
 9 section 19.1 of this chapter.

10 (2) Submit a net worth restoration plan to the director at the  
 11 time and in the manner specified by the director. If the credit  
 12 union:

13 (A) has a net worth ratio of less than five percent (5%);  
 14 and

15 (B) either:

16 (i) fails to submit a net worth restoration plan  
 17 required by this subdivision; or

18 (ii) materially fails to implement a net worth  
 19 restoration plan submitted under this subdivision  
 20 and approved by the director;

21 the credit union shall be reclassified as significantly  
 22 undercapitalized as described in 12 CFR 702.102(a)(4)(ii).

23 (3) Beginning on the effective date of the credit union's  
 24 classification as undercapitalized or lower, not permit the  
 25 credit union's assets to increase beyond the credit union's  
 26 assets as of the end of the preceding quarter unless one (1) of  
 27 the following applies:

28 (A) The director and the credit union's share insurer  
 29 have approved a net worth restoration plan that  
 30 provides for an increase in total assets and:

31 (i) the assets of the credit union are increasing  
 32 consistent with the approved plan; and

33 (ii) the credit union is implementing steps to  
 34 increase the credit union's net worth ratio  
 35 consistent with the approved plan.

36 (B) The director and the credit union's share insurer  
 37 have not approved a net worth restoration plan, but the  
 38 credit union's total assets are increasing because of  
 39 increases in the balances (as of the end of the preceding  
 40 quarter) of one (1) or more of the following:

41 (i) The credit union's total accounts receivable and  
 42 accrued income on loans and investments.

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- (ii) Total cash and cash equivalents.
- (iii) Total loans outstanding, as long as the amount of the credit union's total loans outstanding does not exceed the sum of the credit union's total assets plus the balance, as of the end of the preceding quarter, of the credit union's unused commitments to lend and unused lines of credit.

A credit union with one (1) or more increased balances under this clause may not offer rates on shares that exceed the prevailing rates on shares in the credit union's relevant market area, and may not establish or acquire any additional branch office.

(4) Beginning on the effective date of the credit union's classification as undercapitalized or lower, not increase the total dollar amount of member business loans (including loans outstanding and unused commitments to lend) above the total dollar amount of member business loans (including loans outstanding and unused commitments to lend) as of the end of the preceding quarter, unless the credit union is permitted to do so by the director and the credit union's share insurer.

(b) Subject to the applicable procedures for issuing, reviewing, and enforcing directives under this chapter, the director may, by directive, take one (1) or more of the following actions with respect to an undercapitalized credit union having a net worth ratio of less than five percent (5%) (or with respect to a director, officer, or employee of such a credit union) if the director determines that the action is necessary to carry out the purposes of section 19(b) of this chapter:

- (1) Prohibit the credit union from, directly or indirectly:
  - (A) acquiring any interest in any business entity or financial institution;
  - (B) establishing or acquiring any additional branch office; or
  - (C) engaging in any new line of business;

unless the director has approved the credit union's net worth restoration plan, the credit union is implementing the plan, and the director determines that the proposed action is consistent with and will further the objectives of the plan.

(2) Restrict the credit union's transactions with a credit union service organization, or require the credit union to reduce or divest the credit union's ownership interest in a

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- 1 credit union service organization.
- 2 (3) Restrict the dividend rates that the credit union pays on
- 3 shares to the prevailing rates paid on comparable accounts
- 4 and maturities in the relevant market area, as determined by
- 5 the director. However, the director may not retroactively
- 6 restrict a dividend rate already declared with respect to
- 7 shares acquired before a restriction is imposed under this
- 8 subdivision.
- 9 (4) Prohibit any growth in the credit union's assets, or in a
- 10 category of assets, or require the credit union to reduce the
- 11 credit union's assets or a category of the credit union's
- 12 assets.
- 13 (5) Require the credit union or the credit union's credit
- 14 union service organization to alter, reduce, or terminate any
- 15 activity that poses excessive risk to the credit union, as
- 16 determined by the director.
- 17 (6) Prohibit the credit union from accepting all or certain
- 18 nonmember deposits, as specified by the director.
- 19 (7) Require the credit union to dismiss from office one (1) or
- 20 more directors or senior executive officers. A dismissal
- 21 under this subdivision shall not be construed to be a formal
- 22 administrative action for removal.
- 23 (8) Require the credit union to employ qualified senior
- 24 executive officers, who, if the director and the credit union's
- 25 share insurer so specify, shall be subject to the approval of
- 26 the director and the credit union's share insurer.
- 27 (9) Restrict or require any other action by the credit union,
- 28 to the extent the director and the credit union's share insurer
- 29 determine that the restriction or requirement will carry out
- 30 the purposes of section 19(b) of this chapter better than any
- 31 of the restrictions or requirements set forth in subdivisions
- 32 (1) through (8).
- 33 (c) An undercapitalized credit union that:
- 34 (1) has a net worth ratio of at least five percent (5%); or
- 35 (2) is classified as undercapitalized in accordance with 12
- 36 CFR 702.102(a)(3)(ii) for having a risk based capital ratio of
- 37 less than eight percent (8%), as calculated under 12 CFR
- 38 702.104;
- 39 is subject to the discretionary supervisory actions set forth in
- 40 subsection (b) if the credit union fails to comply with one (1) or
- 41 more mandatory supervisory requirements or restrictions set forth
- 42 in subsection (a), or if the credit union fails to timely implement a

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1 net worth restoration plan, as described in 12 CFR 702.111 and  
 2 approved by the director, including a failure to meet the prescribed  
 3 steps to increase the credit union's net worth ratio.

4 SECTION 18. IC 28-7-1-19.3 IS ADDED TO THE INDIANA  
 5 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 6 [EFFECTIVE JULY 1, 2023]: Sec. 19.3. (a) A credit union that is  
 7 classified as significantly undercapitalized or lower must do the  
 8 following:

9 (1) Increase the credit union's net worth in accordance with  
 10 section 19.1 of this chapter.

11 (2) Submit a net worth restoration plan to the director at the  
 12 time and in the manner specified by the director.

13 (3) Beginning on the effective date of the credit union's  
 14 classification as significantly undercapitalized or lower, not  
 15 permit the credit union's assets to increase beyond the credit  
 16 union's assets as of the end of the preceding quarter except  
 17 as permitted under section 19.2(a)(3)(A) or 19.2(a)(3)(B) of  
 18 this chapter.

19 (4) Beginning on the effective date of the credit union's  
 20 classification as significantly undercapitalized or lower, not  
 21 increase the total dollar amount of member business loans  
 22 (including loans outstanding and unused commitments to  
 23 lend) above the total dollar amount of member business  
 24 loans (including loans outstanding and unused commitments  
 25 to lend) as of the end of the preceding quarter.

26 (b) Subject to the applicable procedures for issuing, reviewing,  
 27 and enforcing directives under this chapter, the director may, by  
 28 directive, take one (1) or more of the following actions with respect  
 29 to a significantly undercapitalized credit union (or with respect to  
 30 a director, officer, or employee of such a credit union) if the  
 31 director determines that the action is necessary to carry out the  
 32 purposes of section 19(b) of this chapter:

33 (1) Prohibit the credit union from, directly or indirectly:

34 (A) acquiring any interest in any business entity or  
 35 financial institution;

36 (B) establishing or acquiring any additional branch  
 37 office; or

38 (C) engaging in any new line of business;

39 except as permitted by the director and the credit union's  
 40 share insurer.

41 (2) Restrict the credit union's transactions with a credit  
 42 union service organization, or require the credit union to

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- 1           **reduce or divest the credit union's ownership interest in a**  
 2           **credit union service organization.**  
 3           **(3) Restrict the dividend rates that the credit union pays on**  
 4           **shares, as determined by the director and the credit union's**  
 5           **share insurer.**  
 6           **(4) Prohibit any growth in the credit union's assets, or in a**  
 7           **category of assets, or require the credit union to reduce the**  
 8           **credit union's assets or a category of the credit union's**  
 9           **assets.**  
 10           **(5) Require the credit union or the credit union's credit**  
 11           **union service organization to alter, reduce, or terminate any**  
 12           **activity that poses excessive risk to the credit union, as**  
 13           **determined by the director.**  
 14           **(6) Prohibit the credit union from accepting all or certain**  
 15           **nonmember deposits, as specified by the director.**  
 16           **(7) Order a new election of the credit union's board of**  
 17           **directors.**  
 18           **(8) Require the credit union to dismiss from office one (1) or**  
 19           **more directors or senior executive officers. A dismissal**  
 20           **under this subdivision shall not be construed to be a formal**  
 21           **administrative action for removal.**  
 22           **(9) Require the credit union to employ qualified senior**  
 23           **executive officers, who, if the director and the credit union's**  
 24           **share insurer so specify, shall be subject to the approval of**  
 25           **the director and the credit union's share insurer.**  
 26           **(10) Limit the compensation of one (1) or more senior**  
 27           **executive officers of the credit union to that officer's average**  
 28           **rate of compensation (excluding bonuses and profit sharing)**  
 29           **during the four (4) calendar quarters preceding the effective**  
 30           **date of the credit union's classification as significantly**  
 31           **undercapitalized or lower, and prohibit the payment of a**  
 32           **bonus or profit share to the officer. If the director exercises**  
 33           **the discretionary supervisory authority authorized by this**  
 34           **subdivision, the director may permit the credit union to**  
 35           **compensate a senior executive officer without the limitations**  
 36           **described in this subdivision, or with less stringent**  
 37           **limitations than those described in this subdivision, with the**  
 38           **prior written approval of the director and the credit union's**  
 39           **share insurer.**  
 40           **(11) Restrict or require any other action by the credit union,**  
 41           **to the extent the director and the credit union's share insurer**  
 42           **determine that the restriction or requirement will carry out**

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1 the purposes of section 19(b) of this chapter better than any  
2 of the restrictions or requirements set forth in subdivisions  
3 (1) through (10).

4 (12) Require the credit union to merge with another financial  
5 institution if one (1) or more grounds exist for placing the  
6 credit union into conservatorship or into liquidation.

7 (c) Notwithstanding any other mandatory or discretionary  
8 supervisory requirements or restrictions set forth in this section,  
9 if a credit union is classified as significantly undercapitalized or  
10 lower (including by reclassification in accordance with 12 CFR  
11 702.102(b)), the director and the credit union's share insurer may  
12 place the credit union into conservatorship or into liquidation if the  
13 credit union has no reasonable prospect of becoming well  
14 capitalized, as determined by the director.

15 SECTION 19. IC 28-7-1-19.4 IS ADDED TO THE INDIANA  
16 CODE AS A NEW SECTION TO READ AS FOLLOWS  
17 [EFFECTIVE JULY 1, 2023]: Sec. 19.4. (a) A credit union that is  
18 classified as critically undercapitalized must do the following:

19 (1) Increase the credit union's net worth in accordance with  
20 section 19.1 of this chapter.

21 (2) Submit a net worth restoration plan to the director at the  
22 time and in the manner specified by the director.

23 (3) Beginning sixty (60) days after the effective date of the  
24 credit union's classification as critically undercapitalized, not  
25 pay the principal of or interest on the credit union's  
26 subordinated debt (as defined in 12 CFR 702.402). Unpaid  
27 interest shall continue to accrue under the terms of the  
28 related subordinated debt note (as defined in 12 CFR  
29 702.402), to the extent permitted by law.

30 (4) Not permit the credit union's total assets to increase,  
31 except as permitted by the director and the credit union's  
32 share insurer.

33 (5) Beginning on the effective date of the credit union's  
34 classification as critically undercapitalized, not increase the  
35 total dollar amount of member business loans (including  
36 loans outstanding and unused commitments to lend) above  
37 the total dollar amount of member business loans (including  
38 loans outstanding and unused commitments to lend) as of the  
39 end of the preceding quarter.

40 (b) Subject to the applicable procedures for issuing, reviewing,  
41 and enforcing directives under this chapter, the director may, by  
42 directive, take one (1) or more of the following actions with respect

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1 to a critically undercapitalized credit union (or with respect to a  
 2 director, officer, or employee of such a credit union) if the director  
 3 determines that the action is necessary to carry out the purposes of  
 4 section 19(b) of this chapter:

5 (1) Prohibit the credit union from, directly or indirectly:

6 (A) acquiring any interest in any business entity or  
 7 financial institution;

8 (B) establishing or acquiring any additional branch  
 9 office; or

10 (C) engaging in any new line of business;

11 except as permitted by the director and the credit union's  
 12 share insurer.

13 (2) Restrict the credit union's transactions with a credit  
 14 union service organization, or require the credit union to  
 15 reduce or divest the credit union's ownership interest in a  
 16 credit union service organization.

17 (3) Restrict the dividend rates that the credit union pays on  
 18 shares, as determined by the director and the credit union's  
 19 share insurer.

20 (4) Prohibit any growth in the credit union's assets, or in a  
 21 category of assets, or require the credit union to reduce the  
 22 credit union's assets or a category of the credit union's  
 23 assets.

24 (5) Require the credit union or the credit union's credit  
 25 union service organization to alter, reduce, or terminate any  
 26 activity that poses excessive risk to the credit union, as  
 27 determined by the director.

28 (6) Prohibit the credit union from accepting all or certain  
 29 nonmember deposits, as specified by the director.

30 (7) Order a new election of the credit union's board of  
 31 directors.

32 (8) Require the credit union to dismiss from office one (1) or  
 33 more directors or senior executive officers. A dismissal  
 34 under this subdivision shall not be construed to be a formal  
 35 administrative action for removal.

36 (9) Require the credit union to employ qualified senior  
 37 executive officers, who, if the director and the credit union's  
 38 share insurer so specify, shall be subject to the approval of  
 39 the director.

40 (10) Limit the compensation of one (1) or more senior  
 41 executive officers of the credit union to that officer's average  
 42 rate of compensation (excluding bonuses and profit sharing)

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1 during the four (4) calendar quarters preceding the effective  
 2 date of the credit union's classification as critically  
 3 undercapitalized, and prohibit the payment of a bonus or  
 4 profit share to the officer. If the director exercises the  
 5 discretionary supervisory authority authorized by this  
 6 subdivision, the director may permit the credit union to  
 7 compensate a senior executive officer without the limitations  
 8 described in this subdivision, or with less stringent  
 9 limitations than those described in this subdivision, with the  
 10 prior written approval of the director and the credit union's  
 11 share insurer.

12 (11) Beginning sixty (60) days after the effective date of the  
 13 credit union's classification as critically undercapitalized,  
 14 prohibit payments of principal, dividends, or interest on the  
 15 credit union's grandfathered secondary capital (as defined in  
 16 12 CFR 702.402). Unpaid dividends or interest shall continue  
 17 to accrue under the terms of the account, to the extent  
 18 permitted by law.

19 (12) Require the credit union to  
 20 obtain the prior written approval  
 21 of the director and the credit  
 22 union's share insurer before the  
 23 credit union does any of the  
 24 following:

25 (A) Enters into any material transaction not within the  
 26 scope of an approved net worth restoration plan or an  
 27 approved revised business plan, as applicable.

28 (B) Extend credit for transactions determined to be  
 29 highly leveraged by the director.

30 (C) Amend the credit union's charter or bylaws, except  
 31 to the extent necessary to comply with any law,  
 32 regulation, or order.

33 (D) Make any material change in accounting methods.

34 (E) Pay dividends or interest on new share accounts at  
 35 a rate exceeding the prevailing rates of interest on  
 36 insured deposits in the credit union's relevant market  
 37 area.

38 (13) Restrict or require any other action by the credit union,  
 39 to the extent the director and the credit union's share insurer  
 40 determine that the restriction or requirement will carry out  
 41 the purposes of section 19(b) of this chapter better than any  
 42 of the restrictions or requirements set forth in subdivisions  
 (1) through (12).



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1           **(14) Require the credit union to merge with another financial**  
 2           **institution if one (1) or more grounds exist for placing the**  
 3           **credit union into conservatorship or into liquidation.**

4           SECTION 20. IC 28-10-1-1, AS AMENDED BY P.L.29-2022,  
 5           SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 6           JULY 1, 2023]: Sec. 1. A reference to a federal law or federal  
 7           regulation in this title is a reference to the law or regulation as in effect  
 8           December 31, ~~2021~~ 2022.

9           SECTION 21. [EFFECTIVE JULY 1, 2023] (a) **As used in this**  
 10          **SECTION, "department" refers to the department of financial**  
 11          **institutions established by IC 28-11-1-1.**

12          **(b) Not later than June 30, 2024, the department shall adopt**  
 13          **emergency rules under IC 4-22-2-37.1 to amend 750 IAC 9 to:**

14           **(1) conform 750 IAC 9 with this act; and**

15           **(2) establish a rule to authorize a person that is licensed**  
 16           **under IC 24-4.4 or IC 24-4.5, or that is exempt from**  
 17           **licensing under IC 24-4.4 or IC 24-4.5 (other than a person**  
 18           **that has voluntarily registered with the department under**  
 19           **IC 24-4.4-1-202(b)(8), as amended by this act), to sponsor**  
 20           **one (1) or more mortgage loan originators, who are not**  
 21           **employees of the sponsoring person, to perform mortgage**  
 22           **loan originator activities if the person does the following:**

23           **(A) Requires, by written agreement, each sponsored**  
 24           **mortgage loan originator to perform mortgage loan**  
 25           **originator activities exclusively for the sponsoring**  
 26           **person.**

27           **(B) Assumes responsibility for and reasonably**  
 28           **supervises the activities of each licensed mortgage loan**  
 29           **originator sponsored by the person.**

30           **(C) Maintains a bond, in accordance with 750 IAC 9-3-7,**  
 31           **that provides coverage for all mortgage loan originators**  
 32           **sponsored by the person.**

33           **(D) Ensures each sponsored mortgage loan originator**  
 34           **holds a current, valid insurance producer license under**  
 35           **IC 27-1-15.6.**

36          **(c) In adopting the emergency rules described in subsection**  
 37          **(b), the department shall act in accordance with the authority**  
 38          **granted to it under IC 24-4.4-1-101 to adopt emergency rules under**  
 39          **IC 4-22-2-37.1 in order to provide for a system of licensing**  
 40          **creditors and mortgage loan originators that meets the**  
 41          **requirements of:**

42           **(1) the Secure and Fair Enforcement for Mortgage Licensing**

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1           **Act of 2008 (H.R. 3221 Title V) and the interpretations of**  
2           **that Act issued by the Secretary of Housing and Urban**  
3           **Development and the Consumer Financial Protection**  
4           **Bureau; and**  
5           **(2) the subsequent amendment of the Secure and Fair**  
6           **Enforcement for Mortgage Licensing Act of 2008 by the**  
7           **Economic Growth, Regulatory Relief, and Consumer**  
8           **Protection Act (P.L. 115-174, 132 Stat. 1296).**  
9           **(d) This SECTION expires July 1, 2024.**

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