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HOUSE BILL No. 1273

Proposed Changes to January 13, 2026 printing by AM127304

DIGEST OF PROPOSED AMENDMENT

Proxy advisor. Amends the definition of "proxy advisor".

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

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

- 1 SECTION 1. IC 24-4-27.5 IS ADDED TO THE INDIANA CODE
- 2 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2026]:
- 4 **Chapter 27.5. Proxy Advisors**
- 5 **Sec. 1. As used in this chapter, "default recommendation or**
- 6 **policy" means a system, set of rules, principles, or guidelines**
- 7 **designed to assist with voting decisions on any entity proposals or**
- 8 **proxy proposals.**
- 9 **Sec. 2. (a) As used in this chapter, "entity" means a:**
- 10 **(1) business corporation (as defined in IC 23-0.5-1.5-3);**
- 11 **(2) general partnership (as defined in IC 23-0.5-1.5-13),**
- 12 **including a limited liability partnership (as defined in**
- 13 **IC 23-0.5-1.5-21);**
- 14 **(3) limited partnership (as defined in IC 23-0.5-1.5-22); or**
- 15 **(4) limited liability company (as defined in IC 23-0.5-1.5-20).**
- 16 **(b) The term does not include:**
- 17 **(1) an individual;**
- 18 **(2) a business trust, a trust with a predominately donative**
- 19 **purpose, or a charitable trust;**
- 20 **(3) an association or relationship that:**
- 21 **(A) is not listed in subsection (a); and**

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1 (B) is not a partnership under the rules stated in
2 IC 23-4-1-7 or a similar provision of the law of another
3 jurisdiction;

4 (4) a decedent's estate; or

5 (5) a government or a governmental subdivision, agency, or
6 instrumentality.

7 Sec. 3. As used in this chapter, "entity management" means an
8 individual or group of individuals that actively oversee and direct
9 an entity's activities, resources, and personnel to accomplish the
10 entity's objectives.

11 Sec. 4. As used in this chapter, "entity proposal" means any
12 proposal made by an entity to its interest holders that is included
13 in the entity's proxy statement, including director nominations or
14 elections or any proposal relating to director nominations or
15 elections, executive compensation, corporate transactions,
16 corporate structure, auditor selection, or entity policy on any
17 subject.

18 Sec. 5. As used in this chapter, "interest" means:

19 (1) a share in a business corporation (as defined in
20 IC 23-0.5-1.5-3); or

21 (2) a governance interest or economic interest in any other
22 type of unincorporated entity.

23 Sec. 6. As used in this chapter, "interest holder" means a
24 direct holder of an interest in an entity.

25 Sec. 7. As used in this chapter, "proxy advisor" means a
26 person who, for compensation, provides a proxy advisory service
27 to interest holders of an entity or to other persons with authority
28 to vote on behalf of interest holders of an entity. [The term does not
29 include:]

30 [(1) a financial institution (as defined in IC 4-4-28-3) that has
31 its deposits insured by the FDIC (as defined in
32 IC 28-6.2-1-10) and provides proxy advisory services as a
33 result of a fiduciary duty that the financial institution owes
34 to the recipient of the financial institution's proxy advisory
35 services, regardless of whether the fiduciary duty is required
36 by agreement, statute, regulation, or common law; and

37 (2) any:

38 (A) employee of a financial institution described in
39 subdivision (1);

40 (B) affiliate of a financial institution described in
41 subdivision (1); and

42 (C) employee of an affiliate of a financial institution



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described in subdivision (1).

1 Sec. 8. As used in this chapter, "proxy advisory service" means any of the following services that are provided in connection with an entity or are provided to any person in Indiana:

- (1) Advice or a recommendation on how to vote on an entity proposal or proxy proposal.
- (2) Proxy statement research and analysis regarding an entity proposal or proxy proposal.
- (3) Development of proxy voting recommendations or policies, including establishing default recommendations or policies.

Sec. 9. As used in this chapter, "proxy proposal" means any proposal made by an interest holder of an entity that is included in the entity's proxy statement, including a proposal relating to any of the subjects that could be covered by an entity proposal.

Sec. 10. As used in this chapter, "written financial analysis" means a written document that:

- (1) analyzes the expected short term and long term financial benefits and costs to an entity of implementing an entity proposal or proxy proposal;
- (2) concludes what vote or course of action is most likely to positively affect interest holder value; and
- (3) explains the methods and processes used to prepare the analysis, including the experience and geographic location of the personnel who formed the conclusion.

Sec. 11. (a) If a proxy advisor makes a recommendation against entity management on an entity proposal or proxy proposal, or makes a default recommendation or policy concerning votes against entity management on entity proposals or proxy proposals, and the proxy advisor does not do so based on a written financial analysis, the proxy advisor shall do the following:

- (1) At the time the proxy advisor provides the proxy advisory services, provide a clear and conspicuous disclosure to each interest holder or any person acting on behalf of an interest holder receiving the proxy advisory services that:
 - (A) identifies the services being provided by the proxy advisor;
 - (B) identifies the recommendation or policy at issue; and
 - (C) states that the proxy advisor has made the recommendation or policy without utilizing a written financial analysis regarding the impact that the recommended action would have on entity interest

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holders that:

- (i) analyzes the expected short term and long term financial benefits and costs to the entity of implementing the entity proposal or proxy proposal;
- (ii) concludes what vote or course of action is most likely to positively affect interest holder value; and
- (iii) explains the methods and processes used to prepare the analysis, including the experience and geographic location of the personnel who formed the conclusion.

(2) If the proxy advisor provides proxy advisory services described in section 8(1) or 8(2) of this chapter, then at the time the proxy advisor provides the proxy advisory services described in section 8(1) and 8(2) of this chapter, the proxy advisor must provide the disclosure described in subdivision (1) to entity management.

(3) For the entire time that a proxy advisor is providing proxy advisory services to an interest holder of an entity or any person acting on behalf of an interest holder of an entity, prominently display on the home page of the proxy advisor's website a statement that the proxy advisor has made a recommendation:

- (A) against entity management on an entity proposal or proxy proposal; and
- (B) without utilizing a written financial analysis regarding the impact that the recommended action would have on entity interest holders that:

- (i) analyzes the expected short term and long term financial benefits and costs to the entity of implementing the entity proposal or proxy proposal;
- (ii) concludes what vote or course of action is most likely to positively affect interest holder value; and
- (iii) explains the methods and processes used to prepare the analysis, including the experience and geographic location of the personnel who formed the conclusion.

(b) If a proxy advisor makes a recommendation against entity management on an entity proposal or proxy proposal, or makes a default recommendation or policy concerning votes against entity management on entity proposals or proxy proposals, and the proxy

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1 advisor does so based on a written financial analysis, the proxy
2 advisor shall do the following:

3 (1) At the time the proxy advisor provides the proxy advisory
4 services, provide a clear and conspicuous disclosure to each
5 interest holder or any person acting on behalf of an interest
6 holder receiving the proxy advisory services that:

7 (A) identifies the services being provided by the proxy
8 advisor;

9 (B) identifies the recommendation or policy at issue;

10 (C) states that the proxy advisor utilized a written
11 financial analysis that:

12 (i) analyzes the expected short term and long term
13 financial benefits and costs to the entity of
14 implementing the entity proposal or proxy
15 proposal;

16 (ii) concludes what vote or course of action is most
17 likely to positively affect interest holder value; and

18 (iii) explains the methods and processes used to
19 prepare the analysis, including the experience and
20 geographic location of the personnel who formed
21 the conclusion; and

22 (D) states that the written financial analysis described in
23 clause (C) is available upon request.

24 (2) Make the written financial analysis described in
25 subdivision (1)(C) available to an interest holder or any
26 person acting on behalf of an interest holder, receiving the
27 proxy advisory services within a reasonable time after an
28 interest holder or any person acting on behalf of an interest
29 holder, receiving the proxy advisory services requests the
30 written financial analysis.

31 (3) If the proxy advisor provides proxy advisory services
32 described in section 8(1) or 8(2) of this chapter, then at the
33 time the proxy advisor provides the proxy advisory services
34 described in section 8(1) and 8(2) of this chapter, the proxy
35 advisor must provide a copy of the written financial analysis
36 described in subdivision (1)(C) to entity management.

37 Sec. 12. (a) As used in this section, "interested person" means:

38 (1) a recipient of proxy advisory services provided by a
39 proxy advisor;

40 (2) an entity that is the subject of proxy advisory services
41 described in section 8(1) or 8(2) of this chapter provided by
42 a proxy advisor; and

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(3) any interest holder of an entity that is the subject of proxy advisory services described in section 8(1) or 8(2) of this chapter provided by a proxy advisor.

(b) A proxy advisor who violates any provision of this chapter commits a deceptive act which is actionable under IC 24-5-0.5 and subject to the penalties of IC 24-5-0.5.

(c) Notwithstanding subsection (b), an interested person may bring an action seeking a declaratory judgment or injunctive relief against a proxy advisor who the interested person believes has violated this chapter. Not later than seven (7) days after the date on which an interested person brings an action under this subsection, the interested person shall provide written notice to the attorney general that informs the attorney general of the existence of the action. The attorney general has the right to intervene in an action under this subsection.

SECTION 2. IC 24-5-0.5-2, AS AMENDED BY P.L.206-2025, SECTION 5, AND AS AMENDED BY P.L.227-2025, SECTION 42, AND AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2026 GENERAL ASSEMBLY, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]:

Sec. 2. (a) As used in this chapter:

(1) "Consumer transaction" means a sale, lease, assignment, award by chance, or other disposition of an item of personal property, real property, a service, or an intangible, except securities and policies or contracts of insurance issued by corporations authorized to transact an insurance business under the laws of the state of Indiana, with or without an extension of credit, to a person for purposes that are primarily personal, familial, charitable, agricultural, or household, or a solicitation to supply any of these things. However, the term includes the following:

(A) A transfer of structured settlement payment rights under IC 34-50-2.

(B) An unsolicited advertisement sent to a person by telephone facsimile machine offering a sale, lease, assignment, award by chance, or other disposition of an item of personal property, real property, a service, or an intangible.

(C) The collection of or attempt to collect a debt by a debt collector.

(D) *The provision of a product or service to a:*

(i) state law enforcement agency; or

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- 1 (ii) local law enforcement agency;
 2 (iii) state agency; or
 3 (iv) local agency;
 4 in Indiana.
- 5 ~~(D)~~ (E) Conduct that arises from, occurs in connection
 6 with, or otherwise involves a transaction for emergency
 7 towing (as defined in IC 24-14-2-5) of a personal or
 8 commercial vehicle.
- 9 (2) "Person" means an individual, corporation, the state of
 10 Indiana or its subdivisions or agencies, business trust, estate,
 11 trust, partnership, association, nonprofit corporation or
 12 organization, or cooperative or any other legal entity.
- 13 (3) "Supplier" means the following:
 14 (A) A seller, lessor, assignor, or other person who regularly
 15 engages in or solicits consumer transactions, including
 16 soliciting a consumer transaction by using a telephone
 17 facsimile machine to transmit an unsolicited advertisement.
 18 The term includes a manufacturer, a wholesaler, ~~or a~~
 19 retailer, or, in a consumer transaction described in
 20 subdivision (1)(D), an entity that provides a product or
 21 service to a state law enforcement agency, ~~or~~ local law
 22 enforcement agency, **state agency, or local agency in**
 23 *Indiana*, whether or not the person deals directly with the
 24 consumer.
 25 (B) A debt collector.
- 26 (4) "Subject of a consumer transaction" means the personal
 27 property, real property, services, or intangibles offered or
 28 furnished in a consumer transaction.
- 29 (5) "Cure" as applied to a deceptive act, means either:
 30 (A) to offer in writing to adjust or modify the consumer
 31 transaction to which the act relates to conform to the
 32 reasonable expectations of the consumer generated by such
 33 deceptive act and to perform such offer if accepted by the
 34 consumer; or
 35 (B) to offer in writing to rescind such consumer transaction
 36 and to perform such offer if accepted by the consumer.
 37 The term includes an offer in writing of one (1) or more items of
 38 value, including monetary compensation, that the supplier
 39 delivers to a consumer or a representative of the consumer if
 40 accepted by the consumer.
- 41 (6) "Offer to cure" as applied to a deceptive act is a cure that:
 42 (A) is reasonably calculated to remedy a loss claimed by the

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consumer; and
(B) includes a minimum additional amount that is the greater of:
(i) ten percent (10%) of the value of the remedy under clause (A), but not more than four thousand dollars (\$4,000); or
(ii) five hundred dollars (\$500);
as compensation for attorney's fees, expenses, and other costs that a consumer may incur in relation to the deceptive act.

(7) "Uncured deceptive act" means: ~~a deceptive act:~~
(A) **a deceptive act** with respect to which a consumer who has been damaged by such act has given notice to the supplier under section 5(a) of this chapter; and
(B) either:
(i) no offer to cure has been made to such consumer within thirty (30) days after such notice; or
(ii) the act has not been cured as to such consumer within a reasonable time after the consumer's acceptance of the offer to cure.

(8) "Incurable deceptive act" means a deceptive act done by a supplier as part of a scheme, artifice, or device with intent to defraud or mislead. The term includes a failure of a transferee of structured settlement payment rights to timely provide a true and complete disclosure statement to a payee as provided under IC 34-50-2 in connection with a direct or indirect transfer of structured settlement payment rights.

(9) "Local agency" means an administration, an agency, an authority, a board, a bureau, a commission, a committee, a council, a department, a division, an institution, an office, an officer, a service, or other similar body of a political subdivision created or established under law.

(10) "Political subdivision" means a county, township, city, town, municipal corporation (as defined in IC 36-1-2-10), or special taxing district. However, the term does not include a school corporation or charter school.

~~(9)~~ **(11) "Senior consumer" means an individual who is at least sixty (60) years of age.**

(12) "State agency" means an administration, an agency, an authority, a board, a bureau, a commission, a committee, a council, a department, a division, an institution, an office, an officer, a service, or other similar body of state government

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1 **created or established under law. The term includes a body**
 2 **corporate and politic of the state created by statute. The**
 3 **term does not include a state educational institution (as**
 4 **defined in IC 21-7-13-32).**

5 ~~(10)~~ **(13)** "Telephone facsimile machine" means equipment that
 6 has the capacity to transcribe text or images, or both, from:

7 (A) paper into an electronic signal and to transmit that
 8 signal over a regular telephone line; or

9 (B) an electronic signal received over a regular telephone
 10 line onto paper.

11 ~~(11)~~ **(14)** "Unsolicited advertisement" means material
 12 advertising the commercial availability or quality of:

13 (A) property;

14 (B) goods; or

15 (C) services;

16 that is transmitted to a person without the person's prior express
 17 invitation or permission, in writing or otherwise.

18 ~~(12)~~ **(15)** "Debt" has the meaning set forth in 15 U.S.C.
 19 1692(a)(5).

20 ~~(13)~~ **(16)** "Debt collector" has the meaning set forth in 15 U.S.C.
 21 1692(a)(6). The term does not include a person admitted to the
 22 practice of law in Indiana if the person is acting within the
 23 course and scope of the person's practice as an attorney. The
 24 term includes a debt buyer (as defined in IC 24-5-15.5).

25 (b) As used in section 3(b)(15) and 3(b)(16) of this chapter:

26 (1) "Directory assistance" means the disclosure of telephone
 27 number information in connection with an identified telephone
 28 service subscriber by means of a live operator or automated
 29 service.

30 (2) "Local telephone directory" refers to a telephone classified
 31 advertising directory or the business section of a telephone
 32 directory that is distributed by a telephone company or directory
 33 publisher to subscribers located in the local exchanges contained
 34 in the directory. The term includes a directory that includes
 35 listings of more than one (1) telephone company.

36 (3) "Local telephone number" refers to a telephone number that
 37 has the three (3) number prefix used by the provider of telephone
 38 service for telephones physically located within the area covered
 39 by the local telephone directory in which the number is listed.

40 The term does not include long distance numbers or 800-, 888-,
 41 or 900- exchange numbers listed in a local telephone directory.

42 SECTION 3. IC 24-5-0.5-3, AS AMENDED BY P.L.104-2024,

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1 SECTION 42, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2026]: Sec. 3. (a) A supplier may not commit an unfair,
3 abusive, or deceptive act, omission, or practice in connection with a
4 consumer transaction. Such an act, omission, or practice by a supplier
5 is a violation of this chapter whether it occurs before, during, or after
6 the transaction. An act, omission, or practice prohibited by this section
7 includes both implicit and explicit misrepresentations.

8 (b) Without limiting the scope of subsection (a), the following
9 acts, and the following representations as to the subject matter of a
10 consumer transaction, made orally, in writing, or by electronic
11 communication, by a supplier, are deceptive acts:

12 (1) That such subject of a consumer transaction has sponsorship,
13 approval, performance, characteristics, accessories, uses, or
14 benefits it does not have which the supplier knows or should
15 reasonably know it does not have.

16 (2) That such subject of a consumer transaction is of a particular
17 standard, quality, grade, style, or model, if it is not and if the
18 supplier knows or should reasonably know that it is not.

19 (3) That such subject of a consumer transaction is new or
20 unused, if it is not and if the supplier knows or should reasonably
21 know that it is not.

22 (4) That such subject of a consumer transaction will be supplied
23 to the public in greater quantity than the supplier intends or
24 reasonably expects.

25 (5) That replacement or repair constituting the subject of a
26 consumer transaction is needed, if it is not and if the supplier
27 knows or should reasonably know that it is not.

28 (6) That a specific price advantage exists as to such subject of a
29 consumer transaction, if it does not and if the supplier knows or
30 should reasonably know that it does not.

31 (7) That the supplier has a sponsorship, approval, or affiliation
32 in such consumer transaction the supplier does not have, and
33 which the supplier knows or should reasonably know that the
34 supplier does not have.

35 (8) That such consumer transaction involves or does not involve
36 a warranty, a disclaimer of warranties, or other rights, remedies,
37 or obligations, if the representation is false and if the supplier
38 knows or should reasonably know that the representation is false.

39 (9) That the consumer will receive a rebate, discount, or other
40 benefit as an inducement for entering into a sale or lease in
41 return for giving the supplier the names of prospective
42 consumers or otherwise helping the supplier to enter into other

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consumer transactions, if earning the benefit, rebate, or discount is contingent upon the occurrence of an event subsequent to the time the consumer agrees to the purchase or lease.

(10) That the supplier is able to deliver or complete the subject of the consumer transaction within a stated period of time, when the supplier knows or should reasonably know the supplier could not. If no time period has been stated by the supplier, there is a presumption that the supplier has represented that the supplier will deliver or complete the subject of the consumer transaction within a reasonable time, according to the course of dealing or the usage of the trade.

(11) That the consumer will be able to purchase the subject of the consumer transaction as advertised by the supplier, if the supplier does not intend to sell it.

(12) That the replacement or repair constituting the subject of a consumer transaction can be made by the supplier for the estimate the supplier gives a customer for the replacement or repair, if the specified work is completed and:

- (A) the cost exceeds the estimate by an amount equal to or greater than ten percent (10%) of the estimate;
- (B) the supplier did not obtain written permission from the customer to authorize the supplier to complete the work even if the cost would exceed the amounts specified in clause (A);
- (C) the total cost for services and parts for a single transaction is more than seven hundred fifty dollars (\$750); and
- (D) the supplier knew or reasonably should have known that the cost would exceed the estimate in the amounts specified in clause (A).

(13) That the replacement or repair constituting the subject of a consumer transaction is needed, and that the supplier disposes of the part repaired or replaced earlier than seventy-two (72) hours after both:

- (A) the customer has been notified that the work has been completed; and
- (B) the part repaired or replaced has been made available for examination upon the request of the customer.

(14) Engaging in the replacement or repair of the subject of a consumer transaction if the consumer has not authorized the replacement or repair, and if the supplier knows or should reasonably know that it is not authorized.

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- (15) The act of misrepresenting the geographic location of the supplier by listing an alternate business name or an assumed business name (as described in IC 23-0.5-3-4) in a local telephone directory if:
 - (A) the name misrepresents the supplier's geographic location;
 - (B) the listing fails to identify the locality and state of the supplier's business;
 - (C) calls to the local telephone number are routinely forwarded or otherwise transferred to a supplier's business location that is outside the calling area covered by the local telephone directory; and
 - (D) the supplier's business location is located in a county that is not contiguous to a county in the calling area covered by the local telephone directory.
- (16) The act of listing an alternate business name or assumed business name (as described in IC 23-0.5-3-4) in a directory assistance data base if:
 - (A) the name misrepresents the supplier's geographic location;
 - (B) calls to the local telephone number are routinely forwarded or otherwise transferred to a supplier's business location that is outside the local calling area; and
 - (C) the supplier's business location is located in a county that is not contiguous to a county in the local calling area.
- (17) The violation by a supplier of IC 24-3-4 concerning cigarettes for import or export.
- (18) The act of a supplier in knowingly selling or reselling a product to a consumer if the product has been recalled, whether by the order of a court or a regulatory body, or voluntarily by the manufacturer, distributor, or retailer, unless the product has been repaired or modified to correct the defect that was the subject of the recall.
- (19) The violation by a supplier of 47 U.S.C. 227, including any rules or regulations issued under 47 U.S.C. 227.
- (20) The violation by a supplier of the federal Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.), including any rules or regulations issued under the federal Fair Debt Collection Practices Act (15 U.S.C. 1692 et seq.).
- (21) A violation of IC 24-5-7 (concerning health spa services), as set forth in IC 24-5-7-17.
- (22) A violation of IC 24-5-8 (concerning business opportunity

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- 1 transactions), as set forth in IC 24-5-8-20.
- 2 (23) A violation of IC 24-5-10 (concerning home consumer
- 3 transactions), as set forth in IC 24-5-10-18.
- 4 (24) A violation of IC 24-5-11 (concerning real property
- 5 improvement contracts), as set forth in IC 24-5-11-14.
- 6 (25) A violation of IC 24-5-12 (concerning telephone
- 7 solicitations), as set forth in IC 24-5-12-23.
- 8 (26) A violation of IC 24-5-13.5 (concerning buyback motor
- 9 vehicles), as set forth in IC 24-5-13.5-14.
- 10 (27) A violation of IC 24-5-14 (concerning automatic
- 11 dialing-announcing devices), as set forth in IC 24-5-14-13.
- 12 (28) A violation of IC 24-5-15 (concerning credit services
- 13 organizations), as set forth in IC 24-5-15-11.
- 14 (29) A violation of IC 24-5-16 (concerning unlawful motor
- 15 vehicle subleasing), as set forth in IC 24-5-16-18.
- 16 (30) A violation of IC 24-5-17 (concerning environmental
- 17 marketing claims), as set forth in IC 24-5-17-14.
- 18 (31) A violation of IC 24-5-19 (concerning deceptive
- 19 commercial solicitation), as set forth in IC 24-5-19-11.
- 20 (32) A violation of IC 24-5-21 (concerning prescription drug
- 21 discount cards), as set forth in IC 24-5-21-7.
- 22 (33) A violation of IC 24-5-23.5-7 (concerning real estate
- 23 appraisals), as set forth in IC 24-5-23.5-9.
- 24 (34) A violation of IC 24-5-26 (concerning identity theft), as set
- 25 forth in IC 24-5-26-3.
- 26 (35) A violation of IC 24-5.5 (concerning mortgage rescue
- 27 fraud), as set forth in IC 24-5.5-6-1.
- 28 (36) A violation of IC 24-8 (concerning promotional gifts and
- 29 contests), as set forth in IC 24-8-6-3.
- 30 (37) A violation of IC 21-18.5-6 (concerning representations
- 31 made by a postsecondary credit bearing proprietary educational
- 32 institution), as set forth in IC 21-18.5-6-22.5.
- 33 (38) A violation of IC 24-5-15.5 (concerning collection actions
- 34 of a plaintiff debt buyer), as set forth in IC 24-5-15.5-6.
- 35 (39) A violation of IC 24-14 (concerning towing services), as set
- 36 forth in IC 24-14-10-1.
- 37 (40) A violation of IC 24-5-14.5 (concerning misleading or
- 38 inaccurate caller identification information), as set forth in
- 39 IC 24-5-14.5-12.
- 40 (41) A violation of IC 24-5-27 (concerning intrastate inmate
- 41 calling services), as set forth in IC 24-5-27-27.
- 42 (42) A violation of IC 15-21 (concerning sales of dogs by retail

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pet stores), as set forth in IC 15-21-7-4.
(43) A violation of IC 24-4-23 (concerning the security of information collected and transmitted by an adult oriented website operator), as set forth in IC 24-4-23-14.

(44) A violation of IC 24-4-27.5 (concerning proxy advisors), as set forth in IC 24-4-27.5-12.

(c) Any representations on or within a product or its packaging or in advertising or promotional materials which would constitute a deceptive act shall be the deceptive act both of the supplier who places such representation thereon or therein, or who authored such materials, and such other suppliers who shall state orally or in writing that such representation is true if such other supplier shall know or have reason to know that such representation was false.

(d) If a supplier shows by a preponderance of the evidence that an act resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adopted to avoid the error, such act shall not be deceptive within the meaning of this chapter.

(e) It shall be a defense to any action brought under this chapter that the representation constituting an alleged deceptive act was one made in good faith by the supplier without knowledge of its falsity and in reliance upon the oral or written representations of the manufacturer, the person from whom the supplier acquired the product, any testing organization, or any other person provided that the source thereof is disclosed to the consumer.

(f) For purposes of subsection (b)(12), a supplier that provides estimates before performing repair or replacement work for a customer shall give the customer a written estimate itemizing as closely as possible the price for labor and parts necessary for the specific job before commencing the work.

(g) For purposes of subsection (b)(15) and (b)(16), a telephone company or other provider of a telephone directory or directory assistance service or its officer or agent is immune from liability for publishing the listing of an alternate business name or assumed business name of a supplier in its directory or directory assistance data base unless the telephone company or other provider of a telephone directory or directory assistance service is the same person as the supplier who has committed the deceptive act.

(h) For purposes of subsection (b)(18), it is an affirmative defense to any action brought under this chapter that the product has been altered by a person other than the defendant to render the product completely incapable of serving its original purpose.

SECTION 4. IC 24-5-0.5-4, AS AMENDED BY P.L.186-2025,

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1 SECTION 133, IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2026]: Sec. 4. (a) A person relying upon an
3 uncured or incurable deceptive act may bring an action for the damages
4 actually suffered as a consumer as a result of the deceptive act or five
5 hundred dollars (\$500), whichever is greater. The court may increase
6 damages for a willful deceptive act in an amount that does not exceed
7 the greater of:

- 8 (1) three (3) times the actual damages of the consumer suffering
- 9 the loss; or
- 10 (2) one thousand dollars (\$1,000).

11 Except as provided in subsection (k), the court may award reasonable
12 attorney's fees to the party that prevails in an action under this
13 subsection. This subsection does not apply to a consumer transaction
14 in real property, including a claim or action involving a construction
15 defect (as defined in IC 32-27-3-1(5)) brought against a construction
16 professional (as defined in IC 32-27-3-1(4)), except for purchases of
17 time shares and camping club memberships. This subsection does not
18 apply with respect to a deceptive act described in section 3(b)(20) of
19 this chapter. This subsection also does not apply to a violation of
20 IC 24-4.7, IC 24-5-12, IC 24-5-14, or IC 24-5-14.5. Actual damages
21 awarded to a person under this section have priority over any civil
22 penalty imposed under this chapter.

23 (b) Any person who is entitled to bring an action under subsection
24 (a) on the person's own behalf against a supplier for damages for a
25 deceptive act may bring a class action against such supplier on behalf
26 of any class of persons of which that person is a member and which has
27 been damaged by such deceptive act, subject to and under the Indiana
28 Rules of Trial Procedure governing class actions, except as herein
29 expressly provided. Except as provided in subsection (k), the court may
30 award reasonable attorney's fees to the party that prevails in a class
31 action under this subsection, provided that such fee shall be determined
32 by the amount of time reasonably expended by the attorney and not by
33 the amount of the judgment, although the contingency of the fee may
34 be considered. Except in the case of an extension of time granted by the
35 attorney general under IC 24-10-2-2(b) in an action subject to IC 24-10,
36 any money or other property recovered in a class action under this
37 subsection which cannot, with due diligence, be restored to consumers
38 within one (1) year after the judgment becomes final shall be returned
39 to the party depositing the same. This subsection does not apply to a
40 consumer transaction in real property, except for purchases of time
41 shares and camping club memberships. This subsection does not apply
42 with respect to a deceptive act described in section 3(b)(20) of this

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1 chapter. Actual damages awarded to a class have priority over any civil
 2 penalty imposed under this chapter.

3 (c) The attorney general may bring an action to enjoin an unfair,
 4 abusive, or deceptive act, omission, or practice in connection with a
 5 consumer transaction, including a deceptive act described in section
 6 3(b)(20) of this chapter, notwithstanding subsections (a) and (b).
 7 However, the attorney general may seek to enjoin patterns of incurable
 8 deceptive acts with respect to consumer transactions in real property.
 9 In addition, the court may:

10 (1) issue an injunction;
 11 (2) order the supplier to make payment of the money unlawfully
 12 received from the aggrieved consumers to be held in escrow for
 13 distribution to aggrieved consumers;
 14 (3) for a knowing violation against a senior consumer, increase
 15 the amount of restitution ordered under subdivision (2) in any
 16 amount up to three (3) times the amount of damages incurred or
 17 value of property or assets lost;
 18 (4) order the supplier to pay to the state the reasonable costs of
 19 the attorney general's investigation and prosecution, expert fees,
 20 and court fees related to the action;
 21 (5) provide for the appointment of a receiver; and
 22 (6) order the department of state revenue to suspend the
 23 supplier's registered retail merchant certificate, subject to the
 24 requirements and prohibitions contained in IC 6-2.5-8-7(a)(5),
 25 if the court finds that a violation of this chapter involved the sale
 26 or solicited sale of a synthetic drug (as defined in
 27 IC 35-31.5-2-321), a synthetic drug lookalike substance (as
 28 defined in IC 35-31.5-2-321.5 (repealed)) (before July 1, 2019),
 29 a controlled substance analog (as defined in IC 35-48-1.1-8), or
 30 a substance represented to be a controlled substance (as
 31 described in IC 35-48-4-4.6).

32 (d) In an action under subsection (a), (b), (c), or (n) the court may
 33 void or limit the application of contracts or clauses resulting from
 34 deceptive acts and order restitution to be paid to aggrieved consumers.

35 (e) In any action under subsection (a) or (b), upon the filing of the
 36 complaint or on the appearance of any defendant, claimant, or any
 37 other party, or at any later time, the trial court, the supreme court, or the
 38 court of appeals may require the plaintiff, defendant, claimant, or any
 39 other party or parties to give security, or additional security, in such
 40 sum as the court shall direct to pay all costs, expenses, and
 41 disbursements that shall be awarded against that party or which that
 42 party may be directed to pay by any interlocutory order by the final

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judgment or on appeal.

(f) Any person who violates the terms of an injunction issued under subsection (c) or (n) shall forfeit and pay to the state a civil penalty of not more than fifteen thousand dollars (\$15,000) per violation. For the purposes of this section, the court issuing an injunction shall retain jurisdiction, the cause shall be continued, and the attorney general acting in the name of the state may petition for recovery of civil penalties. Whenever the court determines that an injunction issued under subsection (c) or (n) has been violated, the court shall award reasonable costs to the state.

(g) If a court finds any person has knowingly violated section 3 or 10 of this chapter, other than section 3(b)(19), 3(b)(20), or 3(b)(40) of this chapter, the attorney general, in an action pursuant to subsection (c), may recover from the person on behalf of the state a civil penalty of a fine not exceeding five thousand dollars (\$5,000) per violation.

(h) If a court finds that a person has violated section 3(b)(19) of this chapter, the attorney general, in an action under subsection (c), may recover from the person on behalf of the state a civil penalty as follows:

- (1) For a knowing or intentional violation, one thousand five hundred dollars (\$1,500).
- (2) For a violation other than a knowing or intentional violation, five hundred dollars (\$500).

A civil penalty recovered under this subsection shall be deposited in the consumer protection division telephone solicitation fund established by IC 24-4.7-3-6 to be used for the administration and enforcement of section 3(b)(19) of this chapter.

(i) A senior consumer relying upon an uncured or incurable deceptive act, including an act related to hypnotism, may bring an action to recover treble damages, if appropriate.

(j) An offer to cure is:

- (1) not admissible as evidence in a proceeding initiated under this section unless the offer to cure is delivered by a supplier to the consumer or a representative of the consumer before the supplier files the supplier's initial response to a complaint; and
- (2) only admissible as evidence in a proceeding initiated under this section to prove that a supplier is not liable for attorney's fees under subsection (k).

If the offer to cure is timely delivered by the supplier, the supplier may submit the offer to cure as evidence to prove in the proceeding in accordance with the Indiana Rules of Trial Procedure that the supplier made an offer to cure.

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1 (k) A supplier may not be held liable for the attorney's fees and
2 court costs of the consumer that are incurred following the timely
3 delivery of an offer to cure as described in subsection (j) unless the
4 actual damages awarded, not including attorney's fees and costs, exceed
5 the value of the offer to cure.

6 (l) If a court finds that a person has knowingly violated section
7 3(b)(20) of this chapter, the attorney general, in an action under
8 subsection (c), may recover from the person on behalf of the state a
9 civil penalty not exceeding one thousand dollars (\$1,000) per
10 consumer. In determining the amount of the civil penalty in any action
11 by the attorney general under this subsection, the court shall consider,
12 among other relevant factors, the frequency and persistence of
13 noncompliance by the debt collector, the nature of the noncompliance,
14 and the extent to which the noncompliance was intentional. A person
15 may not be held liable in any action by the attorney general for a
16 violation of section 3(b)(20) of this chapter if the person shows by a
17 preponderance of evidence that the violation was not intentional and
18 resulted from a bona fide error, notwithstanding the maintenance of
19 procedures reasonably adapted to avoid the error. A person may not be
20 held liable in any action for a violation of this chapter for contacting a
21 person other than the debtor, if the contact is made in compliance with
22 the Fair Debt Collection Practices Act.

23 (m) If a court finds that a person has knowingly or intentionally
24 violated section 3(b)(40) of this chapter, the attorney general, in an
25 action under subsection (c), may recover from the person on behalf of
26 the state a civil penalty in accordance with IC 24-5-14.5-12(b). As
27 specified in IC 24-5-14.5-12(b), a civil penalty recovered under
28 IC 24-5-14.5-12(b) shall be deposited in the consumer protection
29 division telephone solicitation fund established by IC 24-4.7-3-6 to be
30 used for the administration and enforcement of IC 24-5-14.5. In
31 addition to the recovery of a civil penalty in accordance with
32 IC 24-5-14.5-12(b), the attorney general may also recover reasonable
33 attorney fees and court costs from the person on behalf of the state.
34 Those funds shall also be deposited in the consumer protection division
35 telephone solicitation fund established by IC 24-4.7-3-6.

36 (n) An action that arises from, or otherwise involves, an unfair,
37 abusive, or deceptive act, omission, or practice in connection with a
38 consumer transaction described in section 2(a)(1)(D)(i) or
39 **2(a)(1)(D)(iii)** of this chapter may be brought and enforced only by the
40 attorney general under this subsection. An action that arises from, or
41 otherwise involves, an unfair, abusive, or deceptive act, omission, or
42 practice in connection with a consumer transaction described in section

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1 2(a)(1)(D)(ii) **or 2(a)(1)(D)(iv)** of this chapter may be brought and
 2 enforced only by an attorney acting on behalf of the local law
 3 enforcement agency **or local agency** involved in the transaction, unless
 4 the local unit of government served by the local law enforcement
 5 agency **or local agency** requests the attorney general to bring and
 6 enforce an action under this subsection on behalf of the local unit. In
 7 addition, the court may:
 8 (1) issue an injunction;
 9 (2) order the supplier to make payment of the money unlawfully
 10 received from the aggrieved consumers to be held in escrow for
 11 distribution to aggrieved consumers; or
 12 (3) order the supplier to pay to:
 13 (A) the attorney acting on behalf of the local law
 14 enforcement agency **or local agency**; or
 15 (B) the attorney general for the state;
 16 as applicable, the reasonable costs of the attorney's or the
 17 attorney general's investigation and prosecution, expert fees, and
 18 court fees related to the action.
 19 The time for bringing an action under subsection (c), as set forth in
 20 section 5(b) of this chapter, applies to an action brought under this
 21 subsection.
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